Oregon
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development
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NOTICE OF ADOPTED AMENDMENT

04/25/2011

TO: Subscribers to Notice of Adopted Plan or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Portland Plan Amendment
DLCD File Number 001-10

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Friday, May 06, 2011

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Roberta Jortner, City of Portland
Gloria Gardiner, DLCD Urban Planning Specialist
Anne Debbaut, DLCD Regional Representative

<paa> YA/ph

FORM 2 DLCD Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

DATE STAMP ☐ In person ☐ electronic ☐ mailed
DEPT OF
APR 18 2011
LAND CONSERVATION AND DEVELOPMENT
For Office Use Only

Jurisdiction: **City of Portland**
Local file number:
Date of Adoption: **April 13, 2011**
Date Mailed: **April 15, 2011**
Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: 1/8/2010

☐ Comprehensive Plan Text Amendment
☐ Comprehensive Plan Map Amendment
☒ Land Use Regulation Amendment
☐ Zoning Map Amendment
☐ New Land Use Regulation
☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

The City of Portland has updated its tree regulations. The project purpose was to create a consistent, cohesive, regulatory framework for trees in the city, AND to protect and enhance Portland's urban forest through development and redevelopment.

The regulatory components of the project consists of two parts. The first part is a compilation and update of the City's non-land use related tree regulations into a new city code, Title 11, Trees. The new title updates provisions for the City's Urban Forestry Program and the tree permit system that applies in non-development situations. The title also contains basic non-discretionary tree standards for development sites. The standards will be applied outside the land use approval process through building permits and demolition permits.

The second regulatory component involves amendments to the zoning code and related guidelines, and is the subject of this required notice. Proposed amendments to the Zoning Code are intended to standardize, streamline and strengthen City regulations affecting trees in the context of land use reviews and in natural resource overlay zones and plan districts. The amendments establish flexible development standards to encourage tree preservation. The amendments clarify and strengthen discretionary approval criteria to encourage preservation of large healthy trees and groves in land divisions and add tree preservation as a factor to consider in specified conditional use and design reviews. The amendments also delete tree standards that apply through development permits from the Zoning Code. The Zoning Code amendments clarify and standardize limits on removal, replacement requirements, and exemptions in specified natural resource overlay zones and plan districts. A new chapter 33.860, Comprehensive Natural Resource Plans, is included that provides an option for long-range master plans to be developed for sites containing one or more natural resource overlay zone. Definitions are also amended.

The Ladd's Addition Conservation District Guidelines are amended to clarify that tree species shown on the district's street tree plan that are identified on the City's Nuisance Plants List may not be planted as street trees, consistent with Title 11 regulations.

Attached is the ordinance authorizing amendments to Title 33, Planning and Zoning and Ladd's Addition Guidelines, which represent the land use regulations affected by this project, and the Recommended Draft Report to City Council (Dec, 2010), which describes the entire proposal as presented to City Council.

DLCD File No. 001-10 (18044) [16611]

Does the Adoption differ from proposal?

A number of revision were made during the public review and hearing process. The substantive changes to the Zoning Code and related amendments are summarized below:

- Delete flexible development standard related to required outdoor area;
- Delete approval criterion related to tree preservation for Adjustment reviews and modify the proposal to address tree preservation as a factor to consider in conditional use and design reviews;
- Delete tree planting criterion for land division reviews.
- Delete requirement for a preliminary tree assessment with pre-application conferences;
- Add new chapter 33.860 Comprehensive Natural Resource Plans. This chapter was previously adopted as part of the River Plan/North Reach project but is on hold due to appeal issues (see description above);
- Amend the Ladd's Addition Conservation District Guidelines (see description above);
- Various technical amendments, clarifications, rewording and reformatting changes.

Plan Map Changed from: **N/A** to:

Zone Map Changed from: **N/A** to:

Location: **N/A** Acres Involved:

Specify Density: Previous: **N/A** New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
☒	☒	☐	☐	☒	☒	☒	☒	☒	☐	☐	☐	☐	☒	☒	☐	☐	☐	☐

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?	☒ **Yes**	☐ **No**
If no, do the statewide planning goals apply?	☐ **Yes**	☐ **No**
If no, did Emergency Circumstances require immediate adoption?	☐ **Yes**	☐ **No**

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Metro, Multnomah County

Local Contact: **Roberta Jortner** Phone: **(503) 823-7855** Extension:

Address: **1900 SW Fourth Ave, Suite 7100** Fax Number: **503-823-7800**

City: **Portland, OR** Zip: **97201** E-mail Address: **Roberta.jortner@portlandoregon.gov**

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Certificate of Mailing

I hereby certify that on April 15, 2011, I mailed a correct copy of the adopted Citywide Tree Policy Review and Regulatory Improvement Project Recommended Draft Report to City Council dated December 2010; Amendments to Title 33 Planning and Zoning; Amended Ladd's Addition Conservation District Guidelines; Ordinance No. 184524 as Amended and DLCD Notice of Adoption to the Department of Land Conservation and Development, Metro Planning Department and Multnomah County Land Use Planning by first class mail at the post office at Portland, Oregon.

I hereby certify that on April 15, 2011, I mailed additional documents to Metro Planning Department and Multnomah County by first class mail at the post office of Portland, Oregon as follows:

- New Portland City Code Title 11, Trees
- Amendments to City Code Titles 3, 8, 14, 16, 17, 20, 24, 29, 31
- Amendments to Citywide Tree Project December 2010 Recommended Draft, Title 11 Trees
- Additional Substantive Amendments to Title 11
- Ordinance 184522 as Amended

The following is a list of persons to whom a copy of this document was mailed:

Name	Address
Plan Amendments Specialist	Dept. of Land Conservation & Development 635 Capitol Street, Suite 150 Salem, Oregon 97301-2540
Planning Manager	Metro Planning Department Community Development 600 NE Grand Avenue Portland, OR 97232-2736
Stuart Farmer	Multnomah County Land Use Planning 1600 SE 190th Ste 116 Portland OR 97233

Joan Hamilton 4-15-11

Joan Hamilton — Date
Management Assistant
Bureau of Planning

SUBSTITUTE
184524

ORDINANCE No. As Amended

Encourage integration of quality tree preservation and tree planting in early site design, land divisions, and certain land use reviews; improve consistency and effectiveness of tree regulations in specified overlay zones and plan districts; update definitions and amend the Ladd's Addition Conservation District Guidelines to clarify that planting trees on the Nuisance Plants List is prohibited on City property and City rights-of-way (Ordinance introduced by Mayor Adams; amend Title 33)

The City of Portland Ordains:

Section 1. The Council finds:

General findings

1. Portland's urban forest is a unique community asset, providing a broad array of valuable ecological, social, and economic benefit, including cleaner air and water, reduced stormwater runoff, reduced landslide and flood impacts, carbon sequestration, neighborhood beauty and walkable streets, public health benefits, and enhanced property values.

2. Almost half the tree canopy in Portland shades City owned or managed property, while slightly more than half the canopy shades privately owned property. The Bureau of Parks and Recreation estimates that City's street and park trees generate aesthetic and ecological benefits worth $21 million annually, and that the rate of return for maintaining these trees is almost $4 for every dollar invested. Parks and Recreation also projects that the total replacement value of trees in Portland is roughly $5 billion.

3. In 2004 the City updated its Urban Forest Management Plan, confirming goals to protect and enhance the urban forest (including reaching 33 percent tree canopy averaged over the city), establish and maintain resources to manage the urban forest, and ensure that the benefits of the urban forest are distributed so that they are enjoyed by all Portland residents. The Urban Forest Management Plan provides the main policy basis for the Citywide Tree Policy Review and Regulatory Improvement Project, although the project also supports the goals of the Comprehensive Plan (1980), Portland Watershed Management Plan (2006) and the City's Climate Action Plan (2009), all of which call for enhancement of the Urban Forest.

4. The project originates in a grassroots push for reform of Portland's tree regulations. In 2005 the Southwest Neighborhoods Inc. (SWNI) Tree Committee published a report calling for reform of the City's tree regulations, and presented this report to the Urban Forestry Commission and members of the City Council. The report identified the need for stronger tree preservation requirements, stronger enforcement, and improved access to information about tree policies, programs, and requirements.

5. In 2006 the Bureau of Parks and Recreation led a multi-bureau effort to produce an action strategy to achieve the goals of the 2004 Urban Forestry Management Plan. The City Council

adopted the Urban Forestry Management Plan Action Plan (UFAP) in March 15, 2007. The UFAP assigned a high priority to actions involving review and update of the City's tree-related policies, regulations, and associated procedures. Desired outcomes include the creation of a consistent, cohesive regulatory framework for trees, and that such framework will enhance the urban forest through development and redevelopment. This framework is detailed in the Recommended Draft Report to City Council, December 2010 (Recommended Draft Report).

6. In fall 2007 the City Council launched the Citywide Tree Policy Review and Regulatory Improvement Project, directing the Bureau of Planning and Sustainability (BPS), then Bureau of Planning, to lead the effort with City Bureaus including Parks and Recreation, Development Services, and Environmental Services.

7. In fall 2007 BPS convened an interbureau project team that sponsored a collaborative project scoping process. The process involved interviewing community stakeholders, briefing local groups, and researching the tree policies and regulations of other cities in the region and across the country.

8. In spring 2008 BPS convened a 23-member Stakeholder Discussion Group (SDG) comprised of representatives from east-side and west-side neighborhoods, residential, commercial/industrial, and institutional development communities, the arborist community, and the environmental community, including Friends of Trees and the Audubon Society of Portland.

9. The SDG met with the project team regularly for almost a year, systematically reviewing a series of issue papers produced by project staff. The SDG expressed diverse views on the complexity, inconsistency, and gaps in existing City tree regulations, erratic and confusing tree preservation requirements and tree permit system, and the effectiveness of City tree inspections and enforcement. The SDG also provided comments and suggestions for potential solutions.

10. In early 2009, project staff vetted a set of initial proposals that emerged from the SDG process. The initial proposals were presented to the Portland Planning Commission, Urban Forestry Commission, Sustainable Development Commission, Development Review Advisory Committee, Citywide Land Use Group, neighborhood organizations and watershed councils, and the Planning and Development Bureau Directors.

11. The initial proposals received general support from the various reviewers, including strong support for consolidating City tree regulations into a single comprehensive code title, stronger requirements for tree preservation, planting, protection during development, and enforcement, and customer service improvements, including a single point of contact, a 24-hour tree hotline, and a community tree manual. Reviewers generally supported a more standardized tree permit system, but cautioned staff to be mindful of impacts on homeowners. Reviewers also advised staff to avoid unduly increasing the cost of development.

12. Staff refined the proposals based on input from the vetting process, and in February 2010 published the Proposed Draft for public review and hearings before the Portland Planning Commission and Urban Forestry Commission.

13. On January 6, 2010, a notice of the Citywide Tree Policy proposal and first evidentiary hearing

(dated January 8, 2010) was sent to the Oregon Department of Land Conservation and Development (DLCD) in compliance with the post-acknowledgement review process required by OAR 660-18-020. DLCD provided a confirmation of notice on January 7, 2010.

14. On February 12, 2010, notice of the public hearing was mailed to 621 individuals and organizations on the project mailing list and Bureau of Planning and Sustainability legislative project mailing list. Two public workshops were held on March 9, 2010 and March 16, 2010, at the Multnomah Art Center and Floyd Light Middle School, respectively. Project staff also provided briefings to other interested groups during this period, including the City's Development Review Advisory Committee and the Citywide Land Use Chairs Group. Outreach conducted for the project is outlined in Appendix D of the Recommended Draft Report.

15. The Planning Commission (PC) and Urban Forestry Commission (UFC) held a joint public hearing that began on March 23, 2010. The commissions held the hearing open and invited comments at three joint work sessions on April 13, April 26, and May 11, and additional separate work sessions on June 8 (PC) and June 17 (UFC). The Planning Commission closed the public hearing on June 8, 2010. The Urban Forestry Commission accepted public testimony until June 17, 2010. Final work sessions were held on July 27 (PC) and July 29, 2010 (UFC).

16. Staff sent electronic mail messages on March 15, May 26, and July 15 to inform the approximately 450 individuals and organizations on the project mailing list of Planning Commission and Urban Forestry Commission public hearing/work session dates. These messages also noted that up-to-date summaries of the Planning Commission's and Forestry Commission's deliberations and directions to staff had been posted on the project website.

17. The commissions received testimony from 71 organizations and individuals. Most testifiers expressed strong support for consolidating regulations into a single tree code title, stronger tree preservation and planting requirements in development situations, a standardized tree permit system, more effective enforcement, and implementation of customer service improvements. A number of people recommended that tree size thresholds be reduced so that the proposed regulations would address smaller trees. Several representatives of the development community expressed strong concerns about the potential impact of proposed development standards on the cost of development and housing affordability. Several people opposed the proposed prohibition on planting trees on the City's Nuisance Plants List because it would prohibit future planting of Norway maple, which is an abundant street tree in Portland and is called for specifically in the Ladd's Addition Conservation District Guidelines. Some expressed concern about the impact of the proposed tree permit system on homeowners. A number of testifiers, including City bureaus, stated that the proposal was overly complex and costly. The written record of testimony submitted during this hearing is provided in Appendix B of the Recommended Draft Report.

18. On July 27, 2010 the Portland Planning Commission unanimously approved the proposed draft with specific directions to revise the Proposed Draft for public review and a hearing before the City Council. On July 29, 2010 the Urban Forestry Commission unanimously followed suit.

19. The commissions approved revisions designed to simplify and reduce the cost of the proposal while maintaining projected tree canopy benefits to the extent possible. For the Title 33 amendments, the Planning Commission and Urban Forestry Commission approved

recommendations to streamline the proposed provisions to address tree preservation in specified land use reviews.

20. The Recommended Draft features:

a. The Recommended Draft Report, which documents the project purpose, process, and proposal in its entirety, and appendices.

b. Consolidation of City tree regulations into a new code Title 11, Trees, which includes the City's Urban Forestry Program and Urban Forestry Commission, an updated, standardized citywide tree permit system, new tree development standards, enforcement procedures, technical specifications, and definitions. Title 11 is being established through a separate ordinance. Also addressed in this separate ordinance are related amendments to other code titles primarily where existing regulations were moved into Title 11, and a set of non-regulatory customer service improvements including a single point of contact for public inquiries, upgrades to the City's tree permit tracking system, a community tree manual, and neighborhood tree plans. The amendments include additional enhancement of other City titles to ensure that trees are considered as part of other reviews.

c. Amendments to the existing Intergovernmental Agreement to Transfer Land Use Planning Responsibilities between the City of Portland and Multnomah County, to address the administration of tree-regulations that apply in situations requiring a development permit. These amendments are the subject of a separate ordinance.

d. Amendments to Title 33, Planning and Zoning, as specified in Exhibit A and which is the focus of this ordinance. Title 33 amendments:
   i) Establish flexible development standards to encourage tree preservation, including allowing limited reductions in required parking spaces and housing density, increased flexibility to meander pedestrian pathways and locate required outdoor areas, and adding a bonus housing density option
   ii) Update the existing numeric tree preservation standards and adding new qualitative criteria in land divisions to 1) improve the quality of tree preservation and 2) allow consideration of site-specific opportunities and constraints
   iii) Require tree preservation plans approved through land divisions to be recorded with the final plat, and establishing a time limit after which such tree preservation requirements expire
   iv) Add tree preservation as one of the factors to consider in Design Reviews and specified Conditional Use Reviews
   v) Establish consistent tree replacement requirements for trees in environmental and other resource overlay zones, including non-native trees and trees in transition areas.
   vi) Update the provisions of certain overlay zones and plan districts to improve consistency and increase tree removal allowances in conjunction with certain activities
   vii) Update definitions to ensure consistent application of stream and wetland

setback standards to protect riparian trees and vegetation in existing overlay zones, and to include additional tree terms

e. Amendments to the Ladd's Addition Conservation District Guidelines to clarify that the prohibition on planting nuisance species trees applies and that the street plan guidelines will inform the selection of species to replace nuisance species street trees in the future. These amendments are specified in Exhibit B of this ordinance.

21. On December 23, 2010 a notice of Portland City Council Hearing and the availability of a the December 2010 Recommended Draft to City Council was mailed electronically to 566 individuals and organizations on the Citywide Tree Project mailing list. On January 18, 2011 a notice of Portland City Council Hearing for the Citywide Tree Project was mailed to 756 individuals and organizations on the project mailing list and the Bureau of Planning and Sustainability's Legislative Master Mailing List, along with a follow up electronic mailing.

22. On January 19, 2011, a public open house was held to answer questions on the Recommended Draft to Council. Twenty-six residents and organization representatives attended the open house.

23. On February 2, 2010, the City Council held a public hearing on the December 2010 Recommended Draft. Forty individuals and organizations submitted oral testimony and Council received 58 pieces of written testimony on or before the February 2nd hearing. City Council members and staff introduced a number of amendments to the Recommended Draft.

24. The City Council directed the Bureau of Planning and Sustainability to work with the Bureaus of Development Services, Parks and Recreation, and Environmental Services, and other bureaus to address remaining bureau concerns. The Council directed the bureaus to identify areas of agreement and issues in which there were different viewpoints, along with the pros and cons of the different choices. The bureaus developed lists of issues and options and held a work session on February 16, 2011. The directors of the Bureaus of Development Services, Parks and Recreation, Environmental Services, and the Bureau of Planning and Sustainability met on February 25, 2011 and agreed on a set of potential amendments to bring to the City Council for consideration. A memorandum to Council with attachments, including potential amendments, was posted for public review, and announced via electronic mail to an updated list of 664 recipients on March 4, 2011.

25. On March 9, 2011 the City Council continued the public hearing and invited public testimony on the potential amendments. Twenty individuals and organizational representatives gave oral testimony at that hearing. Council provided direction on the amendments and invited additional written testimony on the amendments through March 16, 2011. More than 30 and organizations submitted written testimony between February 2 and March 16, 2011. The City Council directed staff to develop any additional code language needed to carry out their direction on the amendments. Amendments to the Recommended Draft to Council are presented in Exhibit E.

26. Amendments to Title 33 are projected to improve the quantity, quality, and distribution of tree canopy through a combination of improved tree preservation and planting on

development sites (see Exhibit C), while providing increased flexibility and opportunities to consider and address site specific constraints, and supporting City goals for neighborhood livability, equity and economic development. The amendments will also ensure tree replacement requirements are applied to non-native trees in environmental resource overlay zones and trees in existing environmental zone transition areas, and will improve consistency of protection for riparian trees along Portland's streams and wetlands within existing overlay zones.

27. Some of the amendments to Title 33 are cost-neutral and can be implemented with existing staff resources. However additional staffing will be needed to administer the amended provisions for land divisions and specified land use reviews. The estimated costs to implement the Title 33 amendments are presented in Exhibits C, Tree Canopy Benefits, Financial Impacts and Budget Proposal and D, Financial Impact Statement, and are expected to be covered on an ongoing basis through modest increases in land use review fees. (Note: Exhibits C and D have been amended and substitute for corresponding exhibits in Volumes 3 and 4 of the Recommended Draft to Council, December 2010.) However, because it will take some time for fee revenues to accrue, it is projected that the Bureau of Development Services will need initial one time general funding to begin implementing certain of the proposed amendments.

28. The amendments to Title 33 will be implemented within Portland City limits and in unincorporated pockets of Multnomah County within the Urban Service Boundary through an existing Intergovernmental Agreement between the City of Portland and Multnomah County.

29. The Ladd's Addition Conservation District Guidelines are amended to clarify that planting trees on the Nuisance Plants List portion of the Portland Plant List is prohibited on City property and City rights-of-way, as set forth in Title 11, Trees. The amendments will also address the existing Ladd's Addition street tree plan guideline which currently mentions several nuisance tree species. This amendment will clarify that the Title 11 prohibition on planting nuisance tree species applies and affirm the historic character of the streetscape that should be maintained through the selection of suitable non-nuisance species that have similar attributes as the tree species mentioned in the plan.

30. The project will be implemented in phases. The first phase will take place in FY 2011-12, and will involve implementation of a first set of Title 33 amendments (Exhibit A) and activities to prepare procedures, materials, systems, and users for implementing Title 11 and the second set of Title 33 amendments. The second phase will take place in FY 2012-13 and will involve hiring and training staff to administer and enforce Title 11 and the second set of Title 33 amendments and the single point of contact. These code changes will become effective as described, pending approval of necessary staffing and funding for administration. Amendments to the Ladd's Addition Conservation District Guidelines will also become effective in February 2013 or when Title 11, Trees becomes effective, whichever is later. Funding requests for the first two years is expected to be for one-time general fund allocations or alternate fund sources. Starting in FY 2013-2014, it is projected that the one time funding source will shift to development fee supported revenues. The phased implementation and projected budget requirements are outlined in Exhibit C, Tree Canopy

Benefits, Financial Impacts and Budget Proposal and Exhibit D, Financial Impact Statement.

31. The Citywide Tree Project is a listed component of Portland's strategy to comply with Metro's Title 13, Nature in Neighborhoods Program, and as an anticipated accomplishment for FY 2010-11 in the City's annual NPDES and Stormwater Program compliance reports to the Oregon Department of Environmental Quality.

Findings on Statewide Planning Goals

32. State of Oregon planning statutes require Oregon cities and counties to adopt and amend comprehensive plans and land use regulations in compliance with statewide land use planning goals. Only the state goals addressed below are found to apply to this project.

33. **Goal 1, Citizen Involvement**, requires provision of opportunities for citizens to be involved in all phases of the planning process. The preparation of these amendments has provided numerous opportunities for public involvement, as described below:

    a. The Bureau of Planning and Sustainability has maintained a project website and electronic mailbox (email) throughout the project.

    b. The Bureau of Planning and Sustainability engaged numerous individuals and organizations in the project scoping process. Interviews and briefings with developers, arborists and neighborhood activists and associations were held in late 2007 and early 2008 to identify key issues the project would address. Project staff invited comments on a draft written project scope during this period.

    c. Project staff convened a broad-based Stakeholder Discussion Group (SDG) for 14 half-day work sessions between March and November 2008. The SDG reviewed and discussed a series of issue papers that staff developed to structure the evaluation of current City policies, regulations and associated procedures. The SDG also provided input on potential solution concepts.

    d. In early 2009 project staff vetted a set of initial project proposals that emanated from the SDG process. The initial proposals were presented to the Portland Planning Commission, Urban Forestry Commission, Sustainable Development Commission, and the Development Review Advisory Commission, the Citywide Land Use Group, Citywide Parks Group, neighborhood associations and watershed councils.

    e. On February 12, 2010 the Bureau of Planning and Sustainability mailed a notice of the upcoming public hearings to 621 individuals and organizations on the project mailing list and bureau's legislative project master mailing list. The bureau also sent out media alerts to local newspapers.

    f. Project staff held two public workshops on March 9, 2010 and March 16, 2010. The workshops were held at the Multnomah Art Center and Floyd Light Middle School to encourage attendance by residents of the west and east sides of the city. Staff also continued to meet with organizations and groups including the Development Review Advisory Committee, the Citywide Land Use Group, the Multnomah County Drainage District, and the Port of Portland.

g. Project staff sent electronic mails to the project mailing list on March 15, May 26, and July 15, 2010 to inform interested parties of the status of the Planning Commission and Urban Forestry Commission hearing and the commissions' deliberations and direction to staff. The emails explained that the public hearing remained open and that public testimony was welcome.

h. The Planning Commission and Urban Forestry Commission invited public testimony at the initial hearing on March 23 and again at subsequent joint meetings on April 13 and 26, and May 11. The Planning Commission invited public testimony at a meeting on June 17, after which they closed the Planning Commission hearing. The Urban Forestry Commission accepted comments through its regularly scheduled meeting on June 17, 2010. Staff also briefed the Portland Design Commission and Historic Landmarks Commission on September 13, 2010.

i. On December 23, 2010 a notice of Portland City Council Hearing and the availability of a the December 2010 Recommended Draft to City Council was mailed electronically to 566 individuals and organizations on the Citywide Tree Project mailing list. On January 18, 2011 a notice of Portland City Council Hearing for the Citywide Tree Project was mailed to 756 individuals and organizations on the project mailing list and the Bureau of Planning and Sustainability's Legislative Master Mailing List, along with a follow up electronic mailing.

j. On January 19, 2011, a public open house was held to answer questions on the Recommended Draft to Council. Twenty-six residents and organization representatives attended the open house.

k. On February 2, 2010, the City Council held a public hearing on the December 2010 Recommended Draft. Forty individuals and organization representatives submitted oral testimony and about 60 provided written testimony on or before the February 2nd hearing. City Council members and staff introduced a number of amendments to the Recommended Draft.

l. The City Council directed the Bureau of Planning and Sustainability to work with the Bureaus of Development Services, Parks and Recreation, and Environmental Services, and other bureaus to address remaining bureau concerns. The Council directed the bureaus to identify areas of agreement and issues in which there were different viewpoints, along with the pros and cons of the different choices. The bureaus developed lists of issues and options and held a work session on February 16, 2011. The directors of the Bureaus of Development Services, Parks and Recreation, Environmental Services, and the Bureau of Planning and Sustainability met on February 25, 2011 and agreed on a set of potential amendments to bring to the City Council for consideration. A memorandum to Council with attachments, including potential amendments, was posted for public review, and announced via electronic mail to an updated list of 664 recipients on March 4, 2011.

m. On March 9, 2011 the City Council continued the public hearing and invited public testimony on the potential amendments. Council provided direction on the amendments and invited additional written testimony on the amendments through March 16, 2011. Twenty individuals and organizations testified at the hearing and more than 30 submitted written testimony between February 2 and March 16, 2011. The City Council directed staff to

develop any additional code language needed to carry out their direction on the amendments, and to return to them for action on the amendments on April 6, 2011. Amendments to the Recommended Draft to Council are provided in Exhibit E.

34. **Goal 2, Land Use Planning**, requires the development of a process and policy framework that acts as a basis for all land use decisions and assures that decisions and actions are based on an understanding of the facts relevant to the decision. This goal is met through implementation of the provisions of PCC Chapter 33.740, Legislative Procedure, which establishes a process for adopting and amending City policies and has been followed in developing these code amendments and presenting them to the Planning Commission and City Council. The proposed amendments to Title 33 will assure that regulations to help achieve Portland's urban forest goals are incorporated into existing City land use regulations and procedures. The amended regulations provide clarity and identify those situations in which land use reviews are required for tree removal and replacement. Staff reports submitted to support the amendments to Title 33 and testimony submitted during the proceedings (Appendices A and B of the Recommended Draft Report, respectively) further informed the process and provide the factual basis for the amendments as required by Goal 2.

35. **Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces**, addresses the conservation of open space and the protection of natural and scenic resources. Trees are an important component of Portland's natural resource areas, scenic resource areas, historic areas, and open spaces. They provide critical habitat for wildlife and provide important watershed functions. Trees also contribute to the beauty and character of the City, including identified Scenic and Historic Areas.

    The amendments support this goal by addressing tree protection and replacement in environmental and Pleasant Valley natural resource overlay zones which were established in large part to comply with Goal 5. The amendments require tree replacement when non-native, non-nuisance trees and trees in environmental zone transition areas are removed. It is intended that these replacement standards will not trigger a review and applicants may choose to pay a fee into the City's revegetation fund in lieu of meeting the standards. The Bureau of Environmental Services administers this fund, using the money to remove invasive plants and plant native vegetation on City property or private property with consent from willing owners. Typically these funds are expended in areas that are protected through public ownership or existing environmental zoning. The amendments also require that removal of nuisance trees in environmental zones must obtain a Title 11 permit to ensure that these trees are replaced with native trees. An amendment to Title 33 definitions will ensure that stream and wetland setbacks are applied consistently in existing environmental and other resource overlay zones. This will result in more consistent avoidance and mitigation of development-related impacts on trees in riparian corridors within existing environmental overlay zones.

    The amendments also address a conflict in regulations by adding an exemption for tree removal to protect designated view corridors in environmental overlay zones.

    The amendments to the Ladd's Addition Conservation District Guidelines are consistent with Goal 5 requirements to protect historic resources, to the extent that the goal is applicable. First, the amendments support this goal by aligning the Ladd's Addition guidelines with the City's

prohibition on planting nuisance species trees on city streets. This will help prevent the spread of Norway maples in Portland's watersheds, including areas identified in Portland's Goal 5 inventories and protection plans. Second, these amendments are consistent with Goal 5 requirements, to the extent that the goal is applicable, since it is the tree-lined streetscape, not the particular species of trees, which is an important element of the historic district nomination for the Ladd's Addition Conservation District. Although Norway maple and other species are mentioned in the application for the National Register of Historic Places, maintaining those particular species is not required to protect the streetscape. According to the Oregon State Historic Preservation Office, the street trees in Ladd's Addition are "a character defining feature of the historic district," and "the existence of street trees is important and the large scale, size, and over-arching shape and size of the tree canopies are important. Those are the things that matter in the eyes of the National Register with regard to the trees in Ladd's Addition....the best approach for replacing dead or diseased trees in a historic landscape is to replace with trees that have comparable characteristics: shape, size, canopy etc. so that they produce the same visual effects as the original plantings....Any replacement choices should be made very, very, carefully..." (Curran, November 18, 2010).

The amendments will direct the use of the existing street plan guideline to inform the future selection of trees to replace Norway maple and other nuisance species street trees as these trees age and become diseased or die. Following this direction will maintain the historic character of the streetscape that was important to the nomination of Ladd's Addition as a historic district, while avoiding inequitable, ecologically damaging, and economically costly conflicts in City policy regarding management of invasive species.

The City requires a Title 11 permit to remove, replace or plant any trees in City rights-of-way. The City Forester is authorized to require or prevent the planting of specific species, and to require removal of trees planted in violation of these rules. The provisions of Title 11, Trees require the City Forester to consider adopted historic guidelines in approving permits to plant trees. These procedures are sufficient to ensure protection of the historic character and associated Goal 5 resources in Ladd's Addition.

36. **Goal 6, Air, Water, and Land Resource Quality,** requires the maintenance and improvement of the quality of air, water, and land resources. Trees help cool and clean the air and water by capturing particulates, shading streams and impervious surfaces such as rooftops and streets, intercepting precipitation and reducing and filtering urban stormwater runoff, and adding nutrients to the soil from leaf litter and decomposing bark and wood.

The amendments support this goal by increasing the quality and quantity of Portland's trees and tree canopy over time. Updated land division standards and criteria improve the quality of tree preservation when land is divided. The amendments also add tree preservation as a factor to consider in design reviews and specified conditional use reviews. This will prompt consideration of existing trees as a site design element or as means to reduce impacts and maintain compatibility with neighboring uses.

New flexible standards allow a limited reduction in required parking or housing density, a shift in the location of required outdoor area, or an increase in the length of pedestrian pathways if such modifications will allow trees to be preserved. In addition, the amendments allow the award of a housing density bonus if additional trees are preserved.

These amendments will provide additional air, water, and land resources benefits on developed sites. In addition, the amendments support this goal by addressing tree protection and replacement in environmental and Pleasant Valley natural resource overlay zones which were established in large part to comply with Goal 5. The amendments require tree replacement when non-native non-nuisance trees and trees in environmental zone transition areas are removed. The amendments also indicate removal of nuisance trees in environmental zones must obtain a Title 11 permit to ensure that these trees are replaced with native trees. An amendment to Title 33 definitions will ensure that stream and wetland setbacks are applied consistently in existing environmental and other resource overlay zones. This will result in more consistent avoidance and mitigation of development-related impacts on trees in riparian corridors within existing environmental overlay zones.

37. **Goal 7, Areas Subject to Natural Hazards,** requires the protection of people and property from natural hazards. The amendments support this goal because they will encourage the preservation of trees, particularly larger healthy trees, tree groves, and trees in riparian corridors which help stabilize slopes and streambanks, prevent erosion, and reduce landslide risk. Trees also help reduce stormwater runoff, thereby reducing risks and impacts of flooding. The amendments include a new exemption for limited tree pruning in environmental and Pleasant Valley natural resource overlay zones. These overlay zones overlap with much of the City's Wildfire Hazard Zone. The new exemption will facilitate vegetation management to reduce the risk and impacts of wildfire in fire prone areas.

38. **Goal 8, Recreational Needs,** requires satisfaction of the recreational needs of residents and visitors to the state. The amendments support this goal by encouraging preservation of large healthy trees and groves, and planting new trees that contribute to the beauty and environmental quality of Portland's neighborhoods, parks, and natural areas where Portlanders and visitors live, work, and play. Trees also contribute to Portland's identity as a "green city" and a desirable destination for visitors. Trees make Portland's streets more pedestrian-friendly and encourage walking for recreation.

39. **Goal 9, Economic Development,** requires provision of adequate opportunities for a variety of economic activities vital to public health, welfare, and prosperity.

    The amendments are consistent with this goal because urban trees provide valuable benefits and have positive economic effects. Studies in Portland show a positive correlation between street trees and neighborhood trees and residential property values. Other studies have shown that street trees can affect positively local business districts by encouraging pedestrian activity and longer visits to business areas.

    The amendments also support this goal by providing applicants for land use reviews and development permits more flexibility to meet development requirements when preserving trees. This flexibility can keep avoid additional cost while encouraging retention of tree amenities that can raise property rental and resale values. The amendments will not adversely affect opportunities for Portlanders to access a variety of economic activities, and In addition, there may

provide additional employment opportunities for qualified arborists to help facilitate and ensure tree preservation through development.

Specifically, the amendments provide flexible development standards to make it easier for developers to incorporate existing trees into their project designs without triggering costly reviews to adjust the standards.

Further, adding tree preservation as a factor to consider in Design Reviews and Conditional Use Reviews will also encourage tree preservation when appropriate to the site and when the trees will enhance the project design or enhance compatibility with surrounding properties.

Amendments to the existing land division tree preservation standards continue to provide applicants with choices to meet the requirements. New approval criteria prioritize preservation of large healthy trees and groves, while also calling explicitly for the consideration of site-specific conditions and the anticipated uses of the property when evaluating tree preservation. In addition, the amendments will allow applicants to count trees on property lines toward meeting the requirements as long as the tree roots are protected during development. This provides applicants more options to meet the requirements, and trees on property lines may be easier and less costly to preserve than trees located in the interior of a site. Mitigation is required if tree preservation standards are not met, but the mitigation planting requirements or in lieu fees are designed to provide flexibility. Mitigation, when required, is directly related and proportional to the level of impact resulting from the proposed development. The overall result is that the amendments will provide applicants more flexibility and provide higher quality tree preservation for the investment, than the existing tree preservation requirements.

Amendments to City environmental overlay zone regulations require that regulated non-native trees and trees in transition areas be replaced when removed. Applicants may choose to pay into an existing revegetation fund in lieu of meeting the tree replacement standards on-site. The Bureau of Environmental Services uses the fund to remove invasive plants and plant native vegetation on City property or other public land, or on private property with consent of willing owners. Typically these funds are expended in areas that are protected through public ownership or existing environmental zoning. As such, these provisions will help maintain tree-related amenities without limiting opportunities for development or affecting industrial, employment, or commercial land supply. An amendment to the Title 33 definition of "identified streams, wetlands and waterbodies" clarifies the City's intention to apply the current stream and wetland setbacks consistently within existing overlay zones. These setbacks are intended to encourage development to provide a minimum buffer, preferably vegetated with trees and other riparian vegetation, to preserve shade, microclimate, habitat, erosion control, and other functions along waterways and wetlands. However, development in the setback may be allowed through a review if no practicable alternative exists that would have less detrimental impact on the resource.

40. **Goal 14, Urbanization,** requires provision of an orderly and efficient transition of rural lands to urban use. The amendments support this goal by supporting and helping maintain the capacity and functionality of Portland's local infrastructure, including both built and natural systems. Specifically, the amendments will strengthen requirements to preserve or mitigate for the loss of large healthy trees and tree groves, thereby improve the quality and function of the City's streams and stormwater conveyance and treatment facilities. Trees help prevent erosion, filter pollutants, and reduce or delay local stormwater runoff peaks that cause the sewer system to backup into

basements in certain parts of the city. The amendments to the land division regulations also support goal by addressing the not only the quantity of tree preservation but also the quality of trees to be preserved, taking into consideration site characteristics and constraints, and development objectives.

41. **Goal 15, Willamette River Greenway,** requires protection, conservation, enhancement and maintenance of the natural, scenic, historic, agricultural, economic, and recreational qualities of lands along the Willamette River.

    The amendments will encourage and improve the quantity and quality of tree preservation and tree planting in the Greenway. Improving tree preservation and planting in the greenway will contribute directly to the values and function of natural resources in the greenway, including wildlife habitat, microclimate and shade, contributions to the food web and nutrient cycling, water quality, and riverbank stabilization and erosion control.

    Maintaining and enhancing tree canopy will also help maintain and restore the scenic and historic character of the greenway, whether looking riverward or landward from the river itself.

    Updates to Title 33 standards and criteria applied to land divisions and development support both conservation and economic objectives of this goal by improving the quality of tree preservation while still providing applicants with more flexibility than existing requirements.

    Specifically, the amendments provide new flexible development standards to make it easier for developers to incorporate existing trees into their project designs without triggering a review or adjustment to the standards.

    Adding tree preservation as a factor to consider in Design Reviews and Conditional Use Reviews will also encourage tree preservation when appropriate to the site and when the trees will improve the project design or enhance compatibility with surrounding properties.

    New land division approval criteria prioritize preservation of large healthy trees and groves, while also explicitly calling for consideration of site-specific conditions and anticipated uses of the property when evaluating tree preservation. In addition, the amendments will allow applicants to count trees on property lines toward meeting the requirements so long as the tree roots are protected during development. Preserving trees on property lines may be easier and less costly to preserve than trees located in the interior of a site. Mitigation is required if tree preservation standards are not met, but the mitigation planting requirements or in lieu fees are designed to be reasonable and not onerous. Mitigation, when required, is directly related and proportional to the level of impact resulting from the proposed development.

Findings on Metro Urban Growth Management Functional Plan

42. State land use planning statutes require cities and counties within the Metropolitan Service District boundary to amend comprehensive plans and land use regulations in compliance with the relevant provisions of the Urban Growth Management Functional Plan (UGMFP). Only the provisions addressed below are found to apply to this project.

43. **Title 1, Requirements for Housing and Employment Accommodation,** requires that each jurisdiction contribute its fair share to increase the development capacity of land within the Urban Growth Boundary. The amendments are consistent with this goal because they will not affect development capacity.

    Specifically, the amendments provide new flexible development standards to make it easier for developers to incorporate existing trees into their project designs without triggering a review or adjustment to the standards. In multi-dwelling residential zones the amendments would allow limited reductions in minimum density equivalent to existing density reductions that can be requested in conjunction with land divisions in these zones when preserving trees. The amendments also allow limited increases in maximum density through a bonus if additional trees at least 12 inches in diameter are preserved. Given that the amendments allow both increases and decreases in density, and that the modifications would be limited, the effect on housing accommodation will be neutral.

    The City established tree preservation requirements in 2001 through a comprehensive rewrite of the City's land division regulations (effective July 2002). That action established numeric standards that did not foster preservation of healthy, quality trees, and provided little flexibility to consider site conditions and constraints. Developers participating in the Citywide Tree Project Stakeholder Discussion Group noted that the existing standards are overly rigid and often result in costs to preserve low quality trees. Amendments to the tree preservation standards continue to provide applicants choices in meeting the minimum quantitative requirements. New approval criteria prioritize preservation of large healthy trees and groves, and also include the consideration of site-specific conditions and anticipated uses of the property when evaluating tree preservation. In addition, the amendments will allow applicants to count trees on property lines toward meeting the requirements so long as the tree roots are protected during development. This provides applicants more options to meet the requirements and trees on property lines may be easier and less costly to preserve than trees located in the interior of a site. The overall result is that the amendments will provide applicants more flexibility and be more cost-effective than the existing tree preservation requirements.

    Amendments to regulations affecting City environmental overlay zones require replacement of non-native trees and trees in transition areas which will enhance tree canopy without limiting opportunities for development, including housing. An amendment to the Title 33 definition of "identified streams, wetlands and waterbodies" clarifies the City's intention to apply the current stream and wetland setbacks consistently within existing overlay zones. These setbacks are intended to encourage development to provide a minimum buffer for the resource, however development in the setback may be allowed through a review if no practicable alternative exists that would have less detrimental impact on the resource.

44. **Title 3, Water Quality, Flood Management and Fish and Wildlife Conservation,** establishes requirements that Metro-area cities and counties must meet to reduce flood and landslide hazards, control soil erosion and protect water quality. Title 3 specifically implements the Statewide Land Use Goals 6, Air, Water and Land Resource Quality and 7, Areas Subject to Natural Hazards. The findings for Goals 6 and 7 provided in this ordinance support this finding that the amendments are generally consistent with Title 3.

Maintaining a vegetated corridor in the Title 3 Water Quality Resource Area is a primary goal of Title 3's water quality requirements. The City's compliance with Title 3 water quality requirements is based on the existing Environmental Overlay Zones and the Greenway Overlay Zones. The amendments provide for more consistent tree protection and replacement within these overlay zones, including replacement for non-native trees and trees in the environmental overlay zone transition area. Applicants may choose to pay into an existing revegetation fund in lieu of meeting these standards onsite. The Portland Bureau of Environmental Services uses these funds to remove invasive plants and plant native vegetation on City property, other public land, or private land with consent of willing owners. Typically these funds are expended in areas that are protected through public ownership or existing environmental zoning. An amendment to the Title 33 definition of "identified streams, wetlands and waterbodies" clarifies the City's intention to apply the current stream and wetland setbacks consistently within existing overlay zones. These setbacks are intended to encourage development to provide a minimum buffer for the resource, and to help prevent impacts on riparian corridor trees and vegetation that help protect water quality. However, development in the setback may be allowed through a review if no practicable alternative exists that would have less detrimental impact on the resource.

The amendments will also complement Portland's Title 10 erosion control requirements, and Title 24 floodplain provisions, which the City adopted to comply with Title 3. The amendments will encourage and improve the quality of tree preservation and mitigation for tree loss, with a focus on preserving large healthy trees and groves than help prevent erosion on slopes and streambanks, and that can help reduce the risk and impacts of flooding.

45. **Title 6, Regional Accessibility,** recommends street design and connectivity standards that better serve pedestrian, bicycle, and transit travel, and that support the 2040 Growth Concept. The amendments are consistent with this goal in that they require consideration of existing trees and space for street tree planting when evaluating public and private street design and connectivity in land divisions. The intent is to encourage project designs that meet both street design and connectivity goals and urban forest management goals where practicable, so that streets are both functional and attractive to pedestrian and other users.

48. **Title 8, Compliance Procedures,** establishes requirements and timelines for cities and counties to comply with the Urban Growth Management Functional Plan (UGMFP). Adopting these amendments is consistent with and will advance the City's compliance with this Title. Title 8 of the UGMFP requires local jurisdictions to comply with Title 13, Nature in Neighborhoods within 2 years of acknowledgement by the Oregon Department of Land Conservation and Development (DLCD). DLCD acknowledged Title 13 in compliance with Statewide Land Use Goals 5, Natural Resources, Scenic and Historic Areas, and Open Spaces, and 6, Air, Water and Land Resource Quality in January of 2007, making the deadline for local compliance January 2009. In January 2009, the Portland Bureau of Planning and Sustainability submitted a request that Metro extend the Title 13 compliance deadline as allowed by Title 8. Metro approved a one-year extension in November 2009. Portland's extension request included a phased compliance strategy which includes adoption of updated tree regulations through the Citywide Tree Policy Review and Regulatory Improvement Project.

47. **Title 13, Nature in Neighborhoods,** establishes requirements to conserve, protect, and restore a continuous ecologically viable streamside corridor system that is integrated with upland wildlife habitat and the surrounding urban landscape. These amendments are consistent with and will advance the City's compliance with the requirements of this Title. Title 13 identifies high value riparian corridors and wildlife habitat areas in the City of Portland and the rest of the region. Trees and vegetation are identified as significant resources where they exist within Habitat Conservation Areas (HCAs).

    Metro requires that area cities and counties demonstrate that they have established programs to ensure that adverse impacts on the values and functions of the HCAs are avoided, minimized, and mitigated. Values and functions include streamflow moderation and flood storage, bank stabilization and erosion control, microclimate and shade, channel dynamics, organic inputs and wildlife habitat.

    Metro provides several approaches that cities and counties may use individually or in combination to demonstrate compliance with Title 13. Options include regulations and non-regulatory tools to protect, conserve, and restore the HCAs, as well as establishment of tree ordinances.

    These amendments will strengthen tree preservation standards and criteria associated with land divisions, and will provide additional encouragement and flexibility to preserve existing trees in conjunction with Design Reviews, Conditional Use Reviews and other types of development.

    In addition, the amendments will ensure that trees are addressed more consistently in the City's environmental overlay zones and other resource overlay zones, and specified plan districts. For example, the amendments will expand the tree replacement requirements to apply to non-native trees in environmental and Pleasant Valley natural resources overlay zones, and to trees that are removed from environmental overlay transition areas. Applicants may choose to pay into an existing revegetation fund in lieu of meeting these standards onsite. The Portland Bureau of Environmental Services uses these funds to remove invasive plants and plant native vegetation on City property, other public land, or private land with consent of willing owners. Typically these funds are expended in areas that are protected through public ownership or existing environmental zoning. In addition, an amendment to the Title 33 definition of "identified streams, wetlands and waterbodies" clarifies the City's intention to apply the current stream and wetland setbacks consistently within existing overlay zones. These setbacks are intended to encourage development to provide a minimum buffer for the resource, however development in the setback may be allowed through a review if no practicable alternative exists that would have less detrimental impact on the resource. These amendments are particularly relevant to Title 13 since much of the HCAs are located within existing City resource overlay zones. For HCAs outside existing resource overlay zones, the amended land division tree preservation criteria emphasize retention of buffers near natural resources.

Findings on Portland's Comprehensive Plan Goals

48. Only the Comprehensive Plan goals addressed below are found to apply to this project.

49. **Goal 1, Metropolitan Coordination,** calls for the Comprehensive Plan to be coordinated with federal and state law and to support regional goals, objectives and plans. The amendments support this goal as follows:

    a. The City's Comprehensive Plan was adopted by the Portland City Council on October 16, 1980, and was acknowledged as being in conformance with the statewide planning goals by the Land Conservation and Development Commission (LCDC) on May 1, 1981. On May 26, 1995, and again on January 25, 2000, the LCDC completed its review of the City's final local periodic review order and periodic review work program, and reaffirmed the plan's compliance with the Statewide Planning Goals. The City is currently under a new Periodic Review order and is pursuing compliance in accordance with a DLCD-approved work plan.

    b. This ordinance amends portions of Title 33, Planning and Zoning pertaining to

BASE ZONES
100 Open Space Zone
110 Single-Dwelling Residential Zones
120 Multi-Dwelling Residential Zones
130 Commercial Zones
140 Employment and Industrial Zones

ADDITIONAL USE & DEVELOPMENT REGULATIONS
248 Landscaping and Screening
258 Nonconforming Situations
266 Parking and Loading

OVERLAY ZONES
430 Environmental Zone
440 Greenway Overlay Zones
465 Pleasant Valley Natural Resources Overlay Zone
480 Scenic Resource Zone

PLAN DISTRICTS
508 Cascade Station/Portland International Center (CS/PIC) Plan District
515 Columbia South Shore Plan District
537 Johnson Creek Basin Plan District
570 Rocky Butte Plan District
580 South Auditorium Plan District

LAND DIVISIONS AND PLANNED DEVELOPMENTS
630 Tree Preservation
635 Clearing and Grading and Land Suitability
654 Rights-of-Way
660 Review in OS & R Zones
662 Review in C, E, & I Zones
663 Final Plats
664 Review on Large Sites in I Zones
665 Planned Development Review

ADMINISTRATION AND PROCEDURES
700 Administration and Enforcement
730 Quasi-Judicial Procedures

LAND USE REVIEWS
815 Conditional Uses
820 Conditional Use Master Plans
825 Design Review

853 Tree Review

GENERAL TERMS
910 Definitions
930 Measurements

c. The amendments implement, but do not change, the Comprehensive Plan. The amendments do not change the City's comprehensive plan map or the official zoning maps. Recommendations to better address City urban forestry goals and policies during the Portland Plan project and imminent Comprehensive Plan update are provided in the Recommended Draft Report.

d. During the course of public hearings, the Bureau of Planning and Sustainability, the Planning Commission, Urban Forestry Commission, and the City Council provided interested parties opportunities to identify, either orally or in writing, any other Comprehensive Plan goal, policy or objective that might apply to the amendments. No additional provisions were identified. Therefore, the amendments satisfy the applicable existing Comprehensive Plan goals, policies and objectives for the reasons stated below.

50. **Policy 1.4, Intergovernmental Coordination,** requires continuous participation in intergovernmental affairs, emphasizing the importance of working with public agencies to coordinate metropolitan planning and project development, and to maximize the efficient use of public funds. The amendments support this policy because the City consulted and coordinated with a number of public agencies and other entities during the course of the project, including Metro, Multnomah County, the Cities of Tigard, Beaverton, Gresham, Lake Oswego, and Vancouver, Port of Portland, Multnomah County Drainage District, the East and West Multnomah County Soil and Water Conservation Districts, and the Johnson Creek, Columbia Slough, and Tryon Creek Watershed Councils. These organizations were also notified of opportunities to comment on the amendments during hearings before the Portland Planning Commission, Urban Forestry Commission and City Council. The City also shared information and invited input on the project during the 2009 Arbor Day Foundation National Partners in Community Forestry Conference which was attended by numerous local and state agencies from Oregon and across the United States.

51. **Goal 2, Urban Development,** calls for maintaining Portland's role as the major regional employment and population center by expanding opportunities for housing and jobs, while retaining the character of established residential neighborhoods and business centers. The amendments support this goal because they are designed to improve the quantity and quality of tree preservation, planting and protection in the City while also recognizing and supporting the needs of development for certainty, flexibility, and reasonable costs. The amendments are also intended to help the City meet its adopted tree canopy targets which will help maintain Portland's reputation as a desirable place to live, work and play.

52. **Goal 3, Neighborhoods,** calls for the preservation and reinforcement of the stability and diversity of the City's neighborhoods while allowing for increased density. The Title 33 amendments support this goal because they update or establish standards and criteria intended to

improve tree preservation and tree replacement associated with land divisions and specified other land use reviews, and in the City's environmental and other resource overlay zones and specified plan districts. New flexible development standards are designed to encourage preservation of larger healthy trees without adversely affecting neighborhood character. Improved tree preservation and planting will enhance the quality and livability of Portland's neighborhoods by providing cleaner cooler air, shade, habitat for birds, and enhanced aesthetic and property values. Improved tree preservation and planting on development sites will help ensure that tree related benefits are maintained in the areas where development is occurring.

Amendments to the Ladd's Addition Conservation District Guidelines are consistent with this goal for the reasons stated in the findings addressing Statewide Planning Goal 5. The amendments clarify that the Title 11 prohibition on planting trees on the City's Nuisance Plants List on City property or rights-of-way applies in Ladd's Addition, but directs the use of the existing street tree plan (which includes several nuisance tree species) as a guide in the selection of future street trees to maintain the historic character of the streetscape. These amendments are reinforced by Title 11 provisions requiring the City Forester to consider adopted historic guidelines in approving tree replacement or planting through the tree permit process.

53. **Goal 4, Housing,** calls for enhancing Portland's vitality as a community at the center of the region's housing market by providing housing of different types, density, sizes, costs and locations that accommodates the needs, preferences, and financial capabilities of current and future households. The amendments are consistent with this goal because they will not affect the City's ability to offer diverse housing opportunities to Portlanders. See findings for Statewide Planning Goal, Goal 10, Housing and for Metro Title 1 for explanation.

54. **Goal 5, Economic Development,** calls for the promotion of a strong and diverse economy that provides a full range of employment and economic choices for individuals and families in all parts of the city. The amendments are consistent with this goal because they will not adversely affect the range of employment opportunities and economic choices for individual and families in Portland. In addition, there may be an increase in demand for qualified arborists to help facilitate and ensure tree preservation through development. See findings for Statewide Planning Goal, Goal 9, Economic Development for additional discussion and explanation.

55. **Goal 8, Environment,** calls for the maintenance and improvement of the quality of Portland's air, water, and land resources, as well as the protection of neighborhoods and business centers from noise pollution. The amendments support this goal because they continue and advance existing associated City policies and programs to conserve and protect significant natural resources as identified in City-adopted natural resource inventories, protection plans, the Environmental Overlay Zone regulations, and the Greenway Overlay Zone regulations. These associated policies include Policy 8.10, Drainageways; Policy 8.11, Special Areas; Policy 8.14, Natural Resources; Policy 8.15 Wetlands/Riparian/Water Bodies protection; Policy 8.16, Uplands Protection; and Policy 8.17, Wildlife.

The amendments include updated and new standards, criteria and other provisions intended to encourage and improve the quantity and quality of tree preservation and planting in conjunction

with land divisions, specified land use reviews, and development generally. In addition, the amendments improve tree protection and replacement in the City's most environmentally sensitive areas. The amendments expand the tree replacement requirements to apply to non-native trees in the environmental and Pleasant Valley natural resources overlay zones, and to trees that are removed from environmental overlay transition areas. The amendments also reduce the minimum size of trees required to be planted in the overlay zones. This reduces the cost of restoration projects while increasing the survival rate of the trees planted. In addition, an amendment to the Title 33 definition of "identified streams, wetlands and waterbodies" clarifies the City's intention to apply the current stream and wetland setbacks consistently within existing overlay zones. These setbacks provide a minimum buffer for the resource, however development in the setback may be allowed through a review if no practicable alternative exists that would have less detrimental impact on the resource.

56. **Goal 9, Citizen Involvement,** calls for improved methods and ongoing opportunities for citizen involvement in the land use decision-making process, and the implementation, review, and amendment of the Comprehensive Plan. This project followed the process and requirements specified in Chapter 33.740, Legislative Procedure. The amendments support this goal for the reasons found in the findings for Statewide Planning Goal 1, Citizen Involvement. The amendments support this goal as they reflect extensive input from community stakeholders during initial project scoping, from a diverse Stakeholder Discussion Group, from the Planning Commission, Urban Forestry Commission and many other committees and organizations during the vetting of initial project proposals, and from other agencies, organizations and Portland residents and businesses during public hearings before the Planning Commission, Urban Forestry Commission, and City Council.

57. **Goal 10, Plan Review and Administration,** calls for periodic review of the Comprehensive Plan, for implementation of the Plan, and addresses amendments to the Plan, to the Plan Map, and to the Zoning Code and Zoning Map. The amendments support this goal because they will further support and help implement the existing Comprehensive Plan policies. No changed will be made to the Plan Map or the Zoning Map.

58. **Policy 10.10, Amendments to the Zoning and Subdivision Regulations,** requires amendments to the zoning and subdivision regulations to be clear, concise, and applicable to the broad range of development situations faced by a growing, urban city. The amendments support this policy by updating standards and criteria in the City Zoning Code to address tree preservation and replacement more effectively through a range of development situations including land division reviews, design reviews, and specified conditional use reviews, and other types of development. The amendments add flexibility to encourage tree preservation in development situations, while also taking other factors and criteria into consideration. The amendments include new approval criteria for land divisions that consider the expected use and intensity of the site, access and service requirements and other site constraints, along with goals for preserving trees. In conditional use and design reviews, tree preservation will be considered as a factor to improve compatibility and/or the project design, along with other factors important for the specific development proposal. Within overlay zones and plan districts, the amendments provide more

consistent regulation of like situations and will help streamline the development process by including new allowances for tree removal for activities that commonly trigger land use reviews.

59. **Goal 11 F, Parks and Recreation,** calls for maximizing the quality, safety and usability of parklands and facilities. The amendments support this goal because they encourage and improve the quality of tree preservation and replacement, including requiring replacement of non-native trees in the environmental and Pleasant Valley natural resources overlay zones, and replacement of trees in environmental overlay zone transition areas. This will ensure more consistent replenishment of the tree canopy in a number of City parks, golf courses, and natural areas.

PUBLIC SAFETY GOALS & POLICIES

60. **Goal 11 G, Fire,** calls for development and maintenance of facilities that adequately respond to the fire protection needs of Portland. The amendments support this goal because they add a new exemption for tree pruning in the environmental and Pleasant Valley natural resources overlay zones, subject to a permit from the City Forester. This will streamline the process required for pruning trees, which will help reduce the risks and impacts of wildfire.

61. **Goal 11 I, Schools,** calls for enhancing the educational opportunities of Portland's citizens. The amendments support this goal because they provide additional opportunities to educate Portlanders, including property owners, developers, and arborists, about the value and benefits provided by trees, and opportunities to incorporate them into development project design.

62. **Goal 12, Urban Design,** calls for enhancing Portland as a livable city, attractive in its setting and dynamic in its urban character by preserving its history and building a substantial legacy of quality private developments and public improvements for future generations. The amendments support this goal because they will help sustain and enhance Portland's urban forest through private developments and public improvements. They will encourage preservation of large healthy trees and groves that contribute to the aesthetic value and identity of Portland's neighborhoods, while providing additional flexibility that will support development goals, and maintenance of view corridors.

NOW, THEREFORE, the Council directs:

a. Adopt the *Citywide Tree Policy Review and Regulatory Improvement Project - Recommended Draft Report to City Council,* dated December 2010, and Bureau of Planning and Sustainability staff memoranda (and attachments) to City Council dated March 4, 2011 and March 31, 2011 which provide supplemental documentation of legislative history and intent.

b. Amend Title 33, Planning and Zoning, as specified in Exhibit A, as amended per Exhibit E.

c. Adopt the commentary in Exhibit A, as amended per Exhibit E, as legislative intent and supplemental findings.

d. Amend the Ladd's Addition Conservation District Guidelines as specified in Exhibit B.

e. Adopt Exhibit E, including code amendments, and amended commentary and descriptions which provide additional documentation of legislative intent.

f. Direct the bureau of Development Services and Parks and Recreation to report to Council during the budget processes for FY 2011-12, FY 2012-13 and 2013-14 on proposed implementation and funding to administer these amendments as informed by Exhibit C, Tree Canopy Benefits, Financial Impacts and Budget Proposal and Exhibit D, Financial Impact Statement.

g. Direct the Director of the Bureau of Planning and Sustainability to include the information contained in Table 630-1 (Significant Trees) of the zoning code into the Portland Plant List by initiating a change to the List within 180 days of the date this ordinance is adopted.

h. Council directs that the City Forester, Bureau of Environmental Services, and Bureau of Planning and Sustainability, with support from the Office of Neighborhood Involvement and in consultation with the Urban Forestry Commission, work with Ladd's Addition residents and property owners, the Hosford-Abernathy Neighborhood Development (HAND) and Save Our Elms to update the Open Space Guidelines for the street trees in the Ladd's Addition Conservation District Guidelines for Development and Preservation.

Section 2. To provide time for the City to establish systems and procedures to implement many of the Title 33 amendments, to conduct public outreach to raise community awareness of the changes, and in recognition of current budget constraints and the economic downturn, this ordinance shall be in force and become effective on February 1, 2013, except for the list of Title 33 amendments in Exhibit A that are identified to become effective on July 1, 2011.

Section 3. If any section, subsection, clause or phrase of this Ordinance, or the code amendments it adopts, is for any reason held to be invalid or unconstitutional, that shall not affect the validity of the remaining portions of the Portland City Code and other identified documents. Council declares that it would have passed the Portland City Code and other identified documents, and each section, subsection, sentence, clause, and phrase thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, or phrases of this Ordinance, may be found to be invalid or unconstitutional.

Passed by the Council: APR 13 2011

Commissioner: Mayor Sam Adams
Prepared by: Roberta Jortner
Date Prepared: March 31, 2011

LaVonne Griffin-Valade
Auditor of the City of Portland
By Susan Parsons
Deputy

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Agenda No. SUBSTITUTE
ORDINANCE NO. 184524 As Amended
Title

Encourage integration of quality tree preservation and tree planting in early site design, land divisions, and certain land use reviews; improve consistency and effectiveness of tree regulations in specified overlay zones and plan districts; update definitions and amend the Ladd's Addition Conservation District Guidelines to clarify that planting trees on the Nuisance Plants List is prohibited on City property and City rights-of-way (Ordinance introduced by Mayor Adams; amend Title 33)

INTRODUCED BY Commissioner/Auditor: **Mayor Sam Adams**	CLERK USE: DATE FILED APR 01 2011
COMMISSIONER APPROVAL Mayor—Finance and Administration - Adams Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Leonard	LaVonne Griffin-Valade Auditor of the City of Portland By: Susan Parsons Deputy
BUREAU APPROVAL Bureau: Planning and Sustainability Bureau Head: Susan Anderson Prepared by: Roberta Jortner Date Prepared: March 31, 2011	ACTION TAKEN: SUBSTITUTE APR 06 2011 PASSED TO SECOND READING As Amended APR 13 2011 9:30 A.M.
Financial Impact Statement Completed ☒ Amends Budget ☐ Not Required ☐	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes ☐ No ☒	
Council Meeting Date April 6, 2011	
City Attorney Approval	

AGENDA
TIME CERTAIN ☒ Start time: 10:45 am Total amount of time needed: ~~1 hours~~ 45 min (for presentation, testimony and discussion)
CONSENT ☐
REGULAR ☐ Total amount of time needed: ____ (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	✓	
4. Leonard	4. Leonard	✓	
Adams	Adams	✓	

Exhibit A
Amendments to Title 33, Planning and Zoning

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Effective Dates for Title 33 Amendments

The following list of Title 33 code sections identifies amendments that will become effective on July 1, 2011. This set of amendments was selected for near-term implementation because they do not require additional funding to be implemented and they can stand alone without other parts of the proposal. The remaining amendments to Title 33 will become effective February 1, 2013.

Base Zones
33.100.010 Open Space Zone Purpose
33.110.235 Required Outdoor Areas
33.120.235 Landscaped Areas
33.120.255 Pedestrian Standards
33.130.225 Landscaped Areas
33.130.240 Pedestrian Standards
33.140.225 Landscaped Areas
33.140.240 Pedestrian Standards

Development Standards
33.248.030.C.1 Plant Materials, Trees
33.266.110 Minimum Required Parking Spaces

Overlay Zones
33.480.040.B Scenic Corridors (except B.2.h, Tree removal without development is deferred until February 1, 2013)

Plan Districts
33.537, Johnson Creek PD (except 33.537.125.D, Tree removal without development is deferred until February 1, 2013)
33.570, Rocky Butte (except 33.570.040.D, Tree removal without development is deferred until February 1, 2013)
33.580.130 South Auditorium, Preservation of Existing Trees (except 33.580.130.C, Tree removal without development is deferred until February 1, 2013)

Land Divisions
33.630.700 Recording Tree Preservation Plans and Related Conditions
33.635.100 Clearing and Grading Criteria
33.660.310 Review Procedures
33.662.310 Review Procedures
33.663 Final Plats - all

Administration and Enforcement
33.730.140, Requests for Changes to Conditions of Approval
33.853 Tree Review (except 33.853.020.B.2.b. Changing tree preservation requirements following land use approval - exception for dead, dying and dangerous trees - is deferred until February 1, 2013)

33.910 Definitions
Identified Wetlands, Identified Streams, Identified Waterbodies
Nuisance Plants List
Tree Types: Dangerous Tree, Dead Tree, and Dying Tree

33.930 Measurements - all

COMMENTARY

CHAPTER 33.100, OPEN SPACE ZONE

The Citywide Tree Project is proposing a new Tree Title (Title 11, Trees). Title 11 will contain tree density and tree preservation standards for trees on a development site, as well as street tree requirements. Changes are proposed to all of the base zones to add and/or update references to the tree standards in Title 11.

The proposed change to the Table of Contents reflects an updated reference to all the proposed tree standards in Title 11.

33.100.010 Purpose
The Open Space zone contains many parks and natural areas, many of which are publically owned. The proposed amendment to the purpose statement for the zone recognizes the key role that these areas play in preserving trees and enhancing the urban forest.

33.100.210 Demolitions
Currently, there is lack of clarity about what happens to trees during demolition. The demolition permit applies only to buildings, but because there is no requirement to identify trees on the demolition site plan, trees are sometimes removed with the demolition. This new statement clarifies that the Title 11 tree preservation and protection requirements apply to demolition permits.

33.100.230 Street Trees, Renamed: Trees
Currently, this section refers to the street trees standards in Title 20. These standards are proposed to be moved to Title 11. In addition, Title 11 will include regulations related to tree preservation and planting for trees on the site. This section provides a general reference to all of these regulations.

AMEND CHAPTER 33.100, OPEN SPACE ZONE

Sections:
General
33.100.010 Purpose
33.100.020 Short Name
33.100.030 Where the Zone Is Applied
33.100.040 Other Zoning Regulations
Use Regulations
33.100.100 Primary Uses
33.100.110 Accessory Uses
33.100.120 Nuisance-Related Impacts
Development Standards
33.100.200 Development Standards
33.100.205 Fences
33.100.210 Demolitions
33.100.220 Nonconforming Development
33.100.225 Signs
33.100.230 ~~Street~~ Trees ~~Standards~~

33.100.010 Purpose

The Open Space zone is intended to preserve and enhance public and private open, natural, and improved park and recreational areas identified in the Comprehensive Plan. These areas serve many functions including:

- Providing opportunities for outdoor recreation;
- Providing contrasts to the built environment;
- Preserving scenic qualities;
- Protecting sensitive or fragile environmental areas;
- Enhancing and protecting the values and functions of trees and the urban forest;
- Preserving the capacity and water quality of the stormwater drainage system; and
- Providing pedestrian and bicycle transportation connections.

33.100.210 Demolitions

A. Generally. ~~The demolition of historic resources is regulated by Chapter 33.445, Historic Resource Protection Zone.~~ Demolition on a site that requires a demolition permit is subject to the tree preservation and protection requirements of Title 11, Trees. See Chapter 11.50, Trees in Development Situations.

B. Historic resources. Demolition of historic resources is regulated by Chapter 33.445, Historic Resource Protection Zone.

33.100.230 ~~Street~~ Trees

~~Street trees are required for all developments by the City Forester. See Chapter 20.40, Street Trees and Other Public Tree Regulations.~~
Requirements for street trees and for on-site tree preservation, protection, and overall tree density are in Title 11, Trees. See Chapter 11.50, Trees in Development Situations.

COMMENTARY

CHAPTER 33.110, SINGLE-DWELLING ZONES

The Citywide Tree Project is proposing a new Tree Title (Title 11, Trees). Title 11 will contain tree density and tree preservation standards for trees on development sites, as well as street tree requirements. Changes are proposed to all of the base zones to reference the tree standards in Title 11.

Table of Contents
The proposed change to the Table of Contents reflects an updated reference to the proposed tree standards in Title 11. Reference to the tree standards is also moved upward in the list of development standards to emphasize the importance of evaluating tree preservation and planting requirements early in the site design process.

33.110.227 Trees
This section replaces the reference to the current T1, Tree standard, which is located in Chapter 33.248. New tree density and tree preservation standards will be located in Title 11 and will apply to most development proposals, including single dwelling development addressed in the current T1 standard. See Title 11 for additional details about the standards. The existing reference to Tree and Street Tree regulations (33.110.282 and 285) will be deleted.

AMEND CHAPTER 33.110, SINGLE-DWELLING ZONES

Sections:
General
33.110.010 Purpose
33.110.020 List of the Single-Dwelling Zones
33.110.030 Other Zoning Regulations
Use Regulations
33.110.100 Primary Uses
33.110.110 Accessory Uses
33.110.120 Nuisance-Related Impacts
Development Standards
33.110.200 Housing Types Allowed
33.110.212 When Primary Structures are Allowed
33.110.213 Additional Development Standards for Lots and Lots of Record Created Before July 26, 1979
33.110.215 Height
33.110.220 Setbacks
33.110.225 Building Coverage
33.110.227 Trees
33.110.230 Main Entrances in R10 through R2.5 Zones
33.110.232 Street-Facing Facades in R10 through R2.5 Zones
33.110.235 Required Outdoor Areas
33.110.240 Alternative Development Options
33.110.245 Institutional Development Standards
33.110.250 Accessory Structures
33.110.253 Garages
33.110.255 Fences
33.110.260 Demolitions
33.110.270 Nonconforming Development
33.110.275 Parking and Loading
33.110.280 Signs
~~33.110.282 Trees~~
~~33.110.285 Street Trees~~

33.110.227 Trees

Requirements for street trees and for on-site tree preservation, protection, and overall tree density are specified in Title 11, Trees. See Chapter 11.50, Trees in Development Situations.

COMMENTARY

33.110.235 Required Outdoor Areas

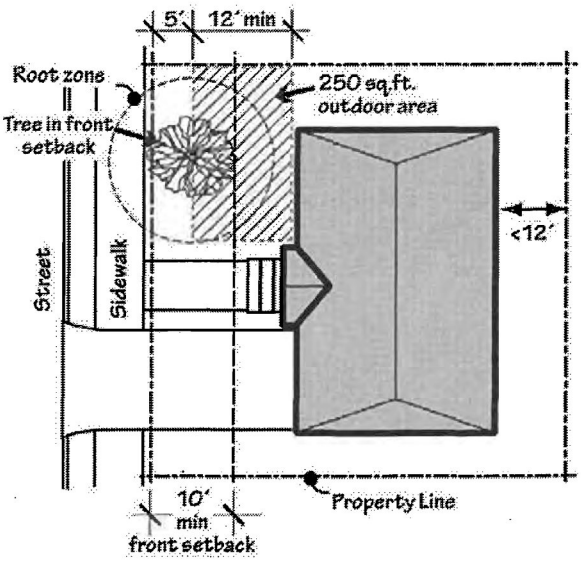
This is the first of several "flexible development options" proposed throughout the base zone regulations to encourage tree preservation during development. The flexible development standards may be used when trees at least 12 inches in diameter will be preserved. Several developers have described their desire to preserve trees only to find that meeting all the development standards and the root protection zone requirements is difficult, especially on smaller lots. Currently, applicants may apply for an adjustment review to modify development standards, which takes approximately 8 weeks. Due to the time delay, it is generally quicker and cheaper to remove mature trees and plant new trees to meet the tree standards.

In the case of required outdoor area, if a tree is in the front yard, a house would likely need to be located further back on the lot in order to avoid the root protection zone. By setting the house back, the area behind the house might become too small to meet minimum outdoor area requirements. Required outdoor area is not currently allowed in the front setback.

This proposed exception to the requirement would allow part of the required outdoor area to be located in the front setback if doing so would allow preservation of one or more qualifying trees. The exception would allow the outdoor area to encroach into 50 percent of the front setback in order to preserve trees. Since the largest base zone setback is 20 feet and the smallest is 10 feet, the range of allowed encroachment is 5- 10 feet. The remainder of the outdoor area would need to be outside of the front setback.

This option is not proposed in multi-dwelling zones, because the small size of the multi-dwelling outdoor area (6'x6') and front setback (10') should make compliance with the standard more feasible without the exception.

The diagram provides an example of what will be allowed in the R5 or R2.5 zone under the exception for tree preservation. In this example, the required outdoor area is located in front of the house.



33.110.235 Required Outdoor Areas

A. and B. [No change]

C. Requirements.

1. and 2. [No change.]

3. Location. General landscaped areas which are included as part of the required outdoor area may extend into the required side and rear building setback.~~, but the~~ The required outdoor area may ~~not~~ extend into the front setback up to one-half the depth of the setback ~~be located in the front building setback~~ if at least one tree that is at least 12 inches in diameter is proposed to be preserved within the front setback.

33.110.260 Demolitions

Currently, there is lack of clarity about what happens to trees when demolish occurs on a site. The demolition permit applies only to the building, but because there is no requirement to identify trees on the demolition site plan, trees are sometimes removed with the demolition. This new statement clarifies that the Title 11 tree preservation and protection requirements apply to demolition permits.

33.110.282 Trees and 33.110.285 Street Trees

These sections are deleted and replaced by 33.110.227, Trees (discussed above) which addresses the requirement for both on site and street trees.

33.110.260 Demolitions

A. Generally. Demolition on a site that requires a demolition permit is subject to the tree preservation and protection requirements of Title 11, Trees. See Chapter 11.50, Trees in Development Situations.

B. Historic resources. Demolition of historic resources is regulated by Chapter 33.445, Historic Resource Protection Zone.

~~The demolition of historic resources is regulated by Chapter 33.445, Historic Resource Protection Zone.~~

~~**33.110.282 Trees**~~

~~A. Purpose. The purpose of the tree standard is to maintain and add to Portland's tree canopy and to enhance the overall appearance of single-dwelling development. Trees are an integral aspect of the Portland landscape and add to the livability of Portland. They provide aesthetic and economic value to property owners and the community at large. Trees help to:~~

- ~~reduce stormwater run-off by intercepting and transpiring precipitation;~~
- ~~help to reduce summer temperatures by providing shade;~~
- ~~buffer noise;~~
- ~~stabilize slopes;~~
- ~~provide oxygen;~~
- ~~clean the air; and~~
- ~~provide wind protection in winter.~~

~~B. Minimum tree standard. New development must meet the T1 standard of Chapter 33.248, Landscaping and Screening. Adjustments to this standard are prohibited.~~

~~**33.110.285 Street Trees**~~

~~Street trees are required for all developments by the City Forester. See Chapter 20.40, Street Trees and Other Public Tree Regulations.~~

COMMENTARY

CHAPTER 33.120, MULTI-DWELLING ZONES

The Citywide Tree Project is proposing a new Tree Title (Title 11, Trees). Title 11 will contain tree density and tree preservation standards for trees on a development site, as well as street tree requirements. Changes are proposed to all of the base zones to reference the tree standards in Title 11.

Table of Contents
The proposed change to the Table of Contents reflects an updated reference to the proposed tree standards in Title 11.

AMEND CHAPTER 33.120, MULTI-DWELLING ZONES

Sections:

General
33.120.010 Purpose
33.120.020 List of the Multi-Dwelling Zones
33.120.030 Characteristics of the Zones
33.120.040 Other Zoning Regulations
33.120.050 Neighborhood Contact
Use Regulations
33.120.100 Primary Uses
33.120.110 Accessory Uses
33.120.120 Nuisance-Related Impacts
Development Standards
33.120.200 Housing Types Allowed
33.120.205 Density
33.120.210 Development on Lots and Lots of Record
33.120.215 Height
33.120.220 Setbacks
33.120.225 Building Coverage
33.120.230 Building Length
33.120.231 Main Entrances
33.120.232 Street-Facing Facades
33.120.235 Landscaped Areas
33.120.237 Trees
33.120.240 Required Outdoor Areas
33.120.250 Screening
33.120.255 Pedestrian Standards
33.120.260 Recycling Areas
33.120.265 Amenity Bonuses
33.120.270 Alternative Development Options
33.120.275 Development Standards for Institutions
33.120.277 Development Standards for Institutional Campuses in the IR Zone
33.120.280 Accessory Structures
33.120.283 Garages
33.120.285 Fences
33.120.290 Demolitions
33.120.300 Nonconforming Development
33.120.305 Parking and Loading
33.120.310 Signs
~~33.120.315 Street Trees~~

COMMENTARY

33.120.205 Density

This is another "flexible development option" to encourage tree preservation. Current land division regulations allow minimum density to be reduced when the reduction will result in the preservation of trees within a tract. The allowed reduction is small, 1 lot for every 10 lots proposed, up to a maximum reduction of 3 lots for 30 or more lots created, and is infrequently used. The allowed density reduction is intended to provide additional flexibility for applicants that want to preserve trees within areas zoned for higher densities. It also recognizes that there is a need to support City housing goals along with goals for tree preservation and enhancement of the urban forest.

By adding a provision allowing a reduction in minimum density to the multi-dwelling base zone regulations, the City can encourage tree preservation for development situations even when no a land division is proposed. The provision will allow a maximum reduction of approximately 20 percent of the minimum density required (or 1 unit for smaller projects), up to maximum reduction of 4 units. A tree that is at least 12 inches in diameter must be preserved for each unit reduced. The table in the code shows the maximum allowed reduction based on the minimum required density for the site.

A requirement for a covenant with the City is included to ensure that trees preserved in exchange for a density reduction are not removed soon after construction is complete. The trees would be required to be retained for 10 years, consistent with the length of time tree preservation requirements approved as part of a land use review would be effective under this proposal.

See Chapter 33.630 for a discussion of modifications to minimum density requirements that may be requested as part of a land division review.

33.120.205 Density

A. and B. [No change.]

C. Minimum density. [No change.]

1.and 2. [No change.]

3. On sites where trees that are 12 or more inches in diameter are proposed for preservation, minimum density may be reduced as follows:

a. The maximum allowed reduction in minimum density is shown in Table 120-6.

b. When this provision is used to reduce density, the owner must execute a covenant with the City. The covenant is not required if the site is also part of a proposed Land Division. The covenant must:

(1) Require that all trees used to reduce the minimum density be preserved for at least 10 years;

(2) Allow trees used to reduce the minimum density that die, or become diseased or dangerous to be removed and replaced within the 10 year preservation period. The trees must be determined to be dead, diseased, or dangerous by an arborist, and a Title 11 tree permit must be obtained. If a tree used to reduce the minimum density is dead, diseased, or dangerous as the result of a violation, Tree Review is required; and

(3) The covenant must meet the requirements of Section 33.700.060 and be recorded before a development permit is issued.

Table 120-6
Reduction in Minimum Residential Density from Tree Preservation

Required Minimum Residential Density	No. of 12-Inch Trees To Be Preserved	Reduction of Minimum Residential Density
Up to 7 units	1	1
8-12 units	1	1
	2 or more	2
13-17 units	1	1
	2	2
	3 or more	3
18 or more units	1	1
	2	2
	3	3
	4 or more	4

COMMENTARY

33.120.235 Landscaped Areas

A. The purpose statement is modified to include additional functions that trees provide.

C.1. The amendments to this paragraph clarify that landscaping is not required in setbacks where accessory structures or other allowed development is located. Parking and maneuvering areas have separate standards that are referred to in C.2.

33.120.237 Trees

This section replaces the reference to the current T1, Tree standard, which is located in Chapter 33.248. The current tree standard applies only to single-dwelling development. The new tree density and tree preservation standards are in Title 11 and apply to all development types, including but not limited to single dwelling development. See Title 11 for additional details about the standards and their applicability. The current reference to Street Tree regulations in 33.120.315 is also deleted and replaced with this reference to Title 11.

33.120.235 Landscaped Areas

A. Purpose. The standards for landscaped areas are intended to enhance the overall appearance of residential developments and institutional campuses in multi-dwelling zones. The landscaping improves the residential character of the area, breaks up large expanses of paved areas and structures, provides privacy to the residents, and provides separation from streets. ~~It~~ Landscaping also helps cool the air temperature, intercept rainfall and ~~in reducing~~ reduce stormwater run-off by providing a non-paved permeable surface. Landscaping can also provide food for people and habitat for birds and other wildlife.

B. Minimum landscaped areas. [No change.]

C. Landscaping standards.

1. Building setbacks. The required building setbacks must be landscaped to at least the L1 standard of Chapter 33.248, Landscaping and Screening. ~~Parking, access, and maneuvering areas, detached~~ Detached accessory structures~~,~~ and other ~~allowed~~ development allowed in the setbacks are exempt from this standard. Sites developed with a house, attached house or duplex are also exempt from this standard.

2. Parking areas. Perimeter and internal parking area landscaping standards are stated in Chapter 33.266, Parking And Loading.

33.120.237 Trees

Requirements for street trees and for on-site tree preservation, protection, and overall tree density are specified in Title 11, Trees. See Chapter 11.50, Trees in Development Situations.

~~**A. Purpose.** The purpose of the tree standard is to maintain and add to Portland's tree canopy and enhance the overall appearance of single-dwelling development in multi-dwelling zones. Trees are an integral aspect of the Portland landscape and add to the livability of Portland. They provide aesthetic and economic value to property owners and the community at large. Trees help to:~~

- ~~reduce stormwater run-off by intercepting and transpiring precipitation;~~
- ~~help to reduce summer temperatures by providing shade;~~
- ~~buffer noise;~~
- ~~stabilize slopes;~~
- ~~provide oxygen;~~
- ~~clean the air; and~~
- ~~provide wind protection in winter.~~

~~B. Minimum tree standard. New development must meet the T1 standard of Chapter 33.248, Landscaping and Screening. Multi-dwelling structures are exempt from this standard. Adjustments to this standard are prohibited. Trees provided to meet the requirements of Section 33.120.235, Landscaped Areas, may apply toward meeting this requirement.~~

COMMENTARY

33.120.255 Pedestrian Standards

This is another "flexible development option" that will encourage tree preservation during development.

The pedestrian standards require a straight line connection between main entrances and the street. Currently, there is some flexibility to meander from the shortest distance, up to 120%, for any reason. The proposed amendment would provide additional flexibility to meander (up to 200% of the straight line distance) where trees at least 12 inches in diameter or their root protection zones, would be impacted by the pathway. For example, if the straight-line distance from the street to the main entrance is 100 feet, the exception allows the path to be up to 200 feet in order to avoid impacts to trees. The additional distance may be needed to work around multiple trees and to address slope issues.

This flexible option will also be available in commercial zones (see 33.130.240) and industrial zones (see 33.140.240).

33.120.255 Pedestrian Standards

A. Purpose. [No change.]

B. The standards. [No change.]

1. Connections. Pedestrian connections are required as specified below:

   a. Connection between streets and entrances.

      (1) Sites with one street frontage.

      - Generally. There must be a ~~straight line~~ connection between one main entrance of each building on the site and the adjacent street. The ~~straight line~~ connection may not be more than 20 feet longer or 120 percent of the straight line distance, whichever is less.

      - Household Living. Sites where all of the floor area is in Household Living uses are only required to provide a straight line connection to one main entrance on the site~~;~~. The connection may not be more than 20 feet longer or 120 percent of the straight line distance, whichever is less.

      - Tree preservation. If a tree that is at least 12 inches in diameter is proposed for preservation, and the location of the tree or its root protection zone would prevent the standard of this paragraph from being met, the connection may be up to 200 percent of the straight line distance.

      (2) Sites with more than one street frontage. [No change.]

   b. [No change.]

2. and 3. [No change.]

COMMENTARY

33.120.265 Amenity Bonuses

Tree preservation. This new amenity bonus option is meant to encourage tree preservation by providing bonus density for trees preserved above the minimum requirement. The bonus applies to trees that are 12 or more inches in diameter. For each tree preserved above the minimum threshold percentage of the qualifying trees on the site, a 5 percent bonus density is earned.

Example for a site with a maximum density of 10 dwelling units and 4 trees 12 inches and larger on the site:
Title 11 requires that 35% of the trees that 12 or more inches in diameter be preserved. Therefore, for each tree preserved over two (35% equals 1.4, which rounds up to 2), the site would be eligible for a density bonus of 5%. If all 4 trees were preserved, a 10% bonus would be earned and a total of 11 units would be allowed. The different bonus options can also be used together to qualify for additional density (i.e. 10% for tree preservation and 5% for play areas).

When amenity bonus options are used they must be retained for the life of the project. A covenant must be recorded that states this requirement. A provision is added to allow replacement of trees that are later determined by an arborist to be dead, diseased or dangerous.

33.120.290 Demolitions

A sentence is added to clarify that tree preservation and protection requirements in Title 11 apply to demolition permits.

33.120.315 Street Trees

Street Tree requirements are contained in Title 11. A reference to the Street Tree requirements is added to 33.120.237, and therefore is proposed deleted here.

33.120.265 Amenity Bonuses

A. [No change.]

B. Regulations.

1. through 5. [No change.]

6. Covenants.

a. The applicant must sign a covenant that ensures that the amenities provided to receive any bonus density will continue to be provided for the life of the project.

b. The covenant must comply with the standards in 33.700.060, Covenants with the City.

c. If the bonus density is earned through preservation of trees under Paragraph C.9, the covenant must also specify that if the trees are determined to be dead, diseased, or dangerous by an arborist, they must be removed and replaced under a tree permit in accordance with Title 11, Trees. If a tree used to earn bonus density is dead, diseased, or dangerous as the result of a violation, Tree Review is required.

C. The amenity bonus options.

1. through 8. [No change.]

9. Tree preservation. Development proposals that preserve more than the required number or percentage of the trees on the site may use this amenity bonus option. The density bonus is 5 percent for each tree that is preserved in addition to those required to be preserved on the site. Each tree counted toward the bonus must be documented in an arborist report that the following are met:

a. Be at least 12 inches in diameter

b. Not be dead, dying, or dangerous; and

c. Not be on the Nuisance Plants List.

33.120.290 Demolitions

~~The demolition of historic resources is regulated by Chapter 33.445, Historic Resource Protection Zone.~~

A. Generally. Demolition on a site that requires a demolition permit is subject to the tree preservation and protection requirements of Title 11, Trees. See Chapter 11.50, Trees in Development Situations.

B. Historic resources. Demolition of historic resources is regulated by Chapter 33.445, Historic Resource Protection Zone.

~~33.120.315 Street Trees~~

~~Street trees are required for all developments by the City Forester. See Chapter 20.40, Street Trees and Other Public Tree Regulations.~~

COMMENTARY

CHAPTER 33.130, COMMERCIAL ZONES

The Citywide Tree Project is establishing a new Tree Title (Title 11). Title 11 will contain tree density and tree preservation standards for trees on development sites and Street Tree requirements. All of the base zone regulations have been amended to add and/or update references to the tree standards in Title 11.

Table of Contents
A change to the Table of Contents reflects an updated reference to the tree standards in Title 11.

33.130.225 Landscaped Areas
The purpose statement is modified to include additional functions that trees provide.

AMEND CHAPTER 33.130, COMMERCIAL ZONES

Sections:
General
33.130.010 Purpose
33.130.020 List of the Commercial Zones
33.130.030 Characteristics of the Zones
33.130.040 Other Zoning Regulations
Use Regulations
33.130.100 Primary Uses
33.130.110 Accessory Uses
33.130.130 Nuisance-Related Impacts
Development Standards
33.130.200 Lot Size
33.130.205 Floor Area Ratio
33.130.210 Height
33.130.215 Setbacks
33.130.220 Building Coverage
33.130.225 Landscaped Areas
33.130.227 Trees
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33.130.295 Signs
~~33.130.300 Street Trees~~
33.130.305 Superblock Requirements
33.130.310 Recycling Areas

33.130.225 Landscaped Areas

A. Purpose. Landscaping is required in some zones because it is attractive and it helps to soften the effects of built and paved areas. Landscaping also helps cool the air temperature, intercept rainfall and ~~It also helps~~ reduce stormwater runoff by providing non-paved permeable surface. Landscaping can also provide food for people and habitat for birds and other wildlife. ~~a surface into which stormwater can percolate.~~ Landscaping is required for all commercial-zoned lands abutting R zoned lands to provide buffering and promote the livability of the residential lands.

B. Minimum landscaped area standard. [No change.].

COMMENTARY

33.130.227 Trees

This section replaces the reference to the T1, Tree standard, which was located in Chapter 33.248. The T1 standard applied only to single-dwelling development. The new tree density and tree preservation standards in Title 11 replace T1 and have been expanded to apply to all development types. The reference to Street Tree regulations in 33.130.300 is also deleted and replaced with a reference to Title 11.

See Title 11 for additional details about the tree development standards.

33.130.227 Trees

Requirements for street trees and for on-site tree preservation, protection, and overall tree density are specified in Title 11. See Chapter 11.50, Trees in Development Situations.

~~**A. Purpose.** The purpose of the tree standard is to maintain and add to Portland's tree canopy and to enhance the overall appearance of single-dwelling development in commercial zones. Trees are an integral aspect of the Portland landscape and add to the livability of Portland. They provide aesthetic and economic value to property owners and the community at large. Trees help to:~~

- ~~reduce stormwater run-off by intercepting and transpiring precipitation;~~
- ~~help to reduce summer temperatures by providing shade;~~
- ~~buffer noise;~~
- ~~stabilize slopes;~~
- ~~provide oxygen,~~
- ~~clean the air; and~~
- ~~provide wind protection in winter.~~

~~**B. Minimum tree standard.** New residential development must meet the T1 standard of Chapter 33.248, Landscaping and Screening. Multi-dwelling structures are exempt from this standard. Adjustments to this standard are prohibited. Trees provided to meet the requirements of Section 33.130.225, Landscaped Areas, may apply toward meeting this requirement.~~

~~**C. Exception to minimum tree standard.** Residential development is exempt from this standard when buildings cover 90 percent or more of the site.~~

COMMENTARY

33.130.240 Pedestrian Standards
This "flexible" option (similar to 33.120.255 Pedestrian Standards) is intended to encourage tree preservation during development.

The pedestrian standards require a straight line connection between main entrances and the street. Currently, the regulations allow some flexibility to meander the path up to 120 percent of the straight line distance, for any reason. This amendment provides additional flexibility to meander the pathway up to 200 percent of the straight line distance if needed to preserve one or more trees at least 12 inches in diameter or their root protection zones. A diagram illustrating one example of what would be allowed is provided in 33.120.

33.130.275 Demolitions
The new sentence clarifies that the Title 11 tree preservation and protection requirements apply to demolition permits.

33.130.300 Street Trees
Street Tree requirements are in Title 11, Trees. A reference is provided in 33.130.227 above.

33.130.240 Pedestrian Standards

A. [No change.]

B. The standards. [No change.]

1. Connections. Pedestrian connections are required as specified below:

   a. Connection between streets and entrances.

      (1) Sites with one street frontage.

      - Generally. There must be a connection between one main entrance of each building on the site and the adjacent street. The connection may not be more than 20 feet longer or 120 percent of the straight line distance, whichever is less.

      - Household Living. Sites where all of the floor area is in Household Living uses are only required to provide a straight line connection to one main entrance on the site. The connection may not be more than 20 feet longer or 120 percent of the straight line distance, whichever is less.

      - Tree preservation. If a tree that is at least 12 inches in diameter is proposed for preservation, and the location of the tree or its root protection zone would prevent the standard of this paragraph from being met, the connection may be up to 200 percent of the straight line distance.

      (2) [No change.]

   b. [No change.]

2. through 4 [No change.]

33.130.275 Demolitions

~~A. Demolition delay. Demolitions of all structures must comply with Chapter 33.445, Historic Resource Protection Zone.~~

A. Generally. Demolition on a site that requires a demolition permit is subject to the tree preservation and protection requirements of Title 11, Trees. See Chapter 11.50, Trees in Development Situations.

B. Historic resources. Demolition of historic resources is regulated by Chapter 33.445, Historic Resource Protection Zone.

C. CX zone landscaping. [No change.]

~~**33.130.300 Street Trees**~~

~~Street trees are required for all developments by the City Forester. See Chapter 20.40, Street Trees and Other Public Tree Regulations.~~

COMMENTARY

CHAPTER 33.140, EMPLOYMENT AND INDUSTRIAL ZONES

The Citywide Tree Project is establishing a new City Code title - Title 11, Trees. Title 11 contains tree density and tree preservation standards for development sites, and Street Tree requirements. All of the base zone regulations have been amended to add and/or update references to the Title tree standards.

Table of Contents
The change to the Table of Contents reflects an updated reference to the Title 11 tree standards. Street tree requirements are now contained in Title 11 so the reference to Title 20 in the Zoning Code is deleted.

33.140.225 Landscaped Areas
The purpose statement for the landscaped areas requirement is modified to include the functions and benefits of trees.

AMEND CHAPTER 33.140, EMPLOYMENT AND INDUSTRIAL ZONES

Sections:
General
33.140.010 General Purpose of the Zones
33.140.020 List of the Employment and Industrial Zones
33.140.030 Characteristics of the Zones
33.140.040 Other Zoning Regulations
Use Regulations
33.140.100 Primary Uses
33.140.110 Accessory Uses
33.140.130 Nuisance-Related Impacts
33.140.140 On-Site Waste Disposal
Site Development Standards
33.140.200 Lot Size
33.140.205 Floor Area Ratio
33.140.210 Height
33.140.215 Setbacks
33.140.220 Building Coverage
33.140.225 Landscaped Areas
33.140.227 Trees
33.140.230 Ground Floor Windows in the EX Zones
33.140.235 Screening
33.140.240 Pedestrian Standards
33.140.242 Transit Street Main Entrance
33.140.245 Exterior Display, Storage, and Work Activities
33.140.250 Trucks and Equipment
33.140.255 Drive-Through Facilities
33.140.265 Residential Development
33.140.270 Detached Accessory Structures
33.140.275 Fences
33.140.280 Demolitions
33.140.290 Nonconforming Development
33.140.295 Parking and Loading
33.140.300 Signs
~~33.140.305 Street Trees~~
33.140.310 Superblock Requirements
33.140.315 Recycling Areas

33.140.225 Landscaped Areas

A. Purpose. Landscaping is required to help soften the effects of built and paved areas. ~~It~~ Landscaping also helps cool the air temperature, intercept rainfall and ~~in reducing~~ reduce stormwater runoff by providing ~~a surface into which stormwater can percolate~~ non-paved permeable surface. Landscaping can also provide food for people and habitat for birds and other wildlife. Landscaping is required for all employment and industrially zoned lands abutting R-zoned lands to provide buffering and promote the livability of the residential lands.

B. Minimum landscaped area standard. [No change.].

COMMENTARY

33.140.227 Trees

This section adds a reference to the new tree density and tree preservation standards contained in Title 11, Trees. These standards apply to all development types, including industrial and employment uses.

The current reference to Street Tree regulations in 33.140.305 is deleted and replaced with this single reference to Title 11.

See Title 11 for more information on the tree standards.

33.140.240 Pedestrian Standards

This "flexible" option is intended to encourage tree preservation during development, and is also added to the multi-dwelling and commercial base zone provisions.

The pedestrian standards generally require a straight line connection between main entrances and the street. The current regulations provide the flexibility to meander a pathway up to 120 percent of the straight line distance, for any reason. This amendment provides additional flexibility to meander the pathway up to 200 percent of the straight line distance in order to preserve one or more trees that at least 12 inches in diameter. A diagram illustrating one example of what would be allowed is provided in 33.120.

33.140.227 Trees

Requirements for street trees and for on-site tree preservation, protection, and overall tree density are in Title 11, Trees. See Chapter 11.50, Trees in Development Situations.

33.140.240 Pedestrian Standards

A. [No change.]

B. The standards. [No change.]

1. Connections. Pedestrian connections are required as specified below:

   a. Connection between streets and entrances.

      (1) Sites with one street frontage.

      - Generally. There must be a connection between one main entrance of each building on the site and the adjacent street. The connection may not be more than 20 feet longer or 120 percent of the straight line distance, whichever is less.

      - Household Living. Sites where all of the floor area is in Household Living uses are only required to provide a connection to one main entrance on the site. The connection may not be more than 20 feet longer or 120 percent of the straight line distance, whichever is less.

      - Tree preservation. If a tree that is at least 12 inches in diameter is proposed for preservation, and the location of the tree or its root protection zone would prevent the standard of this paragraph from being met, and the connection may be up to 200 percent of the straight line distance.

      (2) Sites with more than one street frontage. [No change.]

   b. Internal connections. [No change.]

2. - 4. [No change.].

COMMENTARY

33.140.280 Demolitions

The added sentence clarifies that Title 11 tree preservation and protection standards apply to demolition permits.

33.140.305 Street Trees

Street Tree requirements are in Title 11. A reference is provided in 33.140.227 above and is deleted here.

33.140.280 Demolitions

A. Generally. Demolition on a site that requires a demolition permit is subject to the tree preservation and protection requirements of Title 11, Trees. See Chapter 11.50, Trees in Development Situations.

B. Historic resources. Demolitions ~~of all structures must comply with~~ of historic resources is regulated by Chapter 33.445, Historic Resource Protection Zone.

~~**33.140.305 Street Trees**~~

~~Street trees are required for all developments by the City Forester. See Chapter 20.40, Street Trees and Other Public Tree Regulations.~~

COMMENTARY

CHAPTER 33.248, LANDSCAPING AND SCREENING

33.248.020 Landscaping and Screening Standards

The new development standards in Title 11, Trees, in some cases, result in more tree preservation and tree planting than would otherwise occur to meet the L series landscaping standards in this section. Applicants must show how the requirements of Title 11 are being met in conjunction with landscaping requirements of this chapter. A statement is added to make it clear that trees planted or preserved on the site can be used to meet both sets of standards.

AMEND CHAPTER 33.248, LANDSCAPING AND SCREENING

Sections:

33.248 010 Purpose
33.248.020 Landscaping and Screening Standards
33.248.030 Plant Materials
33.248.040 Installation and Maintenance
33.248.050 Landscaped Areas on Corner Lots
33.248.060 Landscape and Tree Plans
~~33.248.065 Tree Preservation Plans~~
33.248.068 Tree Protection Requirements
33.248.070 Completion of Landscaping
33.248.080 Street Trees
33.248.090 Mitigation and Restoration Plantings

33.248.020 Landscaping and Screening Standards

Subsections A. through H. state the different levels of landscaping and screening standards to be applied throughout the City. The locations where the landscaping or screening is required and the depth of the landscaping or screening are stated in various places throughout the Code. **All** landscaping and screening required by this Title must comply with all of the provisions of this chapter, unless specifically superseded. The landscaping standards are generally in a hierarchical order. The landscaping standards are minimums; higher standards can be substituted as long as all fence or vegetation height limitations are met. Crime prevention and safety should be remembered when exceeding the landscaping standards (height and amount of vegetation may be an issue). Trees preserved or planted to meet the requirements of Chapter 11.50, Trees in Development Situations count toward the landscaping and screening standards of this Title.

A. – G. [No change.]

COMMENTARY

33.248.020 Landscaping and Screening Standards (continued)

H. T1, Trees. The T1, Tree standard that applies to single-dwelling development is being deleted from this chapter and replaced by the new tree density standards in Title 11, Trees. The tree density standards apply to all development types. See Title 11, Chapter 11.50 for more information on the tree density standards.

Provisions authorizing the Tree Fund and allowing an applicant to pay a fee in lieu of planting to meet tree density standards are also contained in Title 11. For additional information on tree funds, see Chapter 11.15, Funds and Contributions.

~~**H. T1, trees.**~~

~~1. Intent. The T1 standard is a tree requirement for new residential development. It encourages the retention of trees, minimizes the impact of tree loss during development, and ensures a sustained tree canopy in Portland.~~

~~2. Tree requirement. This requirement may be met using any of the three options below. The applicant may choose to meet one or more of these options. Adjustments to this Subsection are prohibited. The options are:~~

~~a. Tree preservation. At least 2 inches of existing tree diameter per 1,000 square feet of site area must be preserved. On lots that are 3,000 square feet or smaller, at least 3 inches of existing tree diameter must be preserved per lot. This standard may be met using trees on the lot and within 5 feet of the edges of the lot. Trees within public and private rights-of-way may not be used to meet this standard. When this option is used, a tree preservation plan is required.~~

~~b. Tree planting. At least 2 inches of tree diameter per 1,000 square feet of site area must be planted. On lots that are 3,000 square feet or smaller, at least 3 inches of tree diameter must be planted per lot.~~

~~c. Tree Fund. This option may be used where site characteristics or construction preferences do not support the preservation or planting options.~~

~~(1) Fund use and administration. The Tree Fund fee is collected by the Bureau of Development Services and is administered by the Urban Forestry Division of the Bureau of Parks and Recreation. The funds collected will be used to plant trees on public or private property in the same watershed as the site.~~

~~(2) Calculation of required fund contributions. Applicants must contribute the cost to purchase and plant trees, as set out in (3), below. The cost to purchase and plant trees will be adjusted annually as determined by the Urban Forester based on current market prices per inch for materials, labor, and maintenance.~~

~~(3) Required fund contribution. The applicant must contribute the following to the Tree Fund before a building permit will be issued:~~

~~• For lots with 3,000 square feet or more of area, the cost to purchase and plant at least 2 inches of tree diameter per 1,000 square feet of site area; or~~

~~• For lots with less that 3,000 square feet of area, the cost to purchase and plant at least 3 inches of tree diameter per lot.~~

I. P1, parking lot interior landscaping. [No change.].

COMMENTARY

33.248.030 Plant Materials

C. Trees

1. Planting size. Minimum tree size requirements at the time of planting are being modified slightly so that they are consistent for all development types and zones. The result is a reduction in the size of tree at planting in non-residential zones, from 2 inches to 1.5 inches. This will help simplify preparation and review of landscaping plans. In addition, trees that are smaller at the time of planting have a better survival rate than larger trees.

3. Existing trees. A reference to the Title 11 tree protection requirements is added. These requirements will apply to existing trees used to meet landscape requirements.

33.248.030 Plant Materials

A. and B. [No change.].

C. Trees.

1. Planting size. Trees may be broadleaf or conifers and must meet the following:~~.~~

   a. Broadleaf trees at the time of planting must be fully branched~~.~~ and ~~Broadleaf trees planted in residential zones~~ must be a minimum of 1.5 caliper inches. ~~in diameter. Broadleaf trees planted in all other zones must be a minimum of 2 inches in diameter.~~

   b. Conifer trees at the time of planting must be fully branched and a minimum of 5 feet in height.

   c. Specific planting size requirements related to the mitigation, remediation, or restoration of landscaped areas in overlay zones and plan districts supersede the minimums of this paragraph. These minimum requirements do not apply to trees approved through an Environmental Review, or Pleasant Valley Resource Review to be used for mitigation, remediation, or restoration.

2. Size category. [No change.]

3. Existing trees may be used to meet the standards of this chapter, as described in Paragraph D.1. Existing trees must be protected as specified in Title 11, Trees. See Chapter 11.60, Technical Specifications.

COMMENTARY

33.248.030 Plant Materials

D. Plant material choices and preparation. This section describes how existing trees are counted toward required landscaping. The intent is to encourage developers to save trees on project sites, particularly large trees. The larger the existing trees to be retained, the larger the credit toward meeting tree planting requirements. For example, if a 12 inch diameter tree is preserved, the applicant would get credit for two medium trees. If an 18 inch diameter tree is preserved, a credit of three trees would be earned. Title 11 applies these same ratios to credit preservation of existing trees toward meeting tree density requirements.

The reference to 33.248.065 is deleted because the requirements for tree protection are now located in Title 11, Trees. A reference to Title 11 tree protection requirements for existing trees has been added to the previous section and to 33.246.060, below.

33.248.040. E. Topping prohibited

The amendments delete exceptions to the prohibition on topping. These situations are addressed in more detail in the revised definition of topping. This definition is included in both Title 33, 33.910 and Title 11, Trees. Title 11 establishes a clear citywide prohibition on topping and enforcement authority for tree topping violations. The enforcement procedures would determine the appropriate process to correct the violation (replacement, pruning etc). Title 33 enforcement provisions apply to violations in environmental overlay zones, or violations of land use conditions.

33.248.060 Landscape and Tree Plans

A reference is added to the tree plan requirements of Title 11, which will apply to most development sites. This section also requires tree protection, per the Title 11 standards, when existing trees will be preserved to meet landscaping or tree preservation requirements of the Zoning Code.

D. Plant material choices and preparation.

1. Existing vegetation. Existing vegetation except those plants listed on the Nuisance Plants List may be used to meet the standards, if protected and maintained during the construction phase of the development. ~~as specified in Section 33.248.065.~~ ~~If e~~Existing trees are counted as follows: ~~used,~~

   a. ~~e~~Each tree at least 1.5 inches and less than 6 inches in diameter counts as one small tree;

   b. Each tree 6 or more inches in diameter counts as 1 medium tree for each full 6 inch increment. For example, a 19-inch tree would count as three medium trees, while an 11-inch tree would count as one medium tree;

   ~~6 inches or less in diameter counts as one medium tree. Each tree more than 6 inches and up to 9 inches in diameter counts as two medium trees. Each additional 3-inch diameter increment above 9 inches counts as an additional medium tree.~~

2.- 5. [No change.].

E. and F. [No change.].

33.248.040 Installation and Maintenance

A.- D. [No change.].

E. Topping prohibited. Topping is, ~~-~~an extreme form of crown reduction. Topping, ~~-~~of trees that are required by this Title is prohibited; required trees must be allowed to grow in their natural form. ~~This prohibition does not apply to pruning performed to remove a safety hazard, to remove dead or diseased material, or to avoid overhead power lines.~~ Topping is regulated as a tree removal by this Title and Title 11, Trees. ~~If a tree smaller than 8 inches in diameter is topped, it must be replaced in kind. If a tree 8 inches or larger in diameter is topped, the owner must have an arborist develop and carry out a 5-year pruning schedule.~~

33.248.060 Landscape and Tree Plans

A. Landscape plans. Landscape plans must be submitted showing all landscaped areas. Plans must be drawn to scale and show type, size, number, and placement of materials. Materials must be identified with both their scientific and common names. Any required irrigation system must also be shown.

B. Tree plans. A tree plan may be required to comply with Chapter 11.50, Trees in Development Situations.

C. Tree protection. Where existing trees are used to meet the landscape standards or tree preservation requirements of this Title, tree protection meeting the requirements of Chapter 11.60, Technical Specifications must be shown on the landscape or tree plan.

COMMENTARY

33.248.065 Tree Preservation Plans

Tree preservation requirements that apply at the time of development are now in Title 11 as a component of required tree plans. The tree plan shows trees to be preserved as well as proposed tree planting areas (see tree standards in Chapter 11.50). This section is deleted since references to Title 11 Tree Plan requirements are included in 33.248.060, Landscape and Tree Plans. Tree preservation information required during land use reviews is stated in 33.730.060.

33.248.068 Tree Protection Requirements

Tree protection requirements, including the allowance to propose alternative tree protection measures, are in Title 11, Chapter 11.60 Technical Specifications. Reference to Title 11 is added here to ensure that applicants are aware of the tree protection requirements.

33.248.080 Street Trees

Reference to Street Tree requirements has been updated to refer to Title 11, Trees, instead of Title 20, Parks and Recreation (where the requirements are currently located).

~~33.248.065 Tree Preservation Plans~~

~~A. When a tree preservation plan is required. A tree preservation plan must be submitted and approved when existing trees are used to meet a landscape or tree standard.~~

~~B. Elements of a tree preservation plan. A tree preservation plan includes both a site plan and a written statement. All of the following elements must be included:~~

~~1. A written statement that the trees to be preserved are healthy; and~~

~~2. A site plan that is drawn to scale and shows:~~

~~a. All trees to be preserved on the site, their species and diameter;~~
~~b. The location of water, sewer, and other utility easements;~~
~~c. The location of dry wells and soakage trenches; and~~
~~d. How the requirements of Section 33.248.068, Tree Protection Requirements, are met.~~

~~C. Alternative tree preservation plans. If the requirements of Section 33.248.068, below, cannot be met, an alternative tree preservation plan may be submitted by an arborist or landscape architect. The alternative tree preservation plan must show alternative means for tree protection and preservation, and include a statement by the arborist or architect that the plan provides the same level of protection as the requirements of Section 33.248.068.~~

~~33.248.068 Tree Protection Requirements~~

~~**A. Where these requirements apply.** These requirements apply to all trees shown on a tree preservation plan.~~

~~**B. Construction fencing.** A construction fence must be placed at the edge of the root protection zone of each tree or group of trees. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. The fence must be placed before construction starts and remain in place until construction is complete.~~

~~**C. Development limitations.** Within the root protection zone of each tree, the following development is not allowed:~~

~~1. New buildings;~~
~~2. Grade change or cut and fill during or after construction;~~
~~3. New impervious surfaces;~~
~~4. Utility or drainage field placement;~~
~~5. Staging or storage of materials and equipment during construction; and~~
~~6. Vehicle maneuvering areas during construction.~~

33.248.080 Street Trees

Street trees are not subject to the regulations of this chapter and are not counted toward any landscaping required by this chapter. ~~Street trees are regulated by the City Forester. See Chapter 20.40, Street Trees and Other Public Tree Regulations.~~ See Title 11, Trees, for street tree requirement.

COMMENTARY

CHAPTER 33.258, NONCONFORMING SITUATIONS

33.258.070 Nonconforming Development

Changes to this chapter include consolidating the landscaping-related items in the improvement list, and adding the Title 11 tree density standards to that list. This is to ensure that tree density standards are considered when upgrades to non-conforming development are triggered.

Screening has not been included with the group of landscaping-related items because it is a broader term. Screening requirements may include landscaping, but could also require other methods, such as a sight-obscuring fence.

AMEND CHAPTER 33.258, NONCONFORMING SITUATIONS

33.258.070 Nonconforming Development

A.- C. [No change.]

D. Development that must be brought into conformance. The regulations of this subsection are divided into two types of situations, depending upon whether the use is also nonconforming or not. These regulations apply except where superseded by more specific regulations in the code.

1. Nonconforming development with a new nonconforming use or new non-conforming residential density. When there is a change to a different non-conforming use, or a change from a nonconforming nonresidential use to a non-conforming residential density, the following nonconforming development must be brought into compliance with the development standards that apply to the site (base, overlay, plan district, special use):

~~a. Exterior display, storage, and work activity areas, including landscaping;~~

a. Landscaping and trees required for the following areas:
   - Exterior display, storage, and work activity areas;
   - Setbacks for surface parking and exterior development areas;
   - Interior parking lot landscaping. See Subsection 33.730.130.D, Expiration of adjustments approved prior to March 16, 2001;
   - Existing building setbacks;
   - Minimum landscaped areas other than described above; and
   - Tree density standards of Chapter 11.50 for the site.

~~b. Landscaped setbacks for surface parking and exterior development areas;~~

~~c~~b. Pedestrian circulation systems, as set out in the pedestrian standards that apply to the site;

~~d~~c. Bicycle parking by upgrading existing bicycle parking and providing additional spaces in order to comply with 33.266.220;

~~e. Interior parking lot landscaping. See Subsection 33.730.130.D, Expiration of adjustments approved prior to March 16, 2001;~~

~~f. Landscaping in existing building setbacks;~~

~~g. Minimum landscaped area (where land is not used for structures, parking, or exterior improvements);~~

~~h~~d. Screening; and

~~i~~e. Paving of surface parking and exterior storage and display areas.

COMMENTARY

33.258.070 Nonconforming Development (continued)

D.1.f: The changes in lettering are needed to reflect the consolidation of landscape-related items above in Subparagraph D.1.a, above.

D.2.b: The changes proposed here are the same as those described above. Again, the only substantive change proposed is adding the new Title 11 tree density standards to the list of standards that must be met.

~~j~~ f. Exception: Where landscaping in the following areas was conforming after March 16, 2001, and before July 8, 2005, it is exempt from the requirements of D.1.~~b, e, and f~~ a, above for the following:

(1) Landscaped setbacks for surface parking and exterior development areas;
(2) Interior parking lot landscaping; and

(3) Landscaping in existing building setbacks.

(4) This exception expires December 31, 2015.

2. Nonconforming development with an existing nonconforming use, allowed use, limited use, or conditional use. Nonconforming development associated with an existing nonconforming use, an allowed use, a limited use, or a conditional use, must meet the requirements stated below. When alterations are made that are over the threshold of Subparagraph D.2.a., below, the site must be brought into conformance with the development standards listed in Subparagraph D.2.b. The value of the alterations is based on the entire project, not individual building permits.

a. Thresholds triggering compliance. [No change.].

b. Standards which must be met. Development not complying with the development standards listed below must be brought into conformance or receive an adjustment.

(1) Landscaping and trees required for the following areas:
- Exterior display, storage, and work activity areas;
- Setbacks for surface parking and exterior development areas;
- Interior parking lot landscaping. See Subsection 33.730.130.D, Expiration of adjustments approved prior to March 16, 2001;
- Existing building setbacks;
- Minimum landscaped areas other than described above; and
- Tree density standards of Chapter 11.50 for the site.

~~Landscaped setbacks for surface parking and exterior improvement areas;~~

(2) Pedestrian circulation systems, as set out in the pedestrian standards that apply to the site;

(3) Bicycle parking by upgrading existing racks and providing additional spaces in order to comply with 33.266.220, Bicycle Parking. Sites that do not have accessory surface parking or are inside the Central City Core Area or Lloyd District, as shown on Map 510-8, are not required to meet this standard for long-term bicycle parking, but are required to meet this standard for short-term bicycle parking;

COMMENTARY

33.258.070 Nonconforming Development (continued)

Items are deleted that are included in the new list of landscape-related improvements above in Subparagraph D.2.b. Renumbering is needed to reflect the change.

~~(4) Interior parking lot landscaping. See Subsection 33.730.130.D, Expiration of adjustments approved prior to March 16, 2001;~~

~~(5) Landscaping in existing building setbacks;~~

~~(6) Minimum landscaped area (where land is not used for structures, parking, or exterior improvements);~~

(~~7~~4) Screening; and

(~~8~~5) Required paving of surface parking and exterior storage and display areas.

(~~9~~ 6) Exception: Where landscaping in the following areas was conforming after March 16, 2001, and before July 8, 2005, it is exempt from the requirements of D.2.b.1~~, 4, and 5,~~ above for the following:

- Landscaped setbacks for surface parking and exterior development areas;
- Interior parking lot landscaping; and
- Landscaping in existing building setbacks.
- This exception expires December 31, 2015.

c. – d. [No change.].

E. - G. [No change.]

COMMENTARY

CHAPTER 33.266, PARKING AND LOADING

33.266.110 Minimum Required Parking Spaces

This is another "flexible development option" intended to encourage the preservation of trees during development. Several developers have described their desire to preserve trees only to find that meeting all development standards, is difficult because of the location of the root protection zone. Although developers can apply for an adjustment to modify standards, it is frequently quicker and cheaper to remove the tree and plant new trees to meet the tree standard since the adjustment process takes approximately 8 weeks.

In this case, if one or more tree is proposed to be preserved, the developer has the option to reduce the number of minimum parking spaces for each tree preserved. Trees must be 12 inches in diameter or larger to qualify. The reduction is "capped" at 2 spaces or 10%, whichever is more. In addition, at least 4 spaces must still be provided. This is intended to ensure that a minimum level of parking will still be provided on small sites. The table below shows the amount of allowed parking reduction based on the number of required parking spaces.

Number of Parking Spaces Required	Maximum Parking Space Reduction
0-4	0
5	1
6-20	2
20+	10% of total

AMEND CHAPTER 33.266, PARKING AND LOADING

33.266.110 Minimum Required Parking Spaces

A. [No change.]

B. Minimum number of parking spaces required.

1. through 3. [No change.]

4. Exceptions for sites where trees are preserved. Minimum parking may be reduced by one parking space for each tree 12 inches in diameter and larger that is preserved. A maximum of 2 parking spaces or 10 percent of the total required may be reduced, whichever is greater. However, required parking may not be reduced below 4 parking spaces under this provision.

[Re-number 4-6 to 5-7]

C. Carpool parking. [No change.].

COMMENTARY

CHAPTER 33.430, ENVIRONMENTAL OVERLAY ZONES

The primary changes to this chapter involve the following:

- Addition of references to Title 11, Trees. For example, the exemption section lists tree removal situations that are exempt from the environmental overlay zone (e-zone) chapter in non-development situations and refers to Title 11 tree permit requirements that apply to tree removal citywide.
- Addition of regulations that apply to "non-native non-nuisance" trees. The current e-zone regulations are structured around maintaining and planting native vegetation, and preventing the planting and encouraging removal of plants and trees on the Nuisance Plants List. The current regulations are silent on non-native non-nuisance trees, however they provide many environmental benefits. The amendments require replacement of non-native non-nuisance trees, and trees on the Nuisance Plants List to replace the lost functions when these trees are removed. Replacement vegetation must be native species identified in the Portland Plant List.
- The general development standards that apply to transition areas are amended to address tree removal in transition areas. (see 33.430.140)
- Tree replacement planting standards are amended to improve consistency relating to the sizes of trees and shrubs to be planted and to clarify that plantings must be located within the environmental overlay zone.
- Regulated tree size is also added or the language amended for consistency (i.e. "6 or more inches in diameter").

33.430.035 Other City Regulations

This section is intended to alert code users that there may be other City regulations that apply even if their proposal is exempt from the environmental zone regulations. Title 11, Trees is added because tree removal that is exempt from the e-zone regulations (such as removal of a non-native tree) may still require a permit under Title 11.

33.430.070 When These Regulations Apply

Removing non-native non-nuisance trees and plants is added to the list of activities that are subject to the regulations in this chapter. The chapter currently applies to native vegetation (including trees) and trees and plants on the Nuisance Plants List, but does not address "non-native non-nuisance" trees and plants. See additional discussion below under the exemptions and standards.

AMEND CHAPTER 33.430, ENVIRONMENTAL OVERLAY ZONES

33.430.035 Other City Regulations
Other City regulations such as Title 10, Erosion Control, and Title 11, Trees, may apply to sites in the environmental overlay zones.

33.430.070 When These Regulations Apply
Unless exempted by Section 33.430.080, below, the regulations of this chapter apply to the following:

A. and B. [No change.];

C. Removing, cutting, mowing, clearing, burning, or poisoning native trees and plants ~~vegetation~~ listed in the *Portland Plant List*;

D. Planting or removing trees and plants listed on the Nuisance Plants List and planting or removing non-native non-nuisance trees and plants;

E. through G. [No change.]

COMMENTARY

33.430.080 Items Exempt From These Regulations

The introduction paragraph is amended to note that tree removal allowed under the exemptions may be subject to a Title 11 tree permit when no development is proposed. This statement is included to alert code users to this requirement in an effort to prevent unintentional violations.

The exemptions in "C" apply to existing development, operations, and improvements and allow certain activities to occur on the site without triggering the environmental standards and the associated environmental plan check requirement. Changes to this section include (based on new subsection numbers):

- C.2: Removes the pruning portion of this exemption, which is addressed under C.8 below.

- The exemptions in the old subsections C.7 and C.8 are incorporated into the new C.7 exemption, which addresses all vegetation removal activities (see the following page).

33.430.080 Items Exempt From These Regulations
The following items, unless prohibited by Section 33.430.090, below, are exempt from the regulations of this chapter. Other City regulations such as Title 10, Erosion Control, and Title 11, Trees must still be met~~:~~. When no development or other activities are proposed that are subject to the development standards or review requirements of this chapter, tree removal or pruning allowed under the exemptions below is subject to the tree permit requirements of Title 11, Trees.

A. - B. [No change.]

C. Existing development, operations, and improvements, including the following activities:

1. [No change.]

2. Continued maintenance of existing gardens, pastures, lawns, and other planted areas, including the installation of new irrigation and drainage facilities, new erosion control features, and the installation of plants except those listed on the Nuisance Plants List. Change of crop type or farming technique on land currently in agricultural use~~. Pruning trees and shrubs within 10 feet of structures~~;

3. Changes to existing disturbance areas to accommodate outdoor activities such as gardens and play areas so long as plantings do not include plants on the Nuisance Plants List and no trees 6 or more inches in diameter ~~or greater~~ are removed;

4. - 6. [No change.]

~~7. Removing vegetation listed on the Nuisance Plants List;~~

~~8. Removing trees or portions of trees when they pose an immediate danger, as determined by the City Forester or an arborist. Removing these portions is exempt only if all sections of wood greater than 12 inches in diameter remain, or are placed, in the resource area of the same ownership on which they are cut;~~

COMMENTARY

33.430.080 Items Exempt From These Regulations (continued)

C.7: Changes are proposed to the exemptions related to removal of vegetation, including trees. First, the introduction sentence clarifies that these exemptions only apply when no other activities or development is proposed that is subject to the development standards or review requirements. This distinction is important because if no other development is proposed, then the tree removal that is exempt under this section will be subject to Title 11 permit requirements. If development is proposed that is subject to the e-zone development standards or review requirements, then the tree removal, replacement standards, and criteria in this chapter apply. Second, a requirement for erosion control is added for all vegetation removal activities that are allowed under the exemptions (7a). This is needed to provide clear direction about what is required when non-native vegetation is removed.

Additional amendments to this section, include the following:

- The current hazard tree allowance is amended to refer to dead, diseased and dangerous trees. This provides consistency with language in other parts of Title 33 and Title 11, Trees.
- An exemption is added for removal of non-native non-nuisance trees and plants. Because these trees and plants are not currently regulated by the e-zone chapter, this exemption does not constitute a change in practice. However, this amendment makes it clear that removal of these trees (when no other development is proposed) is not regulated by this chapter but is subject to the tree permit requirements of Title 11, Trees. As described above, removal of non-native vegetation is only exempt, when proper erosion control is maintained.
- An exemption is added to address removal of trees within 10 feet of an existing building and structures attached to the building (such as decks and stairs). This provides consistency with other current and new tree removal allowances that apply citywide.
- An exemption is added to address conflicts between the restrictions on tree removal in the environmental zone and maintenance of City-designated scenic view corridors. These corridors are mapped and have height restrictions that apply to buildings and vegetation. The exemption will allow removal or pruning of trees that exceed the height restriction within the corridor. It should be noted that this exemption will not allow tree removal to maintain views from City designated viewpoints that do not have a corresponding mapped view corridor with a height restriction. Removal of native trees to maintain views from those viewpoints will continue to require an environmental review. Maintenance of existing public viewpoints (the place from which a view is enjoyed), is currently exempt under 33.430.080.C.1.

7. Removal of vegetation when no development or other activities subject to the development standards or review requirements of this chapter are proposed, if the following are met:

   a. All vegetation removal activities must be surrounded or protected to prevent erosion and sediment from leaving the site or negatively impacting resources on the site. Permanent erosion control, such as replanting areas of bare soil, must be installed.

   b. The vegetation proposed for removal is one of the following:

      (1) Trees or plants listed on the Nuisance Plants List;

      (2) Dead, dying, or dangerous trees or portions of trees when they pose an immediate danger, as determined by the City Forester or an arborist. Removing these portions is exempt only if all sections of wood more than 12 inches in diameter either:

         - Remain, or are placed, in the resource area of the same ownership on which they are cut; or

         - Are removed, if the City Forester authorizes removal of diseased wood because it will threaten the health of other trees;

      (3) Non-native non-nuisance trees and plants;

      (4) Trees that are within 10 feet of an existing building and structures attached to buildings, such as decks, stairs, and carports; and

      (5) Trees that exceed the height restriction of a City-designated view corridor may be removed or pruned to maintain the view corridor.

COMMENTARY

33.430.080 Items Exempt From These Regulations (continued)

C.8: Consolidates pruning-related exemptions and references Title 11 pruning permit requirements. Title 11 allows limited pruning of native trees in environmental zones subject to a permit, instead of requiring environmental review as is the case under the current regulations. The permit will provide a means to track approved pruning and will involve arborist oversight and the City's Urban Forestry program expertise in considering these requests. Current exemptions for limited pruning in e-zones are deleted here and are reinstated in Title 11. Pruning of non-native trees is also exempt.

The exemptions in "D" apply to new development and improvements. The proposed changes are not substantive. They clarify that limits on tree and shrub removal apply to native species and provide more consistent terminology for tree size thresholds (i.e., "6 or more inches in diameter").

~~9~~ 8. Pruning trees in accordance with Title 11 permit requirements. ~~coniferous trees that are within 30 feet of a structure to remove branches up to 6 feet above the ground, when the structure is within the wildfire hazard zone as shown on the City's Wildfire Hazard Zone Map~~;

[Re-number 10-12 to 9-11]

D. The following new development and improvements:

1. – 8. [No change.]

9. Additional disturbance for outdoor uses such as gardens and play areas where the added disturbance area meets all of the following:

a. and b. [No change.]

c. No native trees 6 or more inches in diameter ~~or greater~~ are removed; and

d. [No change.]

10. Trails meeting all of the following:

a. through c. [No change.]

d. No ~~N~~native trees ~~larger~~ 6 or more inches in diameter and no native shrubs ~~or conifers~~ larger than 5 feet tall may ~~not~~ be removed;

e. and f. [No change.]

11. [No change.]

E. [No change.]

COMMENTARY

Development Standards

33.430.130 Permit Application Requirements

A.4: The tree size reference has been amended to provide consistent terminology in the code.

B.5. An explicit requirement to show trees proposed to be preserved, trees to be removed and tree protection is added. Most development permits will also be required to provide a tree plan meeting the requirements specified in Title 11, Chapter 11.50, which also requires this information. Reference is added to the Title 11 requirement to alert applicants of that requirement.

33.430.130 Permit Application Requirements
[No change.]

A. An existing conditions site plan including:

1. – 3. [No change.].

4. Within the disturbance area, all trees that are ~~more than~~ 6 or more inches in diameter must be indicated by size and species. Trees outside of the disturbance area must be shown as crown cover with an indication of species composition; and

5. [No change.].

B. Proposed development plan including:

1. through 3. [No change.]

4. A landscape plan indicating the size, species, and location of all vegetation to be planted in the environmental zone; ~~and~~

5. Trees proposed to be preserved and trees proposed to be removed. For trees to be preserved, tree protection, meeting the requirements of Chapter 11.60, Technical Specifications, must be shown. A tree plan may also be required to comply with Chapter 11.50, Trees in Development Situations; and

6~~5~~. Where applicable, the location and specifications of the site enhancement option with dimensions, a list of plants on the Nuisance Plants List ~~or Prohibited~~ to be removed, and a landscape plan indicating the size, species, and location of all vegetation to be planted.

C. [No change.]

COMMENTARY

33.430.140 General Development Standards

The introduction paragraph to the general development standards indicates when and where the standards apply. Under the current provision, tree removal and replacement standards do not apply to transition areas (the outer 25 feet of the environmental zone). These trees are not regulated in other situations, such as by the City Forester or land division regulations, because they are within the environmental zone boundary. This creates a gap in regulations. The proposed amendment adds standards "J" and "K", which address tree removal and replacement, to the list of standards that apply in transition areas, thereby removing the gap.

The application of standards B, C and I to the removal of nuisance plants is proposed to be deleted. As described under the exemptions section, removal of nuisance trees and plants is exempt from the environmental zone regulation when these activities occur outside of a development context. Language is proposed in the exemptions section that provides more clear direction about temporary and permanent erosion control requirements (see 33.430.080.C.7).

Development standards B and C restrict the location of where "disturbance" can occur and therefore technically restrict removal of nuisance plants to areas outside of resource areas (standard B) and outside of stream setbacks (standard C). This restriction is counter productive given that removal of nuisance plants is most important in resource areas.

Standard I, which requires replanting of temporary disturbance areas, is proposed to be amended to include portions of the resource area where non-native vegetation is removed. This will ensure that any vegetation removal that occurs in the development context is subject to replanting.

33.430.140 General Development Standards
The standards below apply to all development in the environmental zones except as follows:

- Utilities subject to Section 33.430.150,
- Land divisions subject to Section 33.430.160;
- Property line adjustment subject to Section 33.430.165;
- Resource enhancement projects subject to Section 33.430.170;
- Rights-of-way improvements subject to Section 33.430.175;
- Stormwater outfalls subject to Section 33.430.180; and
- Public recreational trails subject to Section 33.430.190.

Standards A through C and G through R apply to new development. Standards D through R apply to alterations to existing development. ~~Standards B, C and I apply to removal of plants on the Nuisance Plants List.~~ Only standards E, J, K, M, P, Q, and R apply in Transition areas. All of the applicable standards must be met. Modification of any of these standards requires approval through environmental review described in Sections 33.430.210 to 33.430.280.

A.- H. [No change.]

I. Temporary disturbance areas and portions of the resource area where removal of non-native vegetation occurs, ~~is~~ must be replanted so that the area achieves a 90 percent vegetation cover within one year.

COMMENTARY

33.430.140 General Development Standards

Table 430-2
Minimum Site Enhancement Options

The required minimum size of trees and shrubs at planting is revised in this table and throughout the e-zone chapter to improve consistency. Trees must be at least one-half inch diameter and shrubs at least one gallon throughout the e-zone chapter. This is consistent with the smaller of the various plant size standards that are currently in the chapter. Plants that are smaller at the time of planting have a better rate of survival than larger plants. They also establish quicker and require less maintenance. This is important in environmental zones where irrigation is often difficult.

Table 430-2
Minimum Site Enhancement Options

Option	Action
Option 1 Restoration Planting	Remove plants listed on the Nuisance Plants List. Plant the area with native plants at the following minimum planting density: 10 plants per 50 square feet at a ratio of one tree, two shrubs, and 7 groundcover plants. Trees must be at least one-half inch in diameter, shrubs must be at least ~~2~~ 1 gallon~~s~~, and groundcover plants a minimum pot size of 4 inches. The remaining area may be seeded with native grass seed.
Option 2 Impervious Surface Reduction	Remove impervious surface to improve stormwater management, and replant the area with native plants at the following minimum planting density: 10 plants per 50 square feet at a ratio of one tree, two shrubs, and 7 groundcover plants. Trees must be at least one-half inch in diameter, shrubs must be at least ~~2~~ 1 gallon~~s~~, and groundcover plants must be a minimum pot size of 4 inches. The remaining area may be seeded with native grass seed.
Option 3 Parking Lot Retrofit	Replace existing interior parking lot landscaping with a vegetated infiltration basin using native plants. The minimum planting ratio for this option is one tree and two shrubs for every 50 square feet of planting area, and groundcover plants to cover the remaining area, planted on 12-inch centers. Trees must be at least one-half inch in diameter, shrubs must be at least ~~2~~ 1 gallon~~s~~, and groundcover plants a minimum pot size of 4 inches. Enhancements must be approved by the Bureau of Environmental Services as meeting the *Stormwater Management Manual*, and must also comply with parking lot landscape requirements of this Title.
Option 4 Revegetation Fee	Pay a revegetation fee. 1. Fee use and administration. The revegetation fee is collected by BDS and is administered by the Bureau of Environmental Services. The fees collected are used for revegetation projects on public or private property within the same watershed as the site. 2. Calculation of required fee contributions. Applicants must contribute the cost to purchase and plant trees, shrubs, and groundcover plants as set out in 3. below. The cost to purchase and plant trees and plants will be adjusted annually as determined by the Director of BES based on current market prices for materials, labor, and maintenance. 3. Required fee contribution. The applicant must contribute the following revegetation fee before a building permit will be issued: • The cost to purchase, plant, and maintain one tree, two shrubs, and 7 groundcover plants for every 50 square feet of planting area; • The fee calculation will be rounded up to the next multiple of $10; and • The minimum area to be used in this calculation is 50 square feet. Calculations that are not a multiple of 50 will be rounded up to the next multiple of 50.

COMMENTARY

33.430.140 General Development Standards

Standards "J" and "K" address tree removal and replacement.

Standard J is broken into separate sub-sections that address the three categories of trees (native, non-native non-nuisance, and nuisance).

1) No major changes are proposed for regulations applying to native trees, with the exception that now native trees in transition areas are addressed. Native trees in transition areas and resources areas are subject to the current limit on tree removal of 225 inches and must be replaced per the replacement table (430-3). Additional restrictions on removal of native trees continues to apply to resource areas, however new allowances address removal of trees within 10 feet of an existing building and structures attached to the building (such as decks and stairs), and trees within 10 feet of driveways and right-of-way improvements. The allowance for right-of-way improvements recognizes that improvements off-site may impact trees on site.
2) Non-native non-nuisance trees may be removed, but must be replaced per the replacement table (430-3). This will help ensure that the tree-related functions are maintained on the site. Non-native non-nuisance trees are not counted in the 225 inch standard that applies to removal of native trees. Therefore, removal of non-native non-nuisance trees will not trigger environmental review unless the replacement standards are not met.
3) Removal of nuisance trees continues to be allowed, however they must be replaced at a 1:1 (tree-for-tree) ratio. This requirement is consistent with the Title 11 requirement for replacement of trees on the Nuisance Plants list citywide.

Standard K is amended to provide a consistent planting requirement, including a requirement to plant vegetation within the environmental zone on the site.

J. Tree removal and replacement standards.

1. Removal of native trees is allowed as follows:

a. Trees removed from resource and transition areas must be replaced as shown in Table 430-3. Trees less than 6 inches in diameter do not have to be replaced.

b. In resource and transition areas, the combined total diameter of all trees removed may not exceed 225 inches, counting only native trees that are at least 6 inches in diameter;

c. In resource areas, trees may be removed only if one of the following is met:

(1) ~~Native trees may be removed~~ W~~w~~ithin 10 feet of ~~any~~ existing or proposed ~~structures~~ buildings and structures attached to buildings, such as decks, stairs, and carports;

(2) W~~w~~ithin ~~5~~ 10 feet of proposed driveways or right-of-way improvements, or

(3) T~~t~~o create up to 500 square feet of permanent disturbance area for uses such as gardens and play area.

~~In no case will the combined total diameter of all the 6 inch or greater trees cut exceed 225 inches.~~

2. Non-native non-nuisance trees may be removed if each tree at least 6 inches in diameter is replaced as shown in Table 430-3; and

3. Trees listed on the Nuisance Plants List may be removed, if each tree at least 6 inches in diameter is replaced with one native tree; ~~are exempt from this standard and may be removed without being counted as part of the 225 inches;~~

K. ~~Trees cut are replaced as shown in Table 430-3.~~ Replacement trees must be at least one-half inch in diameter; shrubs must be in at least a ~~2~~ 1-gallon container or the equivalent in ball and burlap. All trees and shrubs must be selected from the *Portland Plant List* and planted ~~anywhere~~ on the site within the environmental zone. Conifers must be replaced with conifers and shrubs must consist of at least two different species;

L. All vegetation planted in a resource area is native and listed on the *Portland Plant List.* Plants listed on the Nuisance Plants List are prohibited;

COMMENTARY

33.430.150 Standards for Utility Lines

Standard E is amended to include the tree removal and replacement standards.

1. The limit on removing native trees is changed from 10 inches to 12 inches, to provide more consistency between the e-zone standards and other tree size thresholds in Title 33 and Title 11. The replacement standard is changed to refer to the tree replacement table (Table 430-3) in the general development standards. This will help simplify tree replacement calculations as the same replacement table is proposed to be used for non-native non-nuisance trees.

2 & 3. The amended standard incorporates replacement of non-native non-nuisance trees and nuisance trees consistent with other replacement requirements proposed throughout the chapter.

4. The amended standard refers to the planting standards in the general development standards instead of restating a planting standard in this section. This will help simplify plan checks because a single standard will apply.

5. The current requirement about planting trees between the stream corridor and utility is moved to this subparagraph. The requirement to plant at least 10 feet from a paved surface is deleted to provide greater consistency within the chapter. There is no other place within the e-zone chapter where planting is required to be set back a specific distance from paving or structures.

Table 430-3 Tree Replacement in Environmental Overlay Zone Applicants may chose either Option A or Option B		
Size of tree to be removed (inches in diameter)	**Option A (no. of native trees to be planted)**	**Option B (combination of native trees and shrubs)**
At least 6 to up to 12	2	not applicable
More than 12 ~~13~~ to up to 20 ~~18~~	3	1 tree and 3 shrubs
More than 20 ~~19~~ to up to 25 ~~24~~	5	3 trees and 6 shrubs
More than 25 to up to 30	7	5 trees and 9 shrubs
~~over~~ More than 30	10	7 trees and 12 shrubs

M. - R. [No change.].

33.430.150 Standards for Utility Lines
[No change.].

A. through D. [No change.]

E. Tree removal and replacement standards are as follows:

1. Native trees more than ~~10~~ 12 inches in diameter may not be removed.~~; F.~~ Each ~~6 to 10 inch diameter~~ native tree more than 6 but less than 12 inches in diameter that is cut must be replaced as shown in Table 430-3;~~at a ratio of three trees for each one removed.; The replacement trees must be a minimum one half inch diameter and selected from the Portland Plant List. All trees must be planted on the applicant's site but not within 10 feet of a paved surface. Where a utility line is approximately parallel with the stream channel at least half of the replacement trees must be planted between the utility line and the stream channel.~~;

2. Non-native non-nuisance trees may be removed, if each tree 6 or more inches in diameter is replaced as shown in Table 430-3;

3. Trees listed on the Nuisance Plants List may be removed if each tree 6 or more inches in diameter is replaced with one tree;

4. Replacement trees and shrubs must meet the planting standards in 33.430.140.K; and

5. Where a utility line is approximately parallel with the stream channel at least half of the replacement trees must be planted between the utility line and the stream channel.

COMMENTARY

33.430.160 Standards for Land Divisions and Planned Developments

F. The amendments address native, non-native non-nuisance, and nuisance trees consistent with other sections of this chapter. Replacement requirements continue to refer to the general development standards (quantity of trees and shrubs per Table 430-3 and planting standards per 33.430.140.K).

33.430.170 Standards for Resource Enhancement Projects

Language is added to standard "C" stating explicitly that trees, other than natives, may be removed for resource enhancement projects without replacement. Removal of trees other than natives is not currently limited, so this standard will not change the application of the code. It is intended to provide additional clarity. Not requiring replacement of non-native non-nuisance and nuisance trees provides additional flexibility for resource enhancement projects. These projects often involve extensive removal of invasive vegetation and revegetation with native plants and trees that are carefully selected to achieve desired future ecological conditions. In some cases, the future condition may be conversion to a habitat type with fewer trees. Any variation from a strict tree replacement requirement for removal of nuisance and non-native non-nuisance trees would require environmental review, which could slow down and hamper the enhancement process.

Standard "E", which allows limited removal of native vegetation and trees for public viewing areas, is amended to change the tree size threshold for native trees that can be removed from 10 to 12 inches. This will provide more consistency with other tree size thresholds in Title 33 and Title 11. The replacement standard is changed to refer to the tree replacement table (Table 430-3) in the general development standards, providing greater consistency across all e-zone regulations. Native trees removed under this allowance must be replaced in the environmental zone on the site.

33.430.160 Standards for Land Divisions and Planned Developments
[No change.]

A.-E [No change.]

F. Tree removal is allowed as follows:

1, Native trees. In residential zones, t~~T~~he combined total diameter of native trees cut may not exceed 225 inches per dwelling unit, counting only native trees that are at least 6 inches in diameter ~~in residential zones~~. In all other zones, native tree removal is limited to the boundaries of the approved disturbance area. Native trees must be replaced as shown in Table 430-3;

2. Non-native non-nuisance trees. Non-native non-nuisance trees may be removed, but must be replaced as shown in Table 430-3; and

3. Nuisance trees. Trees ~~that are less than 6 inches in diameter and trees~~ listed on the Nuisance Plants List ~~are exempt from this standard and~~ may be removed ~~without being counted as part of the 225 inches~~, but must be replaced. Each tree 6 or more inches in diameter must be replaced with one native tree.

G. - J. [No change.]

33.430.170 Standards for Resource Enhancement Projects
[No change.]

A. and B. [No change.]

C. No native vegetation listed on the *Portland Plant List* is removed except as allowed by E. below. Non-native trees and vegetation may be removed;

D. [No change.];

E. No structures are proposed except for public viewing areas developed as part of the project. The public viewing areas must meet the following:

1. The viewing area may create up to 500 square feet of permanent disturbance area;

2. The viewing area is at least 30 feet from the top of bank;

3. The viewing area is not in the floodway;

4. Native trees more than ~~10~~ 12 inches in diameter may not be removed;

5. Each 6 to ~~10~~ 12-inch diameter native tree removed must be replaced as shown in Table 430-3. Replacement trees and shrubs must comply with the planting standards of Subsection 33.430.140.K ~~at a rate of three trees for each one removed. The replacement trees must be a minimum one-half inch diameter or 3 to 5 gallon conifers and be native trees listed on the Portland Plant List. All trees must be planted on the site~~; and

COMMENTARY

33.430.175 Standards for Right-of-Way Improvements

These standards apply to unimproved and partially improved rights-of-way. The changes to standard "D" clarify that tree removal under this section is allowed in the right-of-way only. The current wording could be read to include tree removal on private property. Removal of trees on private property for these improvements is addressed under Section 33.430.140.J.1. In addition, language is added to clarify that the standard applies to native trees only. Like other sections, the limit on tree removal is for native trees. No replacement is currently required under this chapter, nor is any proposed. However, tree replacement may be required under Title 11, Chapter 11.50 which addresses tree removal in rights-of-way.

33.430.180 Standards for Stormwater Outfalls

The limit on removing native trees in standard B is changed from 10 inches to 12 inches, to provide more consistency between the e-zone standards and other tree size threshold in Title 33 and Title 11.

The proposed new standards C and D incorporate replacement of non-native non-nuisance trees and nuisance trees consistent with other replacement requirements proposed throughout the chapter. To provide consistency, these standards refer back to the tree replacement table and planting standards in the general development standards, rather than repeating standards in this section.

Citywide Tree Project Tracking Table and Staff Recommendations – Planning Commission/Urban Forestry Commission

Code Reference, Summary of Changes in Proposed Draft (Feb. 2010)	Recommendation
Application Requirements (33.730.060) – Tree Plan submittal requirements	**Revise** for consistency with direction on land use cases (CU, DZ and AD cases 33.805, 815 & 825) and protection of trees on adjacent sites/property lines (11.600.080). Staff to evaluate whether separate Tree Plan submittal requirements for reviews other than land divisions are necessary given changes to the proposal.
Requests for Changes to Conditions of Approval (33.730.140) – Allows changes to tree preservation conditions to be processed through Tree Review. This provision is included primarily to address reviews other than land divisions (CU, DZ, AD).	**Revise** for consistency with direction on land use cases (CU, DZ and AD cases 33.805, 815 & 825). Staff to evaluate whether this provision is necessary given changes to the proposal.
Land Use Reviews (800 series)	
Adjustments (33.805) • Add criterion addressing impacts to priority trees, tree groves, wetlands and water bodies outside of environmental zones (33.805.040)	**Delete** proposed criterion from Adjustment review. *Reflects PC/UFC direction - 4/27/10*
Conditional Uses (33.815) • Add criterion addressing preservation of priority trees and tree groves and determining mitigation if Title 11 tree preservation standards are not met. • Applies to Uses in Open Spaces Zones, Institutional and Other Uses in R Zones, Public Safety Facilities, & Radio Frequency Transmission Facilities	**Revise** proposal: • Include tree preservation in the list of factors considered when evaluating "Character and Impacts" or "Physical Compatibility" for uses in OS and R zones (33.815.100 & 105). Delete proposed criterion. • Delete proposed criterion from Public Safety Facilities (33.815.223) • Revise proposed criterion for Radio Frequency Transmission Facilities (33.815.225) to state that impacts on priority trees and groves must be minimized (rather than no removal). *Reflects PC/UFC direction - 5/11/10*
Conditional Use Master Plans (33.820) Add requirement to provide a tree plan. Includes option to provide a conceptual tree plan with more detailed tree plan provided in subsequent reviews or a Master Tree Plan that establishes standards for preservation and mitigation, along with a conceptual plan.	**Revise** proposal for consistency with direction on conditional uses (Chapter 33.815). Delete requirement to provide a Tree Plan (33.823.070.I). (Proposed changes to land use submittal requirements in 33.730 are adequate to obtain necessary tree information.)
Design Review (33.825) Add criterion addressing preservation of priority trees and tree groves and determining mitigation if Title 11 tree preservation standards are not met.	**Revise** proposal: • Delete proposed tree preservation approval criterion, but retain "tree preservation" in list of Factors Reviewed During Design Review (33.825.035) *Reflects PC/UFC direction - 5/11/10*

Citywide Tree Project Tracking Table and Staff Recommendations – Planning Commission/Urban Forestry Commission

Code Reference, Summary of Changes in Proposed Draft (Feb. 2010)	Recommendation
Tree Review (33.853) • Review requires for tree removal not meeting standards in Scenic overlay, Rocky Butte PD and Johnson Creek PD: - Add review for requests to vary from Johnson Creek PD (currently applies for similar situations in Scenic and Rocky Butte). (33.853.020) - Add criteria to allow tree removal when necessary for reasonable development of the site (33.853.040.A) • Amend procedures: all Tree Reviews are processed as a Type II review, with the exception of some violations. Type III violation review is triggered for removal of more than two priority trees or more than two trees within a tree grove (current threshold is more than 12" inches) AND when the original review was a Type III. (33.853.030)	**Approve**
Tree Review – Corrections to violations (33.853.040.C) • Add requirement to submit an arborist assessment if other trees will be preserved as mitigation for violation • Add additional flexibility for methods of mitigation, including an allowance to pay into the Tree Fund in lieu of planting and an allowance to plant smaller caliper trees when appropriate.	**Approve** with direction to explore expansion of pay in lieu option to include non-profit organizations that plant trees.
Tree Review (33.853) Add references to reviews other than land divisions, including criteria for changing tree preservation requirements and violations of land use conditions.	**Revise** for consistency with direction on land use cases (CU and DZ cases 33.815 & 825). Staff to evaluate whether this provision is necessary given changes to the proposal.
General Terms (900 series)	
Definitions (33.910) • New definitions for: development impact area, non-native non-nuisance tree, pruning, topping, tree grove, tree unit, dangerous tree, dead tree, diseased tree, heritage tree and priority tree • Definition for "Identified wetlands, identified streams, identified water bodies" is amended to include resources identified in the adopted resource inventory OR maps. This change clarifies that the resource need only be identified in one way, not both to trigger protection requirements in the environmental zone regulations.	**Approve** proposal to change "identified streams/wetlands/ water bodies" definition. **Approve** other definitions with direction to revise as needed to be consistent with Title 11 and other changes to the proposal. Specifically, review definition of pruning for consistency with Title 11, and modify grove as noted above and delete reference to tree unit. *Reflects PC/UFC direction - 4/27/10*
Measurements (33.930)	**Approve** with direction to revise measurements as needed for consistency with Title 11 and other changes to the draft proposal. Specifically, delete description of rounding rules for tree units in 33.930.020, Fractions.

Citywide Tree Project Tracking Table and Staff Recommendations – Planning Commission/Urban Forestry Commission	
Code Reference, Summary of Changes in Proposed Draft (Feb. 2010)	**Recommendation**
III. Other Titles	
Title 3 Administration	
Summary: adds reference to tree permit requirement, deletes solar friendly trees provision as part of previous repeal of the solar permit rules. Adds Title 11 administrative duties for BDS.	**Approve**
Title 8 Health and Sanitation	
Summary: adds reference to tree permit requirement and environmental zone requirements as part of mosquito control activities which may impact trees.	**Approve**
Title 14C Public Order and Police	
Summary: Carries existing provisions authorizing police to intercede in enforcement of tree violations from Title 20 to Title 11. Note: primary enforcement is to be done by UF/BDS	**Approve**
Title 16 Vehicles and Traffic	
Summary: Adds reference to tree permits for visibility clearance activities, clarifies that any trees obstructing visibility in the right of way (either street tree or private tree) must be kept maintained.	**Approve**
Title 17 Public Improvements	
Summary: Adds reference to tree permit requirement, replacement requirements for street trees when moving buildings, moves tree maintenance requirements to Title 11 (11.700.040)	**Approve** with modification to 17.52.005 to correct T11 reference or potentially delete chapter 17.52 entirely.
Title 20 Parks and Recreation	
Summary: Correct references to T11 from T20, moves provisions from Chapters 20.40 and 20.42 to Title 11	**Approve**
Title 24 Building Regulations	
Summary: Deletes requirement for separate tree cutting permit from T24 clearing and grading, deferring instead to Title 11. Adds plan submittal requirement to show trees on adjacent sites or rights of way within 15 feet that may be affected. Requires design of access roads to avoid tree root protection zones as practicable, and replacement or payment for tree planting when trees cannot be located between access roads and buildings.	**Approve** with modifications to site plan submittal requirements for consistency with direction on protecting trees on property lines and adjacent sites during construction (see 11.600.080)
Title 29 Property Maintenance Regulations	
Summary: Adds references to tree permit requirements when removing trees or pruning street trees as part of nuisance abatement, includes reference to elmwood disposal.	**Approve**
Title 31 Fire Regulations	
Summary: Add consideration of tree preservation in siting criteria for fire access roads	**Approve**
Dutch Elm Disease Ordinance	
Summary: Repeal ordinance with adoption of T11 (11.700.040.C)	**Approve**

Citywide Tree Policy Review and Regulatory Improvement Project Update

OUTREACH CALENDAR, INCLUDES THE FOLLOWING ACTIVITIES TO DATE:

Briefing Calendar

Project Briefing/Review	Date	# of public participants
2007		
Urban Forestry Commission (UFC)	October 18th, 7:30 am	14
UFMP Action Plan interbureau team	October	3 (UFC members)
Citywide Land Use Group	October 22nd, 7:00 pm	15
Bureau Directors Group	November 8th, 10:30 am	
Development Review Advisory Committee(DRAC)	December 13th, 7:30 am	12
Bureau Directors Group	December 13th, 10:30 am	
2008		
E. Portland Neighborhood Office/Coalition	January 9th, 2008 6:30pm	11
DRAC	January 10th, 2008, 7:30am	14
Citywide Parks Group	January 17th, 7:00 pm	24
Columbia Slough Drainage Districts	January 24th, 11:00 am	7
Citywide Land Use Group	January 28th, 7:00 pm	11
SWHRL (attended meeting about history of forested SW area; discussed tree project in March)	January 30, 7:00 pm	50+
Johnson Creek Watershed Council	February 19th 5:30pm	20
Urban Forestry Commission	February 21st 7:30am	12
SWHRL	March 4th, 7:00 pm	16
Group Mackenzie SDG participants	April 3rd	2
Tryon Creek Watershed Council	April 14th	11
BES Watershed Managers Group	May 28th	
Commissioner Saltzman & Parks Foundation	June 30th	4
Stakeholder group with Portland Plan	August 15th	10
Urban Forestry Commission	August 21st	13
Bureau Directors	November 13th	
UFC subcommittee	November 14th	3
Urban Forestry Commission	November 20th, 8:00 am	10
2009		
Urban Forestry Commission	January 22nd, 8:00 am	5
Citywide Land Use Group	January 26th, 7:00 pm	30
Urban Forestry Commission	February 6th, 12:30pm	8
Planning Commission	February 10th, 1:30 pm	30
Watersheds Advisory Committee	February 11th, 4:15 pm	14
E. Portland Neighborhood Office	February 11th, 6:30 pm	10
DRAC	February 12th, 7:30 am	11
Citywide Parks Group	March 19th, 7:00 pm	
Sustainability Commission	April 28th, 2:00 pm	4
Urban Forestry Commission (R&R comm.)	May 20th, 9:00 am	(4 UFC commissioners)
Urban Forestry Commission	May 21st, 9:00 am	6
Urban Forestry Commission (R&R comm.)	May 29th, 9:00 am	(4 UFC commissioners)
Commissioner Saltzman	June 16th, 10:00 am	
Urban Forestry Commission	June 18th, 8:00 am	10
Urban Forestry Commission (policy cmte)	June 26th, 2:00 pm	2
Urban Forestry Commission	July 16th, 8:00 am	##
Multnomah County Drainage District	July 30th, 10:30 am	7
Audubon of Portland	August 5th, 3:00 pm	2

Urban Forestry Commission (policy cmte)	October 6th, 10:00 am	4
Urban Forestry Commission	October 15th, 7:30 am	11
Southwest Hills Residential League	October 21st, 7:00 pm	
Citywide Land Use Group	October 26th, 7:00 pm	
Partners in Community Forestry Nat'l Conf	November 10th, 3:00 pm	65
DRAC	November 12th, 7:30 am	20
East Portland Neighborhood Office	December 9th, 6:00 pm	6
Urban Forestry Commission (policy cmte)	December 11th, 9:00 am	3

2010

Urban Forestry Commission (policy cmte)	January 6th, 7:00 am	3
Commissioner Fish	January 6, 10:00 am	
Urban Forestry Commission	February 18, 8:00 am	10
Russell Neighborhood Association	February 18, 6:00 pm	5
Citywide land Use Group	February 22, 7:00 pm	13
Planning Commission Briefing	February 23, 6:00 pm	12
Multnomah County Planning Staff	February 25, 3:00 pm	
Planning Commission Briefing (special)	March 4, 10:00 am	4
East Portland Neighbors Park Group	March 4, 7:00 pm	6
Public Open House (West)	March 9, 7:00 pm	8
Multnomah County Drainage Dist. (dir.)	March 10, 1:00 pm	2
Johnson Creek Watershed Council (dir.)	March 10, 4:00 pm	1
DRAC	March 11, 8:00 am	20
Homebuilders Association	March 11, 10:00 am	22
Urban Forestry Commission (policy cmte)	March 15, 8:00 am	3
Public Open House (East)	March 16, 6:30 pm	12
Urban Forestry Commission	March 18, 7:30 am	15
Mayor Adams	March 22, 3:00 pm	
Planning Commission/UFC hearing	March 23, 6:00 pm	60
Port of Portland	March 29, 3:00 pm	5
Columbia Slough Watershed Council	March 29, 6:30 pm	15
CNN Coalition (LUTOP)	April 5, 7:00 pm	8
Group McKenzie (conf call)	April 9, 9:00 am	2
Bureau Directors	April 9, 2:30 pm	
Columbia Corridor Golf Course Reps	April 12, 10:00 am	2
Planning Commission/UFC Worksession	April 13, 12:30 pm	30
John O'Shea, Arborist	April 14, 4:00 pm	1
Urban Forestry Commission	April 15, 8:00 am	15
PP&R Horticulturists	April 22, 1:30 pm	
Homebuilders Association (Mayor's Office)	April 27, 2:00 pm	7
Planning Commission/UFC Worksession	April 27, 6:00 pm	10
BPS Greenbag	April 28, 12:00 pm	
Planning Commission/UFC Worksession	May 11, 6:00 pm	8
DRAC	May 13, 8:00 am	15
Bureau Directors	June 2, 3:30 pm	
Planning Commission Worksession	June 8, 12:30 pm	12
Bureau Directors	June 18, 11:00 am	
UFC Worksession	June 17, 9:00 am	4
North Portland Coalition (NPLUG)	June 21, 7:00 pm	5
Save Our Elms/ R.Ross, P. Livingston	June 28, 12:00 pm	2

Citywide Tree Policy Review and Regulatory Improvement Project Update

e-mailed Project Scope for review to the following individuals and groups:

Citywide Parks Group
Neighborhood Coalitions
Homebuilders Association of Portland
Coalition for a Livable Future
Audubon Society of Portland
Metro
Development Review Advisory Committee (DRAC)
Bureau Directors Group
Citywide Land Use Chairs
Urban Forestry Commission
Friends of Trees
Individual developers and arborists
Urban Forest Action Plan Team
Columbia Corridor Association
Multnomah County Drainage District
Port of Portland
Columbia Slough Watershed Council
Johnson Creek Watershed Council
Tryon Creek Watershed Council

Stakeholder Interviews	Date	# of public participants
Developers	November 28, 2007	3
Developers	January 24 & 25, 2008	3
Arborists	January 29, 30 &Feb 5, 2008	3

Stakeholder Discussion Group	Date	# of public participants
Meeting #1	March 12th, 2008	21
Meeting #2	April 11th, 2008	15
Meeting #3	April 25th, 2008	15
Meeting #4	May 9th, 2008	15
Meeting #5	May 23rd, 2008	13
Meeting #6	June 13th, 2008	16
Meeting #7	June 27th, 2008	11
Meeting #8	July 11th, 2008	11
Meeting #9	July 25th, 2008	12
Meeting #10	August 22nd, 2008	16
Meeting #11	September 12th, 2008	13
Meeting #12	September 26th, 2008	10
Meeting #13	October 10th, 2008	16
Meeting #14	October 24th, 2008	14
Briefing	January 30th, 2009	15
Proposal Briefing	March 3rd, 2010	16

Other	Date	# of public participants
DRAC/Impact Assessment Game	December 18th 2007 3-5pm	1

Estimated Canopy Benefits and Program Costs
July 14, 2010

		Simplifed				Original			
		Canopy Benefits acres planted/preserved per year	Staffing/Cost[Δ]		Funding Source	Canopy Benefits acres planted/preserved per year	Staffing/Cost[Δ]		Funding Source
Tree Canopy Enhancement, Regulatory Improvements									
1	**Land Use Reviews - Improved tree preservation.**	5.5 to 16.5 acres	0.60 FTE	$57,100	Fee~$65-290	7 to 22 acres	1.50 FTE	$142,800	Fee~$130-365
2a	**Building Permits - New Tree Density Standards.**	60 acres	0.75 FTE	$71,400		60 acres	0.70 FTE	$66,600	
2b	**Building Permits - New Tree Preservation Standard.**	50 acres	0.75 FTE	$71,400	Fee ~$60	53 acres	1.20 FTE	$114,200	Fee ~$94
2c	**Building Permits - Tree Inspections.**	Spot check	1.10 FTE	$104,700		Trees monitored throughout development	4.10 FTE	$390,300	
3	**Capital Improvement / Public Works Project Oversight.**	Integrate, protect, replace existing trees	0.80 FTE*	$120,000	Capital ~$800	Integrate, protect, replace existing trees	0.80 FTE*	$120,000	Capital ~$800
4	**Environmental zones - Consistent treatment for trees.**	Addressing trees on 1400 add'l acres	0.00 FTE	$0		Addressing trees on 1400 add'l acres	0.00 FTE	$0	
5a	**Standardized Tree Permit System and Programmatic Permit.**	4 to 5 acres	0.80 FTE	$76,200	General Fund	7 to 32 acres	1.80 FTE	$171,400	General Fund
5b	**E-zone pruning Permit.**	increased health, reduced fire risk	0.10 FTE	$9,500	General Fund	increased health, reduced fire risk	0.10 FTE	$9,500	General Fund
	SUBTOTAL	120 to 130 acres	4.90 FTE	$510,300		127 to 167 acres	10.20 FTE	$1,014,800	
	cost per acre canopy	$3,900 to $4,300 per acre				$6,000 to $8,000 per acre			
	# trees purchased in lieu of cost	851 trees				1,691 trees			
	Acres of canopy w/ purchased trees	12 acres				23 acres			
Customer Service Improvements (on-going)									
6	**Single point of contact.**	Urban Forestry in DSC	1.15 FTE	$109,500	General Fund	Urban Forestry in DSC	1.15 FTE	$109,500	General Fund
7	**24-hour hotline.**	Pilot using existing BES spill response	0.10 FTE	$9,500	General Fund	Pilot using existing BES spill response	0.10 FTE	$9,500	General Fund
	SUBTOTAL		1.25 FTE	$119,000			1.25 FTE	$119,000	
Other 1-Time Costs									
8	**Community Tree Manual.**	Create manual w/ outreach	1.00 FTE	$95,200	Grant?	Create manual w/ outreach	1.00 FTE	$95,200	Grant?
9	**Neighborhood Tree Plan.**	Forest mgmt at neighborhood scale		------	Grant?	Forest mgmt at neighborhood scale		-------	Grant?
10	**Permit Tracking Software Programming.**	Program one permit folder		$32,000	General Fund	Program two permit folders		$64,000	General Fund
11	**One Time Start Up Costs (vehicles, equip).**	3 vehicles		$90,000	General Fund	8 vehicles		$240,000	General Fund
	ONE TIME TOTAL		1.00 FTE	$217,200			1.00 FTE	$399,200	
	ON-GOING TOTAL		6.15 FTE	$629,300			11.45 FTE	$1,133,800	

[Δ] FTE Costs are based on $68,000 annual salary plus benefits. The indirect overhead costs are not included in $, but are included in estimated fees.

*Staff costs for CIP/PW is higher based on $92/hr rate quoted

** Training may require up to .5 additional FTE, depending on phasing of code implementation.



Code Consolidation and Restructuring

New Title 11 – "Trees" focuses on the Urban Forest. Title 11 Trees consolidates City tree rules into a cohesive framework, addressing trees on public and private property, and in development and non-development settings. Title 11 elevates the Urban Forestry Program and shifts the paradigm to "trees as infrastructure." Title 11 establishes technical standards and procedures, clarifies bureau roles, and simplifies existing enforcement procedures.

Tree Canopy Enhancement

Improved tree preservation through land use reviews. Code amendments would improve tree preservation in land divisions, prioritizing large healthy trees, native trees, and groves. Tree plans would be recorded with final plats and would sunset after 10 years. Tree preservation would also be considered in Design Reviews & Conditional Use Reviews.

New Tree Density Standards would achieve canopy targets on development sites. New Tree Density Standards are designed to meet canopy targets over time. They build on existing "T1" standards for new single family homes, and would apply to all development types through the building permit process. Applicants choose to preserve, plant, or pay into the Tree Fund to meet the standard. The standards would not trigger review or delay permits.

New Tree Preservation Standard adds incentive to preserve. In addition to Tree Density Standards, the proposal would set a target to preserve a percentage of 12" diameter or larger trees, and require a mitigation payment if the target is not met. The draft proposal has been substantially simplified to better support City development and urban forestry goals. Lots smaller than 3000 sq.ft. or with greater than 90% building coverage would be exempt but must meet Tree Density Standards.

Trees on Property Lines and Adjacent Sites better protected. The proposal would allow applicants to count trees on property lines toward preservation and density standards so long as root zone protection is provided. The proposal would better protect trees on adjacent sites through land divisions, design reviews, and conditional uses.

Consistent treatment for trees in environmental zones. The proposal would: 1) establish replacement requirements for trees in environmental zone transition areas and non-native tree species, and 2) ensure consistent application of water body setbacks in existing environmental zones, enhancing tree protection in sensitive riparian areas.

Streamlined, Standardized Tree Permit System, E-zone Pruning Permit, Programmatic Permit. The proposal would create a standardized tree permit system for City, Street, and Private Trees. The existing exemption for single family lots is replaced with a "homeowner" system to ensure violations are prevented, and that larger trees (20" diameter and larger) are replaced with a new tree. For currently regulated lots, required tree replacement is fair and simple, while discouraging removal of large healthy trees or multiple trees. A permit to allow limited tree pruning in environmental zones would support tree health, home gardening and solar energy systems, and reduce wildfire risk. A new Programmatic Permit for routine public agency activities would improve efficiency and encourage restoration.

Customer Service Improvements

Single point of contact, 24-hour hotline and automated permit tracking system. These elements would improve public access to tree-related information, improve City program efficiency, and support compliance efforts.

Community Tree Manual. User-friendly guide to tree rules, tree care and best practices and community tree resources.

Neighborhood Tree Plan. Working with residents to inventory trees and set priorities at a neighborhood scale

Updated July 14, 2010

Appendix B

Record of Testimony to the Portland Planning Commission and Urban Forestry Commission (March - July 2010)

Complete Record of
Written Testimony
For the Citywide Tree Project

Received during the
Planning Commission/Urban Forestry Commission
Public Hearing and Work Sessions:

UFC/ PC Joint Public Hearing, March 23, 2010
UFC/ PC Joint Work Session I, April 13, 2010
UFC/ PC Joint Work Session II, April 27, 2010
UFC/ PC Joint Work Session III, May 11, 2010
PC Work Session IV, June 8, 2010
UFC Work Session IV, June 17, 2010

Written Testimony Submitted for PC/UFC hearing on Citywide Tree Project

	Name	Organization	Date
Submitted for 3/23/10 record			
1	Esau, Rebecca	Bureau of Development Services	3/22/10
2	Marriott, Dean	Bureau of Environmental Services	3/22/10
3	McAllister, David	Portland Parks and Recreation	3/23/10
4	Stuhr, Michael P.	Portland Water Bureau	3/23/10
5	Bentley, Judith		3/16/10
6	Boutillette Brinkman, April		3/23/10
7	Bussard, Michelle D	Forest Park Conservancy	3/23/10
8	Carney, Jo		3/16/10
9	Christ, M'Lou		3/21/10
10	Cumming, Cheyne		3/20/10
11	Edwards, Ginger		3/22/10
12	Ensign, Diane		3/22/10
13	Fish, Jeff	Fish Construction NW, Inc.	3/23/10
14A	Fogarty, Scott	Friends of Trees	3/23/10 testimony (submitted 4/13/10)
14B	Kelly, Veronica		3/23/10
15	Lightcap, Brian	W Mult Soil & Water Cons District	3/18/10
16	McKnight, Bonny		3/23/10
17	Nash, Nana, M.A.	Center NA	3/23/10
18	Nielsen, David	Home Builders Assoc. Metro Portland	3/23/10
19	Okulam, Frodo		3/21/10
20	Parks, Brian		3/23/10
21	Phillips, Garrett		3/23/10
22	Prince, Tracy J., Ph.D.	Goose Hollow NA	3/17/10
23	Preeg Riggsby, Terri	Tryon Creek Watershed Council	3/22/10
24	Sallinger, Bob Labbe, Jim Houck, Mike Carley, Ron Fuglister, Jill	Audubon Society Portland Audubon Society Portland Urban Greenspaces Coalition for a Livable Future Coalition for a Livable Future	3/23/10
25	Schill, Eileen		3/20/10
26	Seton, Nancy	SWHRL NA	3/23/10
27	Shafer, Dick	Peninsula Drainage Dist #2	3/23/10
28	Williams, Carol		3/21/10
Submitted for 4/13/10 Record			
29	Barnett, Margot		4/1/10
30	Bouillion, Tom	Port of Portland	4/13/10
31	Clark, Matt	Johnson Creek Watershed Council	4/12/10
32	Desmond, Jim	Metro, Sustainability Center	4/12/10
33	Elan, Robert		4/12/10
34	Fish, Jeff	Fish Construction	4/13/10

Written Testimony Submitted for PC/UFC hearing on Citywide Tree Project

35	Gibbon, Jon		4/13/10
36	Goldfeder, Simone	Architect LEED AP	4/4/10
37	Loff, John	Riverside Golf and Country Club	4/13/10
38	McAllister, David	City Forester, Portland Parks	4/12/10
39	McKnight, Bonny		4/12/10
40	Quinn, Barbara	Friends of Cathedral Park NA	3/26/10
41	Reese, Alesia	East Portland Parks Coalition	4/6/10
42	Robinson, Linda		4/13/10
43	Stark, Eileen	Second Nature Garden Design	3/25/10
44	Stark, Eileen	Second Nature Garden Design	4/6/10
45	Thayer, Jim	SWHRL	3/23/10 (missed in earlier transmittal)
46	Todd, Judy		3/31/10
47	Van Dyke, Jane	Columbia Slough Watershed Council	4/9/10
48	Vogel, Mary	PlanGreen	4/8/10
49	Weber, Richard		3/28/10
50	Wentworth-Plato, Jim	Emerald Tree	3/24/10
Submitted for 4/27/10 Record			
51	Scarlett, Paul	BDS	4/26/10
52	BES Tree Code Option		4/27/10
53	Colasurdo, Christine		4/13/10
54	Nielson, David	Homebuilders Association	4/27/10
55	Wright, Tom	Group Mackenzie	4/12/10
56	Schifsky, Greg		4/27/10
Submitted for 5/11/10 Record			
57	Bassos, Alex	HAND	4/29/10 (dated 3/23/10)
58	Esau, Rebecca	BDS	5/11/10
59	Fike, Jean	East Multnomah Soil and Water Conservation District	5/10/10
60	Gorlin, Lisa		5/6/10
61	Leggett, Nicole		5/10/10
62	Livingston, Peter		5/10/10
63	Livingston, Peter		5/11/10
64	Ross, Richard	Save Our Elms	5/11/10
65	Jenny Wadman		5/11/10
Submitted for 6/8/10 Record (close of Planning Commission record)			
66	Leitgeb, Brian	Columbia Edgewater Golf Course	5/18/10
67	Haney, Richard	Portland Fire & Rescue	5/25/10
68	Ross, Richard	Save Our Elms	6/7/10
69	Bassos, Alex	HAND	6/7/10
70	Netusil, Noelwah	Reed College	5/28/10
71	Gibbon, John		6/8/10
Submitted after 6/8/10			
72	Jim Wilson		6/11/10

City of
Portland, Oregon
Bureau of Development Services

1900 SW 4th Avenue, Suite 5000
Portland, Oregon 97201
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www.portlandonline.com/bds

MEMO

Date: March 22, 2010

To: Portland Planning Commission
Portland Urban Forestry Commission

From: Rebecca Esau, Manager, Land Use Services Division, BDS

CC: Susan Anderson, Paul Scarlett, Zari Santner, Dean Marriott, Joe Zehnder, Roberta Jortner, David McAllister, Stephanie Beckman, Morgan Tracey, Mary Wahl, Ross Caron, Ty Kovatch, Mike Liefeld, Douglas Hardy, Kimberly Tallant, Kim Freeman, Rob Crouch, Kathleen Murrin, Frank Krawczyk

SUBJECT: Citywide Tree Project - February 2010 Proposed Draft

The Bureau of Development Services (BDS) appreciates the opportunity to review the Proposed Draft of the Citywide Tree Project. The bureaus involved in the development and review of this project have agreed to postpone testimony until the April session so as to preserve time for public testimony at the March hearing. We are submitting this memorandum into the record to communicate our support of the goal to achieve increased tree canopy in the City of Portland, and to outline key policy discussions and issues we have been discussing with Bureau of Planning and Sustainability (BPS) staff as the project has developed.

BDS is fully supportive of the goal to increase tree canopy in the City of Portland. The question is how best to increase tree canopy in ways that meet the project's stated criteria for success:

- Designed to support multiple City goals
- Clear and transparent
- Consistent, cohesive and comprehensive
- Fair and equitable
- Complementary and reinforcing
- Efficient and cost-effective
- Customer friendly – easy to understand and work with
- Funded adequately for implementation and enforcement

As you know, a code development project is a long, iterative process. The Citywide Tree Project is no exception. The Bureau of Development Services staff have been involved in this project from the beginning. We have attended countless meetings, actively commented on policy development, and provided input on each iterative draft, always with the interest of keeping the regulations simple and user friendly for the public, and for the bureaus who will be working with these regulations for the years to come.

It has been important to keep the Citywide Tree Project on its timeline, and so despite the continuing discussions about alternative ways to best achieve the goal of increased tree canopy, it was necessary to publish the February 2010 draft, and move forward with this hearing. So although there is one alternative

that has been published, at this stage in the process, BPS staff, BDS, BES, and the City's Urban Forestry staff continue to discuss simplified and streamlined alternatives to the published draft that meet the success criteria stated above. To be very clear, the Bureau of Development Services is not supportive of the draft published in February because:

- it is overly complex; and
- it will be very difficult for users, both City staff and the general public, to understand and implement.

BDS has consistently advocated for a simple, straight-forward, and practical set of regulations..... regulations that can be grasped easily by any property owner. On the continuum from simplicity to greater complexity, there are problems at both ends of the spectrum:

- the simpler the regulations, the more control of the details is relinquished, and you have a broad-brush approach that doesn't address specific situations and can be impractical or unreasonable;
- the more complex the regulations, the fewer people understand them, the greater the confusion about them, and the more time-consuming and expensive the implementation, to the point that the cost outweighs the benefit.

For example, at the simple end of the spectrum, you could have a tree program solely requiring one-tree-for-one-tree replacement, with no exceptions. If you cut a tree down, you have to plant a tree. It's simple, and it doesn't get into the details of the size or species of the tree to be cut or the species of the replacement, or how many trees you might already have on your lot, or if there's any reasonable location for a tree on the lot. Another example of a very simple tree program would be to have a minimum tree density standard apply to every lot in the City, for example, a requirement to have at least one tree for every 2,000 square feet of lot area, period. It is easy to understand and explain, but again, you lose some ability to prioritize which trees are more valuable compared to other trees, or how to handle situations where 100% building coverage is expected and desired, etc. These examples illustrate the simplicity end of the spectrum and the published draft is closer to the complex end of the spectrum. BDS is hoping to find something more in the middle. Finding the appropriate balance between simplicity and complexity is always challenging, as is finding the appropriate balance between flexibility and practicality for each situation on the one hand, and certainty and predictability on the other hand.

BDS is committed to achieving an increase in the City's tree canopy through the collaborative development of a much simpler set of regulations and incentives. In order for tree regulations to be successful:

1. the regulations need to be simple - it should be possible to explain them to someone in 5-10 minutes;
2. the regulations need to be practical and reasonable;
3. the regulations need to be clear, resulting in predictable outcomes for property owners, developers, and neighbors, etc.
4. the regulations need to be sustainable over time from a budget perspective, with adequate funding for all aspects of implementation, including:
   a. a robust and ongoing public information, outreach and education component
   b. staffing to administer the regulations in non-development situations
   c. staffing to administer the regulations in development situations and perform the necessary functions:
      - plan review;
      - inspections prior, during and after construction;
      - responding to complaints and un-permitted tree cutting; and
      - responding to general questions about the regulations from the public.

And if there is awareness, understanding, and "buy-in" from property owners, then that goes even further toward helping the city achieve our tree canopy goals. For example, if we force someone to plant six trees on the back of their lot, and they only wanted one, they perceive the government as being unreasonable, and heavy-handed, AND it is likely that they will let most of the trees die to eventually get to what they wanted in the first place. People are much more likely to care for a tree they wanted on their

property. We need to work with that positive motivation and encourage it through reasonable requirements and options.

As one of the main implementation bureaus, BDS strongly believes it is necessary to craft a radically simplified proposal. Toward developing a more streamlined set of regulations, we urge you to consider some larger policy issues, such as those identified below:

1. Reliance on incentives or regulations, or some blending of the two. Is it possible to rely on incentives more than regulations to achieve the goal of increased canopy? In situations where a developer might be able to preserve a tree, but would be inclined to cut it down, what are effective incentives that the City could offer to preserve the tree? The proposal offers some flexible development standards to facilitate tree preservation, and this is good. What else could be offered to incent or remove obstacles to tree preservation?

2. Where to get the increased canopy....the right-of-way or private property? We have 26% tree canopy in Portland which is very good. It is consistent with the national average. As a comparison, Seattle has an 18% tree canopy. Our goal of 33% is in reach. Is it possible to achieve the goal of increased tree canopy by focusing our efforts first on getting more street trees or trees on City-owned land, and secondly on regulating trees on private property? Is it possible to achieve the goal of 33% tree canopy by solely focusing on street trees, and keeping the tree regulations on private property to a very simple minimum?

3. Should trees on lots that are already developed be regulated in the same way, and to the same extent, as trees on sites that are being developed? For example, should a vacant single-family residential lot be given some allowance to remove trees at the time of development because the City expects and wants a house to be developed there? Or should they have to mitigate for all of the trees that they remove, even though it would be impossible to develop the lot with all of the trees preserved? If you opt for treating development situations and non-development situations the same and requiring replacement of trees even if they are in a reasonable building footprint, does it: a) unduly penalize property owners who have a lot of trees on their vacant lot; and b) become like a tree tax, since there is usually no feasible way to plant that many mitigation trees on a lot that is being developed, so the property owner would end up paying into the Tree Fund, in lieu of planting. We are struggling with what is fair and equitable.

4. Does the City want an urban forest that is constantly being regenerated through re-planting with trees of all sizes valued, or should greater value be placed on the preservation of large trees? The project goal is to increase tree canopy and to promote a healthy urban forest. Greater canopy can be achieved by planting more trees, or it can be achieved by preserving more of the large trees on sites where it is practical to do so, or some combination of these approaches. What is the simplest way to achieve greater canopy, while accommodating the development and infill envisioned for the City, as well as the other sustainable things people want to do with their property, such as growing their own fruits and vegetables, installing solar panels and maximizing use of natural light, building attached and detached accessory dwelling units, etc.?

5. In what situations does it make sense to say a large tree must be preserved, and what are we willing to give up for this goal? Would we tell someone they couldn't have a vegetable garden? Would we tell someone they couldn't have an on-site parking space or garage? Would we tell them they couldn't have two residential units, but could only have one, despite what the site's residential density allowance? Would we tell someone they couldn't have the 2,000 square foot footprint of the house, but would need to re-design for a smaller footprint? Would we allow them an exception to the requirement for on-site stormwater infiltration? Is it possible to preserve large trees in a way that is also practical, given the City's residential infill goals and the fact that the majority of development sites we deal with are small, constrained lots with very little room to avoid impacts to large trees on site?

As you listen to testimony, please keep in mind that:

1. People like trees, and that's good. We want them to continue to like trees, and not be hesitant to plant them or preserve them because of the dread of dealing with a complex system of rules and reviews and the cost of permits. Also, it is very expensive to remove a large tree, so people generally do not remove them without a good reason.

2. People suspect other property owners of cutting down trees needlessly, and have the perception that the city is losing a lot of large trees. You will hear a lot of passion and emotion about the perceived loss of large trees in the city, but there is an absence of data on how much we have actually lost, where, and why. Large trees may have been cut down for very good reasons, such as disease, or root damage to building foundations, or to build a new home, etc. The perceived problem may be larger than the actual problem.

3. The proposed draft is over 500 pages. This complexity has made it difficult for many in the public to read and comprehend the entirety of the regulations. This leads some to rely on assumptions with regard to what this proposal does or doesn't do. For example, some people think that the proposal will ensure the preservation of large trees. While the proposal provides a preservation standard, preservation is not required, and trees may be replaced, or a payment in lieu can be made if the tree can't be saved. (See point #5 on page 3 for questions about if a tree can be preserved or not, and trade-offs to consider.)

4. You will hear phrases like, *"Portland is becoming a city of small trees."* Please ask the question, do they mean "young" trees, which are small <u>because</u> they are young, or do they mean "small" trees, trees that will be small even at maturity, like Japanese Maples? We've heard complaints about the "sticks" people have planted. The "sticks" will eventually become large trees. We need to think long-term. Healthy forests need to be re-generated continually over the long-term, and this happens through the planting of new, "small" trees that at maturity will contribute to the city's tree canopy. Also, it is important to plant **the right tree for the right place**. With a significant amount of our infill development being on lots 5,000 square feet and smaller, it may be both impossible to preserve a large tree, and appropriate to plant a tree that will, at maturity, be smaller than what was there previously.

5. If you polled Portland property owners, the majority of them probably have no idea that the City has any tree regulations and it wouldn't even occur to them to ask if they need a tree cutting permit. They also are not aware of this current proposal. The point is that ongoing outreach and education are key to any regulatory approach to trees, and this requires dedicated funding on an ongoing basis.

Whatever regulatory solution you choose to pursue:

1. We ask that you test it with several different case scenarios before recommending it to City Council.

2. We ask that you also test it by each of you trying to explain the regulations to someone in 5-10 minutes, and having them understand it.

3. We ask that it not try to solve all of the tree problems that can be conceived of, but that it follow the 80-20 rule, i.e., that it be a good approach for 80% of the situations.

4. We ask that it not be heavy-handed and overly expensive in a way that turns the public against trees, un-doing the good work Urban Forestry staff has done in promoting the planting, care, and preservation of trees in the City.

5. We ask that you think broadly about all of the City goals we are trying to achieve on small infill lots, including many of our sustainability goals, such as dealing with stormwater infiltration on-site, solar panels, vegetable gardens, fruit trees, natural light for windows, etc. and how these goals mesh with tree preservation and tree density standards on small, constrained sites. Natural light and sunshine are valuable commodities as are trees and shade....please strive for balance as well as providing options for people.

6. We ask that you remember that the success or failure of any regulation is largely based on adequate, ongoing funding to support implementation.

Again, BDS has been working closely with the BPS staff for the entirety of this project, and have expressed our interests and concerns to them as the project has progressed. BDS will continue to work with BPS and the other bureaus involved on these issues, and are exploring alternatives with them for your consideration at your next session in April. We hope that the questions and issues raised in this memorandum are helpful to you as you begin to delve into the details of this very important project, and grapple with the policy, implementation, and financial aspects of the different choices you make. We look forward to working with you as the project progresses.

CITY OF PORTLAND
ENVIRONMENTAL SERVICES

1120 SW Fifth Avenue, Room 1000, Portland, Oregon 97204 • Dan Saltzman, Commissioner • Dean Marriott, Director

March 22, 2010

TO: Planning Commission and Forestry Commission Members

FROM: Dean Marriott DM

CC: Roberta Jortner, BPS; Mary Wahl, BES

RE: BES Support / Comments on Tree Policy Package Proposal

Thank you for the opportunity to share some thoughts on the consolidated Tree Code proposal before you on March 23rd. BES serves a variety of roles in planting and protecting trees including taking the lead on watershed health improvements, managing the City's stormwater runoff, and running as the sewer and stormwater utility for the City. Trees are a $5 billion dollar asset of the City and provide drainage and watershed health ecosystem services, often for a fraction of the cost of providing single-objective grey infrastructure solutions.

BES submits the following comments to the Planning and Urban Forestry Commissions:

Project Proposal Support

A. ***Uniform application of regulations.*** BES agrees with the removal of the current single family exemption from tree cutting regulations. This reinforces that all properties are important in sustaining Portland ecosystems and the tree infrastructure asset.

B. ***Tree Trigger Size of 12 inches.*** BES has long advocated regulation down to a 6 inch size, but will support the 12 inch trigger size in the proposal. BES staff will continue to support the smaller tree size in the future since smaller trees are critical ecosystem assets.

BES is not supportive of increasing in the trigger size to 20 inches or more. A large amount of the City's tree canopy would be unprotected by moving to the 20 inch from the 12 inch trigger. Many of the trees we plant today are smaller varieties and may never reach without reasonable protection.

C. ***Flexibility for Capital and Public Works Projects.*** BES appreciates BPS' work to provide enhanced flexibility for City projects and programs that allows City agencies to work with the Urban Forester to address trees in a meaningful way. The flexibility of programmatic permits, alternative root protection methods, and flexibility in locations of mitigation plantings will allow BES to maximize the effectiveness of existing tree protection, mitigation and planting efforts.

D. ***Tree Density and Tree Protection Standards.*** BES supports the proposals related to property development, both during the land use and building permit stages. Although

the preservation standards might appear to be complex, they equitably address tree protection on every developing property. By providing tree density standards for all property uses, the City is again reinforcing that every tree is part of our collective green infrastructure and that equity across properties is important.

E. *Nuisance Tree Removal.* Nuisance trees, while providing important stormwater management, erosion control and shading benefits, are a detriment to healthy watersheds. This code proposal does a good job balancing the needs for removing invasives, retaining tree canopy, and providing important environmental benefits in support of the City's Clean Water Act compliance efforts.

Requested Modifications to the Proposal

1. *Retention of the Significant Tree List for Land use Reviews.* The current land division code has a list of 18 *very* slow growing native trees (e.g., Pacific yew, Oregon white oak, and Pacific madrone) that need protection at small sizes. These trees are a priority for preservation. . For ease of implementation, BPS and BDS have modified the proposal to cover only 6 inch Madrone and Oregon Oak. The full list should be maintained in review situations to create an expectation of preservation of those trees when the City negotiates with developers about which trees the City wants to see retained. ***Retention of these 18 or more trees needs to stay a priority, and that this issue needs further work by the full staff working group to evaluate what trees are on the list and how it's used.***

2. *Grove / Stand Protection.* It is not clear that protection of groves/stands is *always* a priority (which we believe is the intent of the project). Further, the current proposal offers protection only for the 12 inch or larger trees within the grove, not for any other vegetation in the grove. The small trees and/or shrubs that help provide the continuous cover necessary as part of a grove or a stand are subject to removal, virtually eliminating the values that make groves a priority. This issue should be revisited.

3. ***Street Related Removal Mitigation Reduction Options.*** City bureaus have discussed minimizing mitigation for trees removed when the City requires a builder to make a street improvement. BES is supportive of an option to require tree-for-tree mitigation only in situations where trees are removed at City Engineer direction. Such a level of mitigation balances the costs and process burdens on a builder who is already providing an expensive public improvement for the City's infrastructure needs. BES would ***not*** be supportive of a full exemption from tree mitigation for these projects.

Priority Implementation Actions

The following activities should be completed before the end of calendar year 2010:

- ***A Comprehensive Tree Manual.*** The City needs to develop a Tree Manual scope that recognizes and supports ***all*** the values of trees, not just canopy or stormwater management. ***BES feels the detailed, multi-bureau discussions needed for such a comprehensive manual are critical to implementing these new regulations and the City's other canopy, watershed health and community livability goals.***

- ***Administrative Rules.*** While code package development has been a comprehensive process, there is a significant need to document how staff will implement the code. Routinely that is done through administrative rules. Significant details in the Title 11

proposal that lend themselves to a rules package include: decision making on the correct level of mitigation given extenuating circumstances, how mitigation funds are spent, appeals processes and timelines, and programmatic permit criteria.

- ***Funding.*** The Commissions should advocate for a specific, multi-bureau process to look at new sources of new funding for the tree review, education, and, most critically, inspection and enforcement processes identified by this project. There may also be opportunities to evaluate other tree and natural resource issues such as leaf pick up, replanting efforts, invasive removal efforts, and tree or natural area maintenance in that evaluation.

- ***Portland Plan Efforts.*** There are a variety of issues that also need to be considered within the Portland Plan work to make tree preservation and planting reasonable and supportive of larger, evergreen trees. Increasing planting strip widths would allow space for large trees and for green street facilities. Assuring sufficient planting and pervious space is available for trees on private lots is also a priority.

Early Implementation Actions

There are a number of items within this code proposal that are cost neutral or are prerequisites for implementing the proposed code in 2011, and could be implemented in 2010, including but not limited to:

- Implementing tree fund usage changes – allowing spending on a broader variety of tasks;
- Clarifying tree definitions;
- Modifying and clarifying who may apply for permit changes;
- Implementing programmatic permits;
- Implementing the diseased wood parts of the code;
- Activating the allowance for tree master plans for conditional use sites;
- Allowing the density, pedestrian path, front set back and other flexibility within the zoning code; and
- Initiating BES ex-officio membership in the Urban Forestry Commission

Thank you for your time and efforts directing this code improvement and future implementation work. BES is strongly committed to assisting or leading efforts, where needed.

PORTLAND PARKS & RECREATION

Healthy Parks, Healthy Portland

MAR 2 3 2010

Date: March 23, 2010

To: Portland Planning Commission
Portland Urban Forestry Commission

From: David McAllister, City Forester and City Nature Manager

Re: Comments on Public Draft – Citywide Tree Policy Review

There are three key elements to successfully meeting the tree canopy goals of the City – a regulatory program, an educational program, and an incentive program. This Tree Policy review tackles the regulatory piece, and as such, is an opportunity to improve the City's current regulatory program in a number of areas.

Urban Forestry is committed to working with the Bureau of Planning and Sustainability to improve Portland's tree regulations. Over the last several years something on the order of 2000 hours of forestry staff time has been committed to this subject. Based upon our 30 years of experience and broad understanding of the current conditions and future challenges, Urban Forestry has focused on the following outcomes for this project:

- Fairness and equitability – Tree removal mitigation standards should be equivalent for both development and non-development situations e.g. a level playing field.
- Tree Preservation and mitigation – Both tree mitigation and tree preservation are necessary. Tree preservation maintains the current trees and benefits while mitigation provides future trees and future benefits. Each of these regulatory approaches should be designed to achieve its outcome rather than trading one for the other.
- Customer friendly – All tree regulations need the support of the regulated community. They should not be so complicated and confusing that they intimidate and bewilder rather than communicate the desired outcome. Complex code is often a disincentive to the intended outcome.
- Efficient and cost-effective - Ultimately City staff will have to implement any City Code that is approved. Regulations affecting trees need to provide flexibility for tree professionals to work with the public rather than the code being an impediment to this effort. Trees are living things that code, no matter how prescriptive, can adequately address. Overly complex code is also costly to the City and the regulated community. Also, costs need to include implementation, compliance monitoring, and enforcement. Cost efficiency = code efficiency

The Citywide Tree Policy Review draft under consideration moves the City in a positive direction but Urban Forestry believes that additional consultation between bureaus will improve the code language. Specifically we think that each of the four bulleted outcomes above should be modified and in some cases a different approach taken. Urban Forestry looks forward to working with planning staff during the remainder of the project and believes improvements can be made in each of these areas.

City Nature Department
1120 S.W. 5th Ave., Suite 1302
Portland, OR 97204
Tel: (503) 823-7529 Fax: (503) 823-6007

www.PortlandParks.org
Zari Santner, Director

PORTLAND WATER BUREAU
FROM FOREST TO FAUCET

Randy Leonard, Commissioner
David G. Shaff, Administrator

1120 SW 5th Avenue, Room 600
Portland, Oregon 97204-1926
Information: 503-823-7404
www.portlandonline.com/water

An Equal Opportunity Employer

March 23, 2010

MAR 23 2010

City of Portland Planning Commission
City of Portland Urban Forestry Commission

Re: Draft Title 11 – Citywide Tree Policy and Regulatory Improvement Project

Dear Commissioners:

The Portland Water Bureau commends the staff of the Bureau of Planning and Sustainability for the work they have put into consolidating tree regulations and drafting a new Title 11 – Trees. They have done an excellent job of working with Water Bureau staff and developing draft code changes that significantly clarify tree regulations in the City.

We support the goals of enhancing the quantity, quality, and sustainability of the urban forest. The Portland Water Bureau's remaining concerns outlined in this letter directly relate to our mission of providing reliable water service at a reasonable cost to the citizens of Portland and our need to accomplish our work quickly and expeditiously in the public rights of way. Any regulations that interfere with our ability to use the right of way for utility purposes or unduly restrict the placement of facilities on Water Bureau owned property will have an impact on the rates we must charge for water.

1. The Water Bureau requests that the Bureau of Planning and Sustainability be directed to set a minimum regulated tree size of 3" diameter at breast height (dbh) for City and Street Trees. The current draft statement that "The regulations of this chapter apply to all trees in the City of Portland that are on lands owned by the City . . ." (11.400.020) will be impossible to enforce and very costly for the Water Bureau. By having no size threshold, even the smallest seedling is regulated, making simple acts such as mowing a lawn or pulling weeds from a green roof at a City facility subject to the permitting requirements of this chapter. The costs and potential project delays associated with identification, consultation, protection, public notification, obtaining a permit to maintain/remove, and replacement greatly outweighs the benefits derived from regulating small diameter brushy vegetation that is of limited value and could be expected to grow back quickly without replacement.

   The Water Bureau understands that many of our activities will be covered under a Programmatic Permit, if we decide to obtain one. However, there are public notification, tracking, and reporting requirements associated with these Programmatic Permits which will be costly to the Water Bureau if applied to the trees under 3" dbh.

T.4

The City of Portland will make reasonable accommodation for people with disabilities. Please notify us no less than five (5) business days prior to the event by phone 503-823-7404, by the City's TTY at 503-823-6868, or by the Oregon Relay Service at 1-800-735-2900.

2. We believe some of the tree replacement requirements outlined in 11.400.070 F. (Type A permits), 11.400.080 C. 1. (Type B permits), 11.600.060 B. and C. (City and Street Trees in Development Situations) are in conflict with other City goals and policies.

   The permitting and replacement requirements for nuisance trees in the draft Title 11 are extremely confusing and create a disincentive to remove invasive trees. According to the January 2010 report to Council from the Invasive Plant Policy and Regulatory Improvement Project, the City aims to "advance the removal and management of invasive plants in conjunction with development and in non-development situations." The requirement to replace nuisance trees larger than 3" diameter at breast height will discourage removal of the nuisance trees in the first place. As a result, the replacement requirements for nuisance trees are inconsistent with the recently adopted Invasive Plant Policy.

   In addition, there are areas of the City where dense forest is not the ideal future condition. Competing interests of solar access, wellhead protection, maintenance of clear utility corridors, or support of Special Habitat Areas (as identified by the Portland Plan Background Report), are not considered adequately in the draft Title 11. Many sites with these considerations are not subject to a land use review under the Zoning Code, and so fall under the jurisdiction of the Tree Code during development. The Water Bureau requests that the Bureau of Planning and Sustainability be directed to include a procedure for establishing an alternative "Desired Future Condition" for specific sites where dense forest is not appropriate. These sites would then need to be exempt from the tree density and replacement requirements in both development and non-development situations.

3. The Water Bureau has concerns with the public appeal procedure for Type C permits outlined in 11.300.060D. Removal of a large, healthy tree will only be approved by the Forester in circumstances where absolutely necessary in order to provide essential services. A lengthy appeal process that could be initiated by members of the public would only cause delay and increase the cost of providing water to our customers.

4. The draft Title 11 contains a requirement that "Only the City staff assigned to manage or care for trees on City lands may submit an application to plant, prune or remove a City Tree" (11.300.030 B. 1. a.). The Water Bureau is concerned that there is no requirement for the owner of the land to provide permission for the care taker to apply. Also, smaller maintenance tasks may be performed by one Bureau, and larger tasks (major limb cutting or tree removal) may be contracted out to a different Bureau or private entity, making it difficult to determine who manages and takes care of these trees. We think 11.300.030 B. 1. a. should be changed to state that the City Bureau responsible for the site may submit an application.

5. The Programmatic Permit contains a requirement to notify the public prior to performing permitted activities. The Water Bureau requests that 11.300.070 C. 6. be changed to state that the outreach and notification program include a description of measures to inform the public of specified types of upcoming permitted activities. For all routine activities associated with maintenance work, the public notification process for obtaining the Programmatic Permit should suffice. Public notification of each individual action under the Programmatic Permit would be costly and infeasible.

6. The Water Bureau's Columbia South Shore Wellfield Wellhead Protection Area has restrictions on tree planting that are not reflected in the draft Title 11. These restrictions are outlined in the 2008 Stormwater Manual; "Planting trees or deep rooted shrubs over the top of required polyethylene geomembrane liners is prohibited in the wellhead protection area to protect the liners from root damage. Water Bureau review is required to determine which requirements apply. In some instances, infiltration may be allowed." The purpose of this is to protect the groundwater and prevent the migration of contaminants. The Water Bureau requests that exemptions to tree planting (and replacement) requirements be written into the code for these lined facilities within the Wellhead Protection Area. This Area is currently not outlined in the Zoning Code, but is defined in the Water Code (Chapter 21.35 Wellhead Protection).

Sincerely,

Michael P. Stuhr, P.E.
Chief Engineer, Portland Water Bureau

Cc: David Shaff, PWB

Hamilton, Joan

From: JUDBENTLEY@aol.com
Sent: Tuesday, March 16, 2010 10:35 PM
To: Planning Commission
Subject: the City's tree regulations

To whom it may concern:

I would like to see the city of Portland designate certain areas to plant fruit trees between the street & the sidewalk. I realize there would be some mess to clean up after people helped themselves to the ripe fruit and some rotten fruit would be left. Perhaps this project could be undertaken in connection with neighborhood groups who would "adopt" a street to take care of.

Sincerely,
Judith Bentley

T.5

Hamilton, Joan

From: April Boutillette Brinkman [brinkman_april@yahoo.com]
Sent: Tuesday, March 23, 2010 11:29 AM
To: Planning Commission
Subject: Support of urban tree canopy

City of Portland
Planning Commission
Portland, Oregon

Dear Planning Commission ~
As a property owner in North Portland, I write you to make clear that I support improvement of tree code policy and regulations and the protection of the urban tree canopy. I am also a member of the Audubon Society, and the npGREENWAY and Baltimore Woods coalitions, and I support the proposals of these groups to improve policy and regulations and to protect our urban trees. The cost of trying to replace this natural resource may well be insurmountable. As a property owner and taxpayer it just makes much more sense to protect these resources ~ and to not have to face the billion dollar cost of replacing them, not to mention the human and environmental devastation. Thank you very much for your time in consideration of this email.

Sincerely,

April Boutillette Brinkman,
Attorney at Law

Residential address:
6728 N Richmond Ave.
Portland, OR 97203

T.6

Hamilton, Joan

From: Michelle D. Bussard [michelle@friendsofforestpark.org]
Sent: Tuesday, March 23, 2010 11:30 AM
To: Planning Commission
Subject: [User Approved] Tree Code Policy

The Forest Park Conservancy

March 23, 2010

To: Portland Planning Commission
Fr: Forest Park Conservancy, Michelle Bussard, Executive Director
Re: Tree Code Policy

As Executive Director of the Forest Park Conservancy, I am urging the Planning Commission to support stronger protections for our urban tree canopy: Trees clean our air and water, provide wildlife habitat, increase our property values, sequester carbon dioxide, mitigate urban stormwater, reduce urban heat island effects and improve our quality of life and livability of our city.

It is critical that we protect our existing tree canopy as well as planting new trees. It takes years for a tree to grow and reach its full potential and newly planted trees are highly vulnerable. To be effective, any tree strategy must focus first and foremost on protecting our existing tree canopy.

Please support stronger protections for trees on single, non-dividable, residential lots in non-development situations: The proposed new code calls requires a permit and mitigation (either planting of new trees or payment of a fee that goes toward planting trees elsewhere) for cutting trees over twelve inches in diameter on single family, non dividable lots in non-development situations. These parcels cover more than 25% of our urban landscape. Please support this provision and urge the commissioners to consider lowering the threshold to six inch diameter trees.

It is critical that we all take responsibility for trees: Tree protections should be comprehensive across all land use types and for both development and non development related activities.

T.7

Michelle
Michelle D. Bussard, Executive Director
(503) 223-5449 ext. 105

Forest Park Conservancy
Dedicated to protecting and enhancing Forest Park
Day of Stewardship, March 20th
Volunteer by registering now at www.forestparkconservancy.org

Hamilton, Joan

From: Jo Carney [Jo.Carney@pgn.com]
Sent: Tuesday, March 16, 2010 4:31 PM
To: Planning Commission
Cc: Jo Carney
Subject: Feedback on FUTURE OF TREES IN PORTLAND

1. Trees need more space to grow. The concrete structures surrounding tree trunks and roots, hinder their growth. within 25 - 100 year they are pushing up sidewalks, and house foundations. Since the life expectancy of many of our native and ornamental trees can be several hundred years, this should be considered. If left unresolved this leads to health and safety issues.

2. Plant native trees and plan that they will be healthy trees (again a space issue and water issue). If you are requiring trees in parking lots, downtown, shopping malls,etc (which you SHOULD), plan for trees that can be REAL TREES. And make sure you have the growing space and the infrastructure to support them (leaf handling, pruning). I'd love to see douglas fir being planted.

Jo Carney
carneyjo1@gmail.com

T.8

Hamilton, Joan

From: M'Lou Christ [mnortie@yahoo.com]
Sent: Sunday, March 21, 2010 1:51 PM
To: Planning Commission

Commissioners:
As one who has canopy-envy of a friend in Atlanta, let me urge you to do all you can to recommend ways to strengthen Portland's tree canopy. It's good & it's very valuable, but it's not sufficient and it is vulnerable.

What I've read of the current plan seems a good start, but I have 2 points I'd like to stress:
First, I suggest requiring fees--& enforcing them immediately-- that will cover the cost of replacing any trees of 6" diameter or greater. That should be applied to all trees harmed by vehicle weight, etc. man-caused root damage (to their inevitable death) or felled without permit. Focusing only on really large diameter trees or allowing trees to be replaced with twigs puts us years behind in recovering from the harm someone caused just to ease development or prioritize his/her own view over that of everyone else.

Secondly --though I don't think this topic has been included in the current discussions -- I believe something must be done about the ivy that is taking over a huge amount of the region's trees. I believe public and private property owners must be held responsible for at least cutting it back at the base or several feet up on tree trunks -- consistently -- to prevent them from being strangled. Eradicating it altogether is, of course, the real solution.

Thank you for your consideration of my thoughts.

M'Lou Christ
(love my permitted planting strip Sargeant Cherry)
inner SE Portland

T.9

Hamilton, Joan

From: Cheyne Cumming [cheynec@yahoo.com]
Sent: Saturday, March 20, 2010 7:52 PM
To: Planning Commission
Subject: Urban Tree Canopy

Please do what is right and support the maintenance and the growth of our urban tree canopy in Portland. The benefits of protecting our current canopy and planting new trees to increase the canopy for the future are priceless!! Please help to protect what makes Portland the best place to live: Our Trees.

Cheyne Cumming
630 NE Monroe #6
Portland, OR 97212

T.10

Hamilton, Joan

From:	gingere@pdx.edu
Sent:	Monday, March 22, 2010 3:15 PM
To:	Planning Commission
Cc:	Jortner, Roberta (Planning)
Subject:	Proposed City Wide Tree Project

My name is Virginia (Ginger) Edwards. I live at 6730 North Wilbur Avenue, Portland, Oregon 97217.

I am writing to urge you to move forward on this project. We lost a valued white oak tree this year on our block. The tree was estimated to be between 130-160 years of age. It sat on a property line between two residential lots.

This very big tree provided beauty, wildlife habitat, lots and lots of shade, carbon off-sets and brought character to our neighborhood.

When one of the lots it bordered was up for sale, twenty-five (25) neighbors signed a petition asking the owners to keep the tree. We asked for a chance to talk to the absent property owner, then the developer, to propose how the lot could be developed with the tree. No one would respond to our letters or phone calls. We lost a valued friend in that tree.

I hope this new City Wide Tree Project will help us keep trees in the future. We need the shade, the wildlife habitat and the beauty and character each one brings to our neighborhoods.

Thank you. Sincerely, Ginger Edwards
(503) 312-7135

T.11

Hamilton, Joan

From: Dianne Ensign [ensign@lclark.edu]
Sent: Monday, March 22, 2010 11:58 AM
To: Planning Commission
Subject: Please strengthen Revised Tree Code and Policy

Dear Members of the Planning Commission,

I am very excited to hear that Portland has been working on a revised tree code. The revisions sound good, however, the code could be made even better if it included stronger protections for our existing urban tree canopy. Planting new trees is great, but trees that have already grown and reached their full potential in cleaning our air, providing habitat, mitigating urban stormwater, and their many other benefits, need special protection.

The new code could also be improved if it provided stronger protections for trees on single, non-dividable, residential lots. A permit and mitigation should be required for trees six inches in diameter.

Our urban trees serve many important functions. Tree protections should be comprehensive across all land use types and for both development and non-development activities. Congratulations on the new proposal, and thank you for considering my comments for making it stronger.

Dianne Ensign
11600 SW Lancaster Rd.
Portland, OR 97219

T.12

FISH CONSTRUCTION NW, INC.
2004 HBA Builder of the Year

Portland Planning Commission
March 23, 2010
Testimony from Builder Jeff Fish, Fish Construction NW

Much time has been spent on trying to design a new tree policy for the City of Portland, and City staff have been directed to prepare such a plan and worked faithfully to accomplish a positive end result. However, much is left to question: the need for such a plan, the cost of the plan both to the public and private individuals, and even whether any meaningful results will be obtained by the policy. It is a "solution in need of a problem." It appears people have been "activated" on an issue that really hasn't been clearly defined.

One of the big problems is the hype around misinformation and misconceptions involving trees in Portland. It is often portrayed by neighbors and others in Portland that development and private parties are denuding the city. In fact, BDS finds very few developer violations - few enough they don't even track them (per Michael Lifeld of BDS). Additionally, Rob Crouch of Urban Forestry has provided a spreadsheet that shows there are generally few violations that damage trees to the extent that they need replacement (see attachment).

The Home Builders Association of Metro Portland has provided testimony general in nature that references some of the big picture issues and challenges with the proposed tree plan. I support HBA's testimony, but also have worked to collect additional feedback from several members who build within the City. The following represents various issues that have risen through the various meetings that I and others in the industry have participated in related to the proposed tree policy.

Misinformation and Misperceptions:

1. Comparisons of Tree Canopy to Other Cities
   Portland seems to have a tendency to compare itself to other cities selectively, without looking at other factors. It has recently compared its tree canopy to cities like Atlanta, Baltimore, San Antonio, and Austin, Texas. That is like comparing apples to oranges. Baltimore and Austin allow a minimum single family residential zoning of 5,000 square feet. Atlanta has nine different single family zoning classifications, eight of which require a minimum of 7,500 square feet or more. Only their R-4B goes a small as 2,800 square feet and that appears in a very limited area. When you have larger lots, it is quite easy to maintain or plant tree canopy. Put a 1,500 square foot house foot print on a 2,500 square foot lot in Portland and you have 1,000 feet to work with (excluding hard surfaces like walks and driveway).

1834 SW 58TH Avenue, Suite 102 - Portland, OR 97221 - 503.292.9891 - Fax 503.297.5801

T.13

Viewed another way, information on the internet via *Wikipedia* shows San Antonio has 3 million residents per the 2008 census estimate spread over 412.07 sq. miles. That results in 3,155 person per sq. mile. Portland on the other hand shows 582,130 population spread over 145.4 sq. miles for a density of 4,004 per square mile. Portland is nearly 27 percent denser than San Antonio (and desiring to increase densities even further).

As was said earlier, comparing Portland to some of these other cities just in measure of tree canopy is using selective viewing. Atlanta, as well as cities in Texas, are areas commonly viewed as having housing sprawl. Measuring tree canopy without looking at how much land is preserved through our UGB system isn't making a fair analysis.

2. Portland's Tree Canopy Report
   Portland's tree canopy report was conducted using a few selected random plots of governmental sites. This is far too narrow a site selection to compare Portland's tree canopy to that of other cities. It also doesn't even likely provide an accurate result in determining the true percentage of tree canopy in Portland. We are reacting to unproven information from a random sampling and additionally don't know what the criteria are in comparing the information obtained to other cities information. Random samples were not taken from private sites - the sites that will be most effected by tree policy.

3. Tree Canopy Cycles
   Some would believe that we are losing massive amounts of tree canopy. Portland over the years has seen tree canopy come and go. 'Stumptown', Portland's early nickname prior to the 'City of Roses', was due to the amount of trees logged off. A short visit to the Oregon Historical Society will reveal volumes of photos showing the logged areas of what is now downtown Portland, the Hollywood, Eastmoreland, and Laurelhurst districts, Front Avenue, and many other formerly nearly treeless areas.

4. Neighbors Want Increased Tree Canopy
   It has been widely promoted that neighborhoods want additional tree canopy. City staff point out that much of inner SE Portland is lacking, in their opinion, tree canopy in areas that have long been completed with housing. Why, if so many neighbors are clamoring for added tree canopy, are they not adding tree canopy in their personal yards? Additionally, if we are going to spend millions of dollars on adding tree canopy, why not assist neighbors by purchasing tees and allowing them to increase the canopy in their existing yards first?

   Additionally, not everyone wants additional tree canopy in their yards. Many people enjoy the benefits of additional sunlight in their homes. Besides just the enjoyment of sunlight, additional sunlight helps some people with symptoms of depression, Alzheimer's, and other forms of mental problems. Also certain Asian cultures do not like trees near their homes.

Reality

5. Urban Growth Boundary's and Trade-Off
   In 1973. the Oregon Legislature passed Senate Bills 100 and 101 establishing Urban Growth Boundaries (UGB's) and defining the difference between farm and forest lands and urban growth inside incorporated cities. One of the trade-off's recognized in establishing UGB's was that to preserve farm and forest lands we needed to increase density inside the UGB. To

increase density it must be assumed that you will give up such amenities as large lots, greater setbacks between homes, and accept noise and other distractions not common in rural areas. Included in this assumption is that trees will be removed to make infill housing work. Just as you can't raise hogs in your backyard and fire off your shotgun as you would do on the farm, you will have to give up lot size and some trees to make infill housing work.

6. Developers Rarely Violate Tree Removal Restrictions Already in Place
   Michael Lifeld of BDS is in charge of investigating zoning violations in connection with the illegal removing of trees on developments under permit. He has stated to me that so few violations occur, they are not formally tracked by BDS. Likewise, Rob Crouch of Urban Forestry notes that there are relative few violations of tree removal or excessive tree damage that results in the loss of trees (see attachment).

7. Employees Needed to Enforce Policy
   Tree policy staff estimates that it will take some additional 6 to 8 full time employees (FTE) in the bureau of Developmental Services, Urban Forestry, and Environmental Services to regulate and monitor the new policy. Currently, Urban Forestry is running a full week to 10 days behind (at least of the week of March 8, 2010) to be able to drive out and look at a street tree to determine if it could be trimmed to allow Pacific Power and Light to supply a drop line for power to a single family home. Given the depth of the new policy, I question that only 6-8 full time employees will be able to address the requirements of the new tree policy.

8. View Easements
   Unless I missed it, there is nothing addressing 'View Easements' - common easements in Portland to allow homeowners to preserve their views of Mount Hood, Mt. St. Helens, and other mountains and vistas as seen from the Portland West Hills, Mount Tabor, Rocky Butte and other elevations. Most view easements require trees to be topped or removed, not just "thinned". How are these easements, mostly affecting the affluent in Portland, going to interact with the new policy regulations?

9. Loss of Housing Density:
   Several factors of the Tree Policy result in possible loss of housing density and housing units committed by the City of Portland to Metro as part of urban capacity and its effect on Urban and Rural Reserves. First, the reduction of density formulas to preserve trees will lead to some loss of housing units by the city. The loss may be fairly small and may be counteracted by increased density allowances. However, density bonuses are usually allowed on higher density zoned developments that are utilizing the maximum coverage of the site. To reduce the lot coverage and add units will be difficult if not nearly impossible. More important is the loss of housing units, should the "in Lieu of" fee be established to purchase conservation easements and or land to preserve trees. This loss of buildable inventory needs to be factored into the Urban and Rural Reserve process so as to be able to provide the housing units of all types as committed by the City of Portland to Metro.

10. Portland's Climate Action Plan 2009
    According to the Citywide Tree Policy Review and Regulatory Improvement Project (CTPRRIP) Volume 1, page 15, the current "urban forest removes 88,000 metric tons of carbon dioxide from the atmosphere per year, equal to about one percent of all local emissions." That means that if we move from the current citywide tree canopy of 26% to the total target canopy

of 33% citywide (a 27% percent increase), we may increase our tonnage of carbon dioxide removal from 1% to 1.27%? Wouldn't the money spent on this proposal be better used in cleaning up polluting plants where we get a better return on our money than less than 1/3 of one percent?

Additionally, if you are going to expense the cost of reducing carbon emissions, much of those emissions come from the current homeowner community. Why burden the building community or the purchaser of a new home? If every single Portlander is contributing to carbon emissions then shouldn't there be a tax on every Portlander to recover the expense of the carbon emissions they create, not just penalizing the few?

11. State Land Use Goals

Portland has a propensity to try and micro-manage every detail in land planning and zoning. Usually this leads to expensive and almost unmanageable regulations on affordable housing. I see this headed in the same direction with the tree policy. Trees are great and valuable, but for the most part they cannot simply trump land use policy and zoning regulations. Of the nineteen Oregon Statewide Planning Goals and Guidelines, several include goals that override what decisions may be made by the Citywide Tree Project. Those include Goal 10 (Housing); Goal 13 (Energy conservation); and Goal 14 (Urbanization).

Goal 10 (Housing) requires that there be "varying rent ranges and cost levels"; "allowances for a variety of densities and types of residences in each community", and "housing that meets the housing needs of households of all income levels." Trying to maneuver structures around limited size sites can greatly affect the cost of housing.

Under Goal 14 (Urbanization), Urban Growth Boundaries are established so as to locate our housing and development needs to preserve farm and forest lands, to allow development to occur in specific areas, and to allow that development the freedom in those UGB areas to development. Trying to protect nearly every tree inside approved and previously zoned areas runs counter intuitive to the purpose of establishing the UGB in the first place. Additionally, setting rigid tree guidelines that reduce density will require expansion of the boundary and the removal of more trees than will be saved due to infrastructure requirements like roads, sewers, and utilities added to replace these zoned areas inside the existing boundary lost by excessive tree regulation.

12. Arborists views

Arborists' interpretation of what they find at a project site are quite subjective and those subjective decisions have a great impact on what can be done around a tree or whether a tree should be left onsite. My personal experience over the years in obtaining arborists reports for land development projects has shown there is no science to tree removal or root protection. Sometimes one arborist sees no value in a certain tree while another arborist may feel the tree is worth saving. Making tree protection goals around subjective arborist decisions is bad policy.

13. Solar and Trees

As little as 15% shading on a solar panel effectively makes that panel dysfunctional. Nothing has been addressed as to what the policy's impact may have on solar as solar continues to make greater strides in the market place.

Costs and Accountability

14. Models:
    Nothing has been modeled or tracked to determine what the overall costs will be associated with implementation of these policies, costs that will be sufficiently more expensive on smaller sites and on residential housing than commercial or institutional development. Fifteen foot setbacks from neighboring trees at property lines along 25' x 100' lots will have significant impacts on being able to build on narrow lots. Should Portland seriously want to adopt the Tree Policy, they need to spend the time and money to determine what the effects will be to housing affordability.

    Additionally, fifteen foot tree preservation areas behind a home on a 25' by 100' lot results in a preservation area of 375 square feet while the same 15' preservation on a 50' x 50' lot doubles the preservation area on the same square footage lot. Neighbors have asked that the development community develop wider lots so as to blend with the neighborhood. This tree policy counter acts that request by neighbors.

15. A Financially Broke Bureau of Development Services and Trees
    Over the last year and a half, the Bureau of Developmental Services has lost over $13,000,000 out of their reserve account and nearly exhausted it completely. As a result, they have had to lay off or transfer out of the Bureau approximately 150 jobs. Where is the money going to come from in establishing this tree policy and meeting the demand that is going to be placed on BDS in this down economy? Putting it on the backs of new housing or existing property owners, especially in this economy, is a bad choice.

16. System Development Charges and Trees
    There is a very specific methodology, as established by state law, which provides the mechanism to be able to calculate a specific SDC by the City. By paying into a Tree Preservation Fund to purchase trees for parks, environmental services, water bureau property, or even off site street trees; the city has now potentially established another SDC or modified an existing SDC outside of state regulations. Such a violation will certainly result in litigation to remove that additional SDC expense unless the total 'in lieu of tree fee' is credited back to the permit applicant from the bureau receiving the eventual tree. Imagine the record keeping expense by the city in trying to track and refund the 'in lieu of' fee to a permit holder. In addition, why shouldn't the very SDC funds new housing pays for parks be used to help address the City's tree canopy protection goals, rather than adding even additional costs onto housing?

17. BDS' Development and Review Advisory Committee (DRAC)
    DRAC has not had a chance to comment on the Portland Tree Plan. The Plan was presented to DRAC on March 11, 2010. However, because of scheduled visitors already on the agenda, there was no time to comment on the plan. From what was discussed by some members of DRAC after the meeting, there is great concern regarding the proposal.

19. Bonding and Insuring of Trees
    Mentioned in the new tree policy is the possible requirement to 'bond' trees on jobsites against damage or destruction. Under the current economic climate, it is nearly impossible to get a

bond for ordinary street improvements, much less to bond a tree. The bonding industry is different than the insurance industry. The bonding industry does not expect statistically for there to be a loss, so when one occurs the bonded party generally will not be able to get a bond renewed or obtain a bond on a new project. Currently, even the misconception that a developer is out of compliance with his bond on a city project can result in the bonding company not issuing a bond for any future project. Bonding is not insurance, it is an surety, and in the context of the Citywide Tree Policy Review bonding is being misused as insurance.

Of all the commodities of value that an individual can insure on his property the one item that is un-insurable are trees. The lack of insurability undermines the value of the tree canopy and its replacement. If it is uninsurable, how does the public arrive at a replacement or value of the tree?

20. Prioritizing Goals

The City of Portland needs to prioritize its regulations impacting increased housing densities, redevelopment and housing affordability. If the ultimate goal is really to have affordable housing and to have housing choices, then regulations that impede the achievement of that goal need to be given a subservient role in the conditioning of permits.

Portland's Tree Policy seems to be on a fast track as "a solution in need of a problem." Since we don't have the money to implement this program, my suggestion is that we take the time to work out the specific details between the city and the development community, refine those details and adopt a workable policy that can be implemented without creating the conflicts that currently exist. Possibly this policy could eventually be something that could be used Metro wide to unify and simplify the existing tree regulations in other jurisdictions inside Metro. I know our industry would appreciate the opportunity to work further with the City to achieve this goal.

Sincerely yours,

Jeffrey Paul Fish, President
Fish Construction NW, Inc.

Date reported	Address	Property type	Reported By	Trees Cut	Summary and Additional Info	Outcome and Mitigation
1/30/2009	217 SE 127th	residential	neighbor	1 douglas fir	New building constructed 3 feet from the tree, causing root damage and subsequent removal.	$500 fine
2/24/2009	2423 SE Hawthorn	commercial	citizen	1 walnut	Tree cut without permit.	$750 fine and plant 3 trees
2/25/2009	5302 SE Harold	vacant lot	neighbor	4 douglas firs	Trees cut without permit prior to issuance of building permit to develop the lot.	$470 fine
5/12/2009	11929 NE Airport Way	commercial	customer	2 cedars	Inspection revealed trees wre multistemmed, each stem was < 12".	no mitigation required
7/15/2009	3350 SE Harold Ct	residential	neighbor	1 oak	Tree topped at 20' and will recover.	no mitigation required
12/14/2009	NE Corner of SE 20th and Market	vacant lot and parking lot	neighbor	1 douglas fir, 1 red maple	2 trees cut without permit. Waiting on acceptable mitigation plant.	in process
12/17/2009	7824 SW 37th	residential	neighbor	1 pine	Tree was diseased and damaging retaining wall.	plant 5 3" caliper trees
12/21/2009	7541 N. Dwight	residential	citizen	1 oak, 1 douglas fir	Trees cut without permit, waiting on acceptable mitigation plan.	in process

To : Planning Commission and Urban Forestry Commission Members

Date: April 13, 2010 – Testimony March 23, 2010

From ; Scott Fogarty, executive Director Friends of Trees

RE: Friends of Trees Support / Comments on Tree Policy Package Proposal

Thank you for the opportunity to share some thoughts on the consolidated Tree Code and for taking to time to recognize the social and economic values of trees and the very important role they play in our community.

My name is Scott Fogarty and I am ED of FOT and am on the stakeholder committee that reviewed this issue over the last 2.5 yrs. Many of my comments have been made at those meetings but I want to address three main issues tonight. Overall, we do believe that a uniform application of regulations is needed to address multiple issues with regard to trees and overall support the Citywide Tree Project.

Friends of Trees serves a variety of roles in planting and protecting trees including taking a lead on watershed health improvements, recruiting volunteers and sponsors, educating the public about the values of trees and helping to influence tree policy at the local, state and federal levels. Trees are a $5 billion dollar asset of the City and provide drainage and watershed health ecosystem services, often for a fraction of the cost of providing single-objective grey infrastructure solutions.

Trees clean our air and water, provide wildlife habitat, increase our property values, sequester carbon dioxide, mitigate urban stormwater, reduce urban heat island effects, increase the energy efficiency in our buildings, reduce neighborhood crime and improve our quality of life and the livability of our city. Trees play an integral role in the success of many recently adopted city plans and programs including the Portland Watershed Management Plan, The Urban Forestry Plan, Grey to Green Initiative and the Climate Change Action Plan. Yet today protection for our urban trees is inconsistent at best.

Dramatic increases in tree planting efforts over the past decade are undermined by lack of protection and mitigation requirements for trees on much of our landscape, confusing and sometimes contradictory regulations, lack of educational outreach resources and insufficient enforcement capabilities. As older and larger trees are being lost, we are increasingly replacing them with smaller and more columnar trees which provide far fewer ecosystem services. An Urban Forestry Assessment recently completed by Audubon, Metro and PSU shows that Portland is increasingly lagging behind many neighboring communities in its efforts to protect its urban tree canopy. The proposal that is being brought forward this week will create clear, simple, consistent and comprehensive protections for our urban trees.

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First, we believe that in order to achieve the goals of the city we cannot just plant thousands of trees as we are currently doing, we must also have in place stronger regulations for the preservation of trees. FOT believes that if we are going to shoot for a 33% canopy cover as outlined in the urban forest implementation plan, planting trees alone will not achieve that goal. Not only should we plant trees but also we must preserve and protect, to a reasonable level, and to the best of our ability, all those big, old trees that make up a great percentage of our current cover.

These propositions, preservation and preservation are not mutually exclusive and need very much to compliment one another to reach the canopy goal but also to continue to realize and recognize the many environmental, economic and social values trees provide to us. We applaud the city's efforts to plant more trees but we need more and we need to preserve on sites and not just on streets. The trees I plant today with my young daughters will take 20-30-40 years to achieve the cover we need if we simply plant but don't protect. They, you and I enjoy today the values and benefits of those trees planted by folks before us.

Therefore FOT would support regulation of trees down to 12inches and does not support a trigger of 20" for regulation on development sites. We feel this would create an inequity in balance of new and old trees and would further encourage the cutting of trees both on private non-development lots as well as on developable lots. This is an inherent conflict that needs to be resolved.

Further, FOT feels the tree density zone %ages as outlined on pg 135 Title 11 fall far short of what is necessary to accomplish the stated canopy coverage goal. They seem very low when looked at in the face of the value trees bring. These numbers seem to overwhelmingly undervalue the community benefits trees provide specifically with regard to lot size. For example, 1 tree per 3,000 – 5,999sq ft on residential lots seems far below stated goals and seems to vastly undervalue trees not just to the residential owner, but the greater community at large.

The price of doing business in a community includes internalizing externalities both positive and negative and looking at the actual value of those community assets brought forth by that business. The current proposal seems to vastly undervalue the positive community externalities related to trees on private property.

The price of retaining and increasing tree density standards is NOT prohibitive or unduly burdensome to infill development or low income development. I wonder what the actual %age of developable lots will even fall under these code changes and if truly there will be a burden to development. It would be nice to see some evidence that it would

Finally, FOT believes regulation and enforcement are necessary to protect the assets of the greater Portland community and that as a LAST resort, mitigation in the general proximity of tree removal is necessary. Mitigation requirements must be structured that the value of the tree removed is taken into consideration and that mitigation funds be directed to a specific, discreet fund to be used to plant trees or to help enforce regulation.

Hamilton, Joan

From: Nikki Kelly [nikstarter@gmail.com]
Sent: Tuesday, March 23, 2010 4:39 PM
To: Planning Commission
Subject: I support the Revised Tree Code and Policy

Hello,

I support the **Revised Tree Code and Policy.**

- **Please support stronger protections for our urban tree canopy:** Trees clean our air and water, provide wildlife habitat, increase our property values, sequester carbon dioxide, mitigate urban stormwater, reduce urban heat island effects and improve our quality of life and livability of our city.
- **It is critical that we protect our existing tree canopy as well as planting new trees.** It takes years for a tree to grow and reach its full potential and newly planted trees are highly vulnerable. To be effective, any tree strategy must focus first and foremost on protecting our existing tree canopy.
- **Please support stronger protections for trees on single, non-dividable, residential lots in non-development situations:** The proposed new code requires a permit and mitigation (either planting of new trees or payment of a fee that goes toward planting trees elsewhere) for cutting trees over twelve inches in diameter on single family, nondividable lots in non-development situations. These parcels cover more than 25% of our urban landscape. Please support this provision and urge the commissioners to consider lowering the threshold to six inch diameter trees.
- **It is critical that we all take responsibility for trees:** Tree protections should be comprehensive across all land use types and for both development and nondevelopment related activities.

With thanks,
Veronica Kelly
1221 NW 11th ave
Portland, OR, 97209
503-720-4616

T.14

WEST MULTNOMAH

SOIL & WATER CONSERVATION DISTRICT

March 18, 2010

Portland Planning Commission and Urban Forestry Commission
1900 SW 4th Ave., Suite 7100
Portland, OR 97201

Re: Citywide Tree Project

Dear Commissioners:

As stewards and advocates of watershed health and restoration, the West Multnomah Soil & Water Conservation District (WMSWCD) spends significant staff and volunteer time, as well as financial resources on projects designed to protect existing tree canopy and plant native trees. We are encouraged by the proposed Citywide Tree Project objectives and new regulatory framework and offer the following comments.

We believe that the new permit system, which will be applied to all land uses and based on tree type, size, and condition, will allow for better protections of existing trees throughout the City. We believe the emphasis during the development process on preserving high-quality, large, and healthy trees over simply the number of trees, as well as protections for trees on property lines and adjacent sites will help ensure that we protect the urban forest canopy.

We recommend the following be considered and added to the proposal:

- Consideration of snags as important bird and wildlife habitat; encouragement for property owners to keep snags that do not pose a safety concern.
- Education and training for the local arborist and landscaping community regarding the new rules.
- Adequate funding for community outreach and program implementation, most importantly enforcement.

On behalf of the Board, I thank you for your hard work on developing the proposal.

Sincerely,

Brian Lightcap,
Chair

2701 NW VAUGHN STREET, SUITE 450 ♦ PORTLAND, OR 97210
P: 503.238.4775 ♦ F: 503.326.3942
www.wmswcd.org

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March 23, 2010

MAR 23 2010

Tree Project Testimony – Bonny McKnight
Joint Hearing – Planning Commission and Urban Forestry Commission

Members of the Commissions:

I want to express my strong support for the Tree Project proposal before you tonight and urge you to send it forward to Council for further public process.

The Tree Project is many things. I want to point out three major considerations for me.

First, the process by which the proposal was developed is fundamental to the product before you. This is not a project which used an advisory committee to tweak a fairly complete staff proposal and then send it forward. It was just the opposite, and it is a model of how to create good public policy while also building informed advocacy for it.

Tree concerns came from neighborhood interest and effort. Funding for the Tree Project came from community support before Council. A stakeholder Committee was formed from all interests that would be impacted. The Committee was shown the current regulatory status of trees, provided some options for problem solving, invited to develop others, and then worked out solutions generally acceptable to the Committee.

Second, the Tree Project did not intend to provide all the answers but it does focus the discussion. The elements of the Tree Project include staff support but also include responsiveness mechanisms like the 24 hour hot-line and Tree Permits to help the general public and system users understand the many roles trees play in the City.

Finally, the Tree Project moves us to recognize trees as being a unique type of public good – a Green Infrastructure. As we move to that recognition much of the Tree Project work will be done through information, education, and public interaction, not by rule writing and enforcement. The Community Tree Manual is a key element in this educational approach, for school children to developers and builders to homeowners.

The Tree Project proposal before you is the first step in making sure we don't recognize the importance of trees after we begin to see what we have lost – when we are forced to recognize how arrogant we were to believe we could adequately replace lost canopy.

The Tree Project and its inherent recognition of the multiple canopy, watershed, and personal values of trees will allow us to finally deal with trees as Green Infrastructure, an important public asset providing public good, habitat for other living creatures as well as ourselves, and a core element in the enjoyment of living in Portland.

Please pass the Tree Project forward to Council with the strong recommendation that now is the time to recognize the urgency of beginning this new approach to trees and the need to protect and conserve their multiple values for every resident of Portland.

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Hamilton, Joan

From:	N. Nash [nana_nash@hotmail.com]
Sent:	Saturday, March 20, 2010 6:10 PM
To:	Planning Commission
Cc:	FOT-Scott Fogarty, Executive Director; -sent reimb check re. scholarship 7-04 FOT-Teri Ruch (Newsletter Publisher)
Subject:	I support the revised Tree Code and Policy for the Urban Canopy in Portland
Attachments:	image002.jpg; message-footer.txt

Dear Portland Planning Commission: I am a volunteer with Friends of Trees and believe that the tree-canopy in Portland is very important. I also support and believe in what the revised Tree Code and Policy will do, including the new policy which is set to do the following future planning items--for us all:

- **Consolidate all tree code regulations into a single regulatory title---Previously tree protection regulations were scattered throughout the city code titles and were often confusing and inconsistent.**
- **Standardize and strengthens protection and mitigation for trees on private property in both development and non-development situations**
- **Create a 24 hour hotline to allow citizens to get information and report illegal tree cutting**
- **Create a single point of contact within the city for members of the public wanting to get answers for tree related questions**
- **Create a Community Tree Manual to pull together information on the City's tree protection policies, regulations and programs**
- **Enhance the City's tree inspection and enforcement capabilities**

I also have the following important points to make to you, as our Portland Commissioners, to use as facts to convince others and anyone who doesn't know about this in the public arena (which make good planning sense):

- **Please support stronger protections for our urban tree canopy:** Trees clean our air and water, provide wildlife habitat, increase our property values, sequester carbon dioxide, mitigate urban stormwater, reduce urban heat island effects and improve our quality of life and livability of our city.
- **It is critical that we protect our existing tree canopy as well as planting new trees.** It takes years for a tree to grow and reach its full potential and newly planted trees are highly vulnerable. To be effective, any tree strategy must focus first and foremost on protecting our existing tree canopy.
- **Please support stronger protections for trees on single, non-dividable, residential lots in non-development situations:** The proposed new code calls requires a permit and mitigation (either planting of new trees or payment of a fee that goes toward planting trees elsewhere) for cutting trees over twelve inches in diameter on single family, non dividable lots in non-development situations. These parcels cover more than 25% of our urban landscape. Please support this provision and urge the commissioners to consider

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lowering the threshold to six inch diameter trees.
- **It is critical that we all take responsibility for trees**: Tree protections should be comprehensive across all land use types and for both development and non development related activities.

Also, for your information, here are some clear facts which support what I just wrote above about the necessity of making Portland's Urban Tree Canopy a more happening reality:

- Portland has a target of 33% canopy coverage citywide. Currently Portland is at 26% canopy coverage. (Portland Urban Forestry Management Plan)
- For every dollar invested in tree maintenance, Portlanders receive nearly $4 in ecosystem and economic benefits (Karps et al 2007)
- Replacement value of Portland trees is estimated at nearly $5 billion (Karps et al 2007)
- Our urban forest currently removes 88,000 metric tons of carbon dioxide from the atmosphere each year. This equals about 1% of all local carbon emissions (Portland Climate Action Plan)
- Tree canopy cover over homes can reduce air condition costs by 10-15% (Karps et al 2007)
- More than 200 bird species pass through Portland each year. More than 25% of those species are experiencing significant long term declines. Our urban tree canopy provides important habitat to allow many species to traverse our urban landscape.

Please email me with any questions you may have. This is so important to our community, to beautify, it's good for nature, and for Portland economics!

Thank you for listening, and keep doing what you are plan and maintain Portland to be such a wonderful community to live in.

Respectfully,

Nana Nash, M.A.
915-B NE Roselawn Street
Portland, OR 97211
tel. 503-239-6336
email: nana_nash@hotmail.com
Member of Audubon Society of Portland and Friends of Trees (Center Neighborhood Assoc. Tree Planting Coordinator '05)

Wise.

MAR 23 2010

Home Builders Association
of Metropolitan Portland

March 23, 2010

Portland Planning Commission
City of Portland
1900 SW 4th Ave.
Portland, OR 97201

Re: Testimony on Citywide Tree Policy

Dear Planning Commission Members:

From the earliest days of Stumptown, our region struggled to balance westward migration with the natural landscape. A hundred fifty years later, we strike that balance with an urban growth boundary that directs development away from surrounding farmland onto infill lots. The City's tree policy needs to support this effort.

The Home Builders Association of Metro Portland has appreciated the opportunity to be involved in discussions regarding the City's proposed new Tree Policy. We have encouraged our members, especially those who build and develop within the City, to attend meetings and provide feedback on drafts of the new policy. Most recently, we provided feedback to BDS staff who attended a meeting with over thirty HBA members two weeks ago. However, as the policy is still a work in progress, it is difficult to comment on specifics and we are concerned that this is being proposed for adoption by the Planning Commission without having been reviewed in final form by stakeholders, including Portland's own DRAC.

HBA is also unsure what problem the City is trying to solve that requires such a major overhaul of its Tree Policy. The decision that the tree canopy needs to be increased from 26% to 33% seems somewhat arbitrary and has little consideration of the impact this would have on other City goals and needs. There are certainly plenty of examples of neighborhoods that originally were farmland that now have beautiful tree canopies (Eastmoreland and Laurelhurst as examples), and these were achieved with less regulations than are currently in place. The proposed new policy would require funding new staff positions and expenses at a time when the BDS has had to significantly reduce its staff and budget. All in all, it seems to be a reactionary effort to a problem that isn't really there that will cost the City money and hurt the development it desires to achieve.

Home Builders Association of Metro Portland
15555 SW Bangy Rd., Ste. 301
Lake Oswego, OR 97035
503-684-1880 • Fax 503-684-0588

T. 18

Beyond the concerns expressed above, it is our position that any proposed tree policy changes, whether now or in the future, need to consider the following factors if they are to work effectively with other City goals.

Tree Policies Must Address City's and Metro's Plan to Increase Housing Density.
The City's proposed new Portland Plan estimates over 120,000 homes can be built through redevelopment of existing lots/parcels. It also anticipates building higher densities on smaller lots. Metro's recent Urban Growth Report states that infill rates must increase from 27% to 40% in order to accommodate the doubling of our region's population over the next 40-50 years.

Infill offers distinct opportunities and challenges. On the one hand, Portland has great infrastructure; water, sewer, and arterial street systems into which new housing can plug directly.

As to trees, however, infill development is challenging. City staff notes that Atlanta has a higher percentage of tree canopy. We're not even sure you can fairly compare a southern city with a higher percentage of deciduous trees to a northwestern city in a very different climate. Beyond that, Atlanta is also frequently noted as having one of the worst sprawl problems. It is developing at densities less than half of Portland's. In other words – there is a trade-off.

Our region has chosen to protect significant rural lands outside our UGB while forcing higher densities and development inside. The hard truth for this process is that Portland's density goals necessitate removing a lot of existing, healthy trees. This is especially true as you move to smaller lot sizes. Some of the proposed regulations would make it extremely difficult to build on a 5,000 square foot lot, and virtually impossible to build on a 2,500 square foot lot in many cases. Yet, this is the kind of density the City envisions. This process will succeed only with a realistic plan to mitigate those losses by preserving as many trees as feasible and building new canopy, but doing so in a way that doesn't further create regulatory and cost issues for builders. **The City must spend more time reviewing the impact its proposed tree policies will have on the very development it seeks to achieve.** Continuing to increase the costs and regulations related to home building will only further drive up the cost of housing, make achieving the City's density goals more difficult, and pit builder against local neighborhood advocates. This is not a good solution for a City that wants to be known as "The City that Works."

Additional Canopy Creation and Preservation Issues
Given the life cycle of any tree, Portland's canopy must be continually replenished. This plan needs to identify public and private spaces where this can occur. Public open

space must be part of this plan. The City uses its Parks SDC - which each new home supports to the tune of over $8,000 – for land acquisition and habitat enhancement. This program must include reforestation and should be considered as part of a tree canopy policy.

The staff report describes the relative canopy values of various tree species. A typical, prescriptive code will not achieve such efficiency. Such a code works only where circumstances are generally repeating. Again, by expanding its urban fringe in flat 100-acre chunks, it is easy for Atlanta to apply simple dimensional subdivision criteria. Portland can maximize design efficiency only by allowing flexibility and rewarding substance over process.

Flexibility comes in granting builders relief from setback and lot dimension standards where necessary to preserve existing tree canopy. The extent of this relief should correspond to the extent of the canopy to be preserved. The Parks SDC can also aid the effort to preserve canopy on infill sites. Canopy preserved to an extent greater than a specified goal should entitle a builder credit toward payment of the Parks SDC.

Summary

It would be unfair and inaccurate to characterize our position as being anti-trees or anti-environment. We have been strong supporters of Metro's Nature in Neighborhoods program, have supported park bond measures across the region, and have worked with the City of Portland on various sustainable and green building and development initiatives. Developers and builders recognize the value of trees as part of what makes housing attractive and work to preserve them as much as is feasibly possible. The bottom line is that we believe our region has done a good job at tree canopy protection already, that in order to achieve the City's and Metro's desired infill and redevelopment goals the City can't place more tree-related restrictions, regulations and costs onto building, and that the proposed policies create several challenges and unintended consequences that need much further review before any changes should be considered.

We urge the Planning Commission to not adopt the policies as proposed and at the very least require staff to conduct a much more thorough analysis of how the proposed regulations would impact the City's plans for infill and redevelopment.

Respectfully,



David Nielsen
Chief Executive Officer

Hamilton, Joan

From: Frodo Okulam [frodookulam@hotmail.com]
Sent: Sunday, March 21, 2010 4:06 PM
To: Planning Commission
Subject: Tree protections

I just want to say I'm in favor of stronger protections for our urban trees! This has been needed for a long time. Several years ago my brother and I had to sell our parents' home, and discovered there was no way to protect our mature fir trees! Fortunately, we were able to find new family who likes trees to buy our house. Portland needs stronger tree protections, for the health of our whole urban ecosystem.

Frodo Okulam
2804 NE 42nd
Portland, OR 97213
frodookulam@hotmail.com

The New Busy is not the old busy. Search, chat and e-mail from your inbox. Get started.

T.19

Hamilton, Joan

From: Brian Parks [brianp@spiritone.com]
Sent: Tuesday, March 23, 2010 5:44 PM
To: Planning Commission
Subject: tree code

Hello: Please vote to revise and consolidate the tree code. I have seen big beautiful trees in our neighborhood cut down to extend parking space on private lots and then no one parks there, but the eagles that used to frolic in the tree-tops don't return. Thank you! Brian Parks

T.20

Hamilton, Joan

From: Garrett Phillips [garrett.b.phillips@gmail.com]
Sent: Tuesday, March 23, 2010 3:56 PM
To: Planning Commission
Subject: Revised Tree Code and Policy

Dear Planning Commission Members,

I am writing to urge you to support the City Code ammendments proposed in Volume 2 of the Citywide Tree Policy Review and Regulatory Improvement Project. Sceintific studies have overwhelmingly shown that trees, and more specifically, their canopy, provide environmental services to urban residents that outweigh their planting and maintenance costs by orders of magnitude. The services provided by trees on private propoerty or in public rights of way do not confer their services only upon the property owners that are responsible for them. The City of Portland should ensure through regulation and incentives that trees are protected and that optimal investment is made in the urban forest. I urge you to specifically make recommendation to City Council that would spur investment in and protect trees that grow large canopies or that provide environmental services 12 months out of the year. Thanks very much for your time.

-Garrett Phillips.

T.21

Hamilton, Joan

From: Tracy J. Prince, Ph.D. [tprince@pdx.edu]
Sent: Wednesday, March 17, 2010 8:34 AM
To: Planning Commission
Subject: comment on Citywide tree project

Attachments: tprince.vcf



tprince.vcf (278 B)

Hello
I would like to comment that we'd like to see more trees in Goose Hollow. The flat parts of our neighborhood (E/W is I-405 to SW 18th and N/S is from Burnside to the low slopes of the West Hills) are barren places, where the overwhelming feeling is of a concrete wasteland. Simply adding more street trees would add a warmth and greenness to a neighborhood that really needs it!
Thanks
Tracy Prince

T.22

Tryon Creek Watershed Council
c/o Friends of Tryon Creek SP
11321 SW Terwilliger Blvd.
Portland, OR 97219
Phone: 503-636-4398 x109
Email:tcwc@tryonfriends.org

Coordinator
Sean Tevlin

Citizen Members
Carl Axelsen
Wendel Beachey
Diane Bland
Tom Calabrese
Kevin Duff
Amy Hoffman
Jared Kinnear
Terri Preeg Riggsby, Chair
Jen Seamans
Eric Strecker
Lynda Troutman
Mary Vogel

Agency and Organization Members
Karen Houston
Oregon State Parks

Jennifer Devlin
City of Portland,
Environmental Services

Jonna Papaefthimiou
City of Lake Oswego, Planning

Brian Lightcap
West Multnomah Soil & Water Conservation District

Stephanie Wagner
Friends of Tryon Creek SP

Astrid Dragoy
City of Portland,
Parks and Recreation

Dan Rohlf
Lewis and Clark Law School
and Friends of Tryon Creek SP

Leonard Gard
Southwest Neighborhoods, Inc.

March 22, 2010

Portland Planning Commission and
Urban Forestry Commission
1900 SW 4th Ave., Suite 7100
Portland, OR 97201

Re: Citywide Tree Project

Dear Commissioners:

As stewards and advocates of watershed health and restoration, the Tryon Creek Watershed Council (TCWC) spends significant volunteer time and resources on projects designed to protect existing tree canopy and plant native trees. We are encouraged by the proposed Citywide Tree Project objectives and new regulatory framework, and offer the following comments.

We believe that the new permit system, which will be applied to all land uses and based on tree size and condition, will allow for better protections of existing trees throughout the City. The Council agrees with the Forestry Commission that emphasis during the development process on preserving high-quality, large, and healthy trees over simply the number of trees, as well as protections for trees on property lines and adjacent sites, will help ensure that we protect the urban forest canopy.

Additionally, we recommend that The Planning Commission add the following elements to further strengthen the proposal:

- Consideration of snags as important bird and wildlife habitat; encouragement for property owners to keep snags that do not pose a safety concern.
- Education and training for the local arborist and landscaping community regarding the new rules.
- Adequate funding for community outreach and program implementation, most importantly enforcement.

Thank you for your hard work on developing the proposal, and for the opportunity to provide input.

Sincerely,

/S/ Terri Preeg Riggsby
Chair, Tryon Creek Watershed Council

T.23

MAR 23 2010

Audubon Society of Portland
Founded in 1902

COALITION FOR A LIVABLE FUTURE

URBAN Greenspaces INSTITUTE

March 23, 2010

Portland Planning Commission
Portland Urban Forestry Commission
1900 SW 4th Ave, Suite 7100
Portland, Oregon 97201

Dear Members of the Planning Commission and the Urban Forestry Commission,

We are writing on behalf of Audubon Society of Portland, Coalition for a Livable Future and the Urban Greenspaces Institute to offer our comments on the Citywide Tree Policy Review and Regulatory Improvement Project. All three of our organizations view a healthy urban tree canopy as a foundational piece of Portland's green infrastructure and an essential element of healthy, livable communities. Audubon has participated in the Citywide tree Project dating back to 2007 when we served on the Bureau of Planning Budget Committee and strongly urged the Planning Bureau and City Council to prioritize funding for this project. Bob Sallinger and Jim Labbe both participated on behalf of Audubon on the Stakeholder Advisory Committee for this project. We commend the Bureau of Planning for their work on this effort and strongly encourage the Planning Commission and Urban Forestry Commission to move forward expeditiously with a recommendation to Portland City Council to adopt and fund this program.

Trees clean our air and water, provide wildlife habitat, increase our property values, sequester carbon dioxide, mitigate urban stormwater, reduce urban heat island effects, increase the energy efficiency in our buildings, reduce neighborhood crime and improve our quality of life and the livability of our city. Trees play an integral role in the success of many recently adopted city plans and programs including the Portland Watershed Management Plan, The Urban Forestry Plan, Grey to Green and the Climate Change Action Plan. Yet today protection for our urban trees is inconsistent at best. Dramatic increases in tree planting efforts over the past decade are undermined by lack of protection and mitigation requirements for trees on much of our landscape, confusing and sometimes contradictory regulations, lack of educational outreach resources and insufficient enforcement capabilities. As older and larger trees are being lost, we are increasingly replacing them with smaller and more columnar trees which provide far fewer ecosystem services. An Urban Forestry Assessment recently completed by Audubon, Metro and PSU shows that Portland is increasingly lagging behind many neighboring communities in its

T.24

efforts to protect its urban tree canopy. The proposal that is being brought forward this week will create clear, simple, consistent and comprehensive protections for our urban trees.

We have heard some people question whether the costs associated with this plan would be better spent simply planting more trees. To that question we offer an emphatic "no." Portland has outstanding tree planting efforts conducted by both city bureaus and non-governmental organizations and support for those programs must continue. However, the greatest bang for the buck comes from protecting what we already have in the ground. The estimated replacement value of our urban tree canopy is nearly $5 billion (Karps et al 2007). Many tree species do not reach their full potential for decades and over time the costs of maintaining a tree are dwarfed by the ecosystem services that mature trees provide. We need to protect and maintain trees just as we do other components of our urban infrastructure. In order to reach the city's canopy target of 33% canopy coverage, we must accelerate our tree planting efforts, but the foundation of Portland's tree canopy strategy must be focused on preservation and stewardship of our existing canopy. We are pleased that the city is working towards the ability to capitalize trees. The logistics of such a change may take time to work out, but from a practical perspective it makes sense to protect and maintain trees just as we do other capital assets.

We have also heard suggestions that protecting trees on the urban landscape will conflict with local and regional density targets. This is simply a specious argument. While the Tree Improvement Project appropriately focuses on preservation of trees as the preferred option, it also clearly gives developers and property owners the opportunity to pay a fee in lieu to mitigate offsite for trees that cannot be preserved onsite. In addition the project calls for significant increases in outreach resources and code modifications to promote innovative site designs that accommodate both development and natural resource protection. Preserving and enhancing neighborhood tree canopy in fact promotes compact urban form by creating livable communities that enjoy access to nature and all of the ecosystem services that trees provide. The City of Portland should consider trees an essential part of the "20 minute neighborhood" that will anchor the Portland Plan that is now under development.

While we are strongly supportive of the Citywide Tree Policy Review and Regulatory Improvement Project in general, we would like to highlight a few areas that we believe merit additional consideration:

1. **Trees in non-development situations**: We could urge the Commissions to consider lowering the regulatory threshold for permitting tree removal in non-development down to six inches rather than the currently proposed 12 inches. We believe the 12" standard (6" for Madrone and White Oak) will allow for the unregulated and unmitigated loss of too many trees and is contrary to the city's objective of preserving and enhancing the urban tree canopy. 19% of the city's canopy currently falls in the 6"-12" range.
2. **Trees in development situations**: We believe that the proposed standards for tree preservation in development situations take a step backwards from the current standards by eliminating the existing "significant tree list" and replacing it with a new "priority tree list" which only includes trees greater than 20" except Oaks and Madrones which are regulated at greater than 6". We would suggest that the Commissions consider defining "priority trees" as any tree greater than 12" and expanding the 6" inch threshold beyond Oaks and Madrone to include several other native species that are either slower growing or which never reach large size. This list would include Bitter Cherry, Black Hawthorn, Cascara, Grand Fir, Pacific Yew, Oregon Ash, Ponderosa Pine, Scouler Willow, Western Flowering Dogwood, Western Hemlock and Western Red Cedar.

3. **Density Standards**: We strongly encourage the Commissions to request that staff take a further look at Tree Density Standards (Page 135 of Volume 2). We believe that the tree density standards were set too low. We believe that in each of the categories listed could easily absorb increased density. For example under the proposed regulations an average 5000 square foot city lot would be required to have a density of only a single tree unit. We would request that staff reconsider whether higher tree densities should be required.
4. **Tree Manual**: We view the Tree Manual as a critical component of this program. The Tree Manual will provide the community with a roadmap of what compliance with this program looks like on the ground and a variety of options for implementation. We urge the City to look to BES' outstanding Stormwater Manual as a template for how the Tree Manual should be developed. We are concerned that while funding costs are included in the draft Tree Program, this element of the program will wind up being cut or dramatically reduced in scope and concept. We do not believe that simply patching existing documents together will suffice. A well written, coherent and comprehensive Tree Manual is integral to the success of this effort
5. **Programmatic Permits**: We are concerned about the level of notice and comment allowed for the programmatic permits. We believe that programmatic permits have the potential to have significant impacts on the urban canopy and that different agencies have demonstrated differing levels of expertise and concern for protecting and preserving trees. We would urge the Commissions to recommend a greater level of public review including an opportunity for appeal and regular reviews of implementation of the permit within the 5-year lifespan.

Overall, we believe that the Citywide Tree Policy Review and Regulatory Improvement Project represents a major step forward in the city's efforts to achieve its urban canopy objectives. In addition, adoption is essential for compliance with Metro Title 13. Finally, expansion of our city's green infrastructure to address urban stormwater capacity is essential keep the city's most expensive project, the $1.4 billion Big Pipe, from becoming overwhelmed as additional impervious surface is developed on our urban landscape. We believe that the costs associated with this proposal, including any additional costs associated with our above recommended amendments, represent smart, strategic and proactive investments in the City's green infrastructure. For every dollar currently invested in tree maintenance, Portlanders receive nearly $4 in economic and ecosystem benefits (Karps et al 2007).

Between 1972-2002, Portland's urban canopy increased by a total of 1.2%. At this rate it would take another 169 years to add the additional 6.7% necessary to achieve Portland's canopy target of 33% coverage. This proposal set's Portland on a much more ambitious trajectory, one that city policies have repeatedly recognized is necessary to maintain a sustainable and livable urban landscape. We appreciate your consideration of our comments and urge you to move the Citywide Tree Policy Review and Regulatory Improvement Project forward for adoption.

Respectfully,



Bob Sallinger, Conservation Director
Audubon Society of Portland

Jim Labbe, Urban Conservationist
Audubon Society of Portland

Mike Houck, Executive Director
Urban Greenspaces Institute

Ron Carley, Co-director
Coalition for a Livable Future

Jill Fuglister, Co-director
Coalition for a Livable Future

Hamilton, Joan

From: Eileen Schill [eileen_schill@hotmail.com]
Sent: Saturday, March 20, 2010 9:27 AM
To: Planning Commission
Subject: Tree canopy protection

Please vote to strengthen and consolidate codes protecting Portland's tree canopy. The loss of large, mature trees is a loss of a very valuable asset and cannot be mitigated by planting smaller trees in their place. If we expect to reach our target of 33% tree canopy, we need stronger codes protecting the existing canopy and encouraging the planting of new trees.

Thank you,
Eileen Schill
NE Portland

EMAILING FOR THE GREATER GOOD
Join me

T. 25

Hamilton, Joan

From: nancy.seton@usbank.com
Sent: Tuesday, March 23, 2010 3:06 PM
To: Planning Commission
Cc: nancyseton@comcast.net; jim@thayers.org; sgoldfeder@comcast.net; Jortner, Roberta (Planning)
Subject: SWHRL Neighborhood in support of proposed Tree Project

I would like to say that the Southwest Hills Residential League (SWHR) Neighborhood enthusiastically supports the proposed Tree Project in its entirety. We are so gratified that the city is incorporating suggestions for improvement of tree policies from the Southwest Neighborhoods Inc (SWNI) document created several years ago.

Our tree canopy is so essential to the character of the SW Hills, and we need the best tools to protect and enhance it. We strongly support components of the new policy, including:

- Consolidated code title called "Trees"
- 24-hour tree hotline, single point of contact for the public, and Community Tree Manual
- Standardized tree removal permit system; require a permit to remove trees 12 inches in diameter or larger on all lots; eliminate existing single family lot exemption
- Flexible development standards to encourage preserving large trees and groves
- Stronger tree preservation requirements in land use reviews
- New tree preservation and tree density standards applied through building permits
- Improved inspections and enforcement
- Clarified use of City tree funds

We are so grateful for the hard work and dedication of the Tree Project team - Roberta Jortner, Morgan Tracy and all the others. We urge you to support this needed update to Portland's tree policies.

Thank you!
Nancy Seton
SWHRL Neighborhood Assn. Land Use Chair, Board Member

Home Tel: 503-224-3840
nancyseton@comcast.net

U.S. BANCORP made the following annotations

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MAR 23 2010

Testimony before a Joint Session
of the
Urban Forestry Commission
and the
Portland Planning Commission
March 23, 2010
6:00 p.m.
1900 SW 4th – Suite 2500A

Dear Commissioners,

Good evening. I am Dick Shafer, President of the Peninsula Drainage District #2 and have been asked to be spokesperson tonight. With me is Chris Bailey, President of Peninsula Drainage District #1 and Larry Cooper, Past President and current Board Member from the Multnomah County Drainage District. We are elected to our positions on the Boards every three years and the respective board members select a president annually. We work collaboratively under Intergovernmental Agreements. Also here is Dave Hendricks, Deputy Director of the Multnomah County Drainage District. Executive Director Bob Eaton sends his regards but is out of state this evening. I appreciate the opportunity to testify tonight on an issue of importance to the Districts.

The Peninsula Drainage District, and the two affiliated districts, have a 93 year history of protecting some of this city's greatest resources. The Districts are the local sponsor for 35 miles of federal levees and own and maintain ten pump stations with a combined capacity of one million gallons a minute. We also manage and maintain the public conveyance system of sloughs and ditches that move water through and out of the bathtubs created by the levees on the North along the Columbia River and south along Columbia Slough. For MCDD the higher lands are along the south at Columbia Boulevard. (Would a map be useful here?) Approximately 60% of the water handled by MCDD comes from outside the District boundaries but within the Columbia Slough watershed.

The current value of the land protected is around $20 billion and includes in PEN 1 Heron Lakes Golf Course and Portland International Raceway, the Port's wetlands and Metro's Expo Center; in PEN 2 Delta Park, Portland Meadows Race Track, Columbia Edgewater Golf and Country Club and a 45% residential population; and in MCDD the City of Portland Well Fields, the City's industrial sanctuary, the Portland International Airport, Riverside Golf and Country Club, two Multnomah County Corrections Facilities and the NOAA Weather Service. Also included in these areas are two interstate highways – I-5 and I-205 – and three major east-west roadways in Marine Drive, Airport Way and Columbia Boulevard.

The Districts work with a score of federal, state and local regulatory agencies on managed floodplain issues. We are used as a national example for establishing and managing a drainage district.

T.27

The Districts have been working with City staff on portions of the tree Policy and Regulatory Improvement Project. Much of the policy relates to "development trees" and we will comply with anything that is proposed there. Occasionally the Districts build a new pump station or relocate an old one – in other words a development project – and we need to comply. It is in the area of "non-development trees" that we have been most active.

Each day of the year, District staff is in the natural resource doing routine maintenance. There have been five-year renewable permits secured to do this federal and state-mandated maintenance work without seeking individual permits. An annual report created by the District explains what has been done during the past year and what is planned for the upcoming year. The regulatory staff may come to look at any project at any time. The process is very transparent and has worked well.

The Districts are not in the tree removal business. It would be great if we didn't have to remove trees, allocate funds for tree removal or work with neighborhoods to remove trees. Our mission is personal and property safety through a highly rated flood-control system. However, when the United States Army Corps of Engineers says a tree violates its national levee vegetation standard and must be removed to keep the levee certification, we must remove the tree. That tree is either a dead, dying or diseased tree, or it is a hazard tree by federal definition. The USACE has overlooked some of these trees in years past, but now, because of the new standards brought about by the levee failure experience in New Orleans during Hurricane Katrina, requires they be removed. The majority of these trees were not planted to be part of the levee landscape. They grew from seeds distributed by the winds or birds and should not have been there in the first place. We have asked City staff to note these federal mandates in the language of the new Chapter 11 and help keep the districts from getting caught between a federal mandate and local regulations.

There are two beneficiaries to our certified levees and conveyance systems. First are the people and businesses who live directly behind the levees. They have access to low cost flood insurance and can receive funding from lending institutions for development or major remodeling. These are significant benefits for having certified levees.

The other beneficiary is the City of Portland whose city flood insurance rates would be adversely impacted by uncertified levees. Protected are the City's well fields and the industrial sanctuary, the largest in the state in both size and employment. The City naturally expects these will be protected by MCDD.

Here are our specific suggestions for the revised tree ordinance:

1) The District's support the Programmatic Agreement approach which is identified in Chapter 11. However, because we also perform other activities in the environmental resource areas, Chapter 33 would still apply but does not have provisions for a Programmatic Permit approach. We, therefore, recommend a code amendment to Chapter 33 to allow for the Programmatic Permit approach.

2) We've heard that some object to the Programmatic Approach because there is no appeal process built into it. If this is an issue, we support an appeal process being put into place.
3) Title 11 exempts State and Federal authorities who manage property. Since the levee system is a federal levee system being managed for public safety, and any trees being removed are required to be removed by a federal agency, why wouldn't the District fall into the same category? We recommend inserting the language being offered in the Port of Portland ESEE into Chapter 11.

Thank you for considering our thoughts. We would be happy to answer any questions you might have.

5 minutes 45 seconds

Hamilton, Joan

From: Carol Williams [Carolsmailbox@msn.com]
Sent: Sunday, March 21, 2010 1:44 PM
To: Planning Commission
Subject: Tree Policy

To Whom it May Concern:

I am in support of the City Wide Tree Policy for a number of reasons. Just to touch on a few, they help with the polution in cleaning the air, they provide noise barriers, and they are an asset to beautify our city. There are so many more reasons and I'm sure you have heard them all but if we don't protect our trees we will be the losers in this endeavor. Obviously they can't speak for themselves but they play a major part in keeping our City green and I for one support this Tree Policy. Thank you for your time and consideration.

Carol Williams
503-255-9596
carolsmailbox@msn.com

T. 28

Written Testimony Submitted for PC / UFC hearing on Citywide Tree Project

Submitted for 4/13/10 record

	Name	Organization	Date
29	Barnett, Margot		4/1/10
30	Bouillion, Tom	Port of Portland	4/13/10
31	Clark, Matt	Johnson Creek Watershed Council	4/12/10
32	Desmond, Jim	Metro, Sustainability Center	4/12/10
33	Elan, Robert		4/12/10
34	Fish, Jeff	Fish Construction	4/13/10
35	Gibbon, Jon		4/13/10
36	Goldfeder, Simone	Architect LEED AP	4/4/10
37	Loff, John	Riverside Golf and Country Club	4/13/10
38	McAllister, David	City Forester, Portland Parks	4/12/10
39	McKnight, Bonny		4/12/10
40	Quinn, Barbara	Friends of Cathedral Park NA	3/26/10
41	Reese, Alesia	East Portland Parks Coalition	4/6/10
42	Robinson, Linda		4/13/10
43	Stark, Eileen	Second Nature Garden Design	3/25/10
44	Stark, Eileen	Second Nature Garden Design	4/6/10
45	Thayer, Jim	SWHRL	3/23/10 (missed in earlier transmittal)
46	Todd, Judy		3/31/10
47	Van Dyke, Jane	Columbia Slough Watershed Council	4/9/10
48	Vogel, Mary	PlanGreen	4/8/10
49	Weber, Richard		3/28/10
50	Wentworth-Plato, Jim	Emerald Tree	3/24/10

Portland Planning Commission
1900 SW 4th Ave, Suite 7100
Portland, OR 972101-5350

Urban Forestry Commission
1120 SW 4th Ave
Portland, OR 97204

1-Apr-10

RE: Citywide Tree Project-February 2010 Proposed Draft

Commissioners:

Thank you for listening to my comments at your March 23 Joint meeting of the Commissions on the Citywide Tree Code Project. I have been involved in urging the City to revise the tree code since 200 initially as a member of the Southwest Neighborhoods, Inc Tree Committee (a subcommittee of the Land Use Committee). I have continued to participate in the discussions of Urban Forestry policy in the city through service on the Urban Forestry Commission and the Stakeholder Working Group for the Citywide Tree Project.

As I indicated in my testimony I am pleased to see that the current proposal brings forward many of the changes that were requested years ago by the SWNI Tree Committee including: the consolidation of tree codes in one place, creating a single point of contact, a hotline number for weekend tree cutting concerns, creating a code that is consistent, implements policy and is more equitable across property types, development of a Tree manual. The Urban Forestry Program has already taken steps to strengthen and reshape the Tree Liaison Program (now renamed Neighborhood Tree Stewards).

The current proposal is a large document. Staff did an excellent effort of shepherding a diverse group of stakeholders through a lengthy and complex code to flesh out concerns, issues, and practical ways to address concerns. At first glance it hardly seems that the proposal is a simplification of the existing code. However when examined more closely it documents the purpose of the code consolidates code from many areas, and provides more clarity than the existing code.

My interest in urban forestry stems from my environmental health training which recognizes the vital role urban forests play in providing clean air, shade, water filtration, and other human health benefits in addition to habitat, stormwater and carbon sequestration functions. We are increasingly recognizing the infrastructure value of trees. This proposal does have costs attached but these costs are small compared to the costs of not caring for and sustaining this asset. Bearing in mind that at least half of the urban forest canopy is on private property it is important to ensure that we provide resources to address this vital aspect of Portland's livability.

The proposed standardized tree permit system will help provide an opportunity for public education regarding the value of urban trees, simplifies current code, and removes the inequities between how trees

T.29

are regulated on residential properties. Streamlining of the appeals process in the new permitting system is a definite improvement.

The proposal provides clear and objective standards that will allow for development that makes the best use of the building sites, encouraging preservation, but not creating excessive new costs or delays. I particularly appreciate efforts to recognize the value of healthy large trees and groves of trees.

The Tree Technical Manual will help the City adapt quickly to changing scientific information and best management practices while providing clear and detailed information for property owners and developers.

I do have concerns that the proposal needs some fine-tuning. Despite the efforts of staff to create a streamlined and more coherent code, this proposal is still too complex and hard to wade through.

The requirements for tree replacement of non-street trees, when removal is not associated with development does not have any mechanism for crediting property owners for trees planted prior to tree removal. Property owners may have already planted trees in anticipation of a more mature tree reaching the end of its lifespan, leaving them without sufficient area to plant additional replacement trees.

The $600 fee in lieu of planting needs to be looked at carefully to make sure it is accurate justified and appropriate to both development and non-development situations. I suggest that the payment might be reduced in non-development situations since removal in these situations is not linked with an increase in impervious surface. In these economic times additional costs need to be well documented.

The proposed system does allow for waivers and it is hoped that a system will be developed that prevents the permitting\replacement requirements from being overly burdensome to lower income residents.

There might be some cost savings available if the simplest permits have an option for online processing, allowing submittal of pictures by the applicant.

I am conflicted regarding the trigger size of 12 inches. Slower growing long-lived trees take many years to reach that size. I certainly would not support a 20-inch trigger.

I appreciate the requirement for replacement trees when the removal of nuisance trees results in an environmental zone that is vulnerable to erosion and degradation.

The ecosystem value of larger mature trees is much higher than a younger and or smaller species of tree. The Bureau of Development Services' current data system has not easy way to provide information regarding tree violations, for the public to even know if there is a tree plan that exists for their property and requires certain trees to be protected. The lack of clarity in the current system makes it difficult for property owners and neighbors to know if trees are being cut legally or in violation of code. It also precludes anyone from providing a quantifiable description of violations under the current system. I have observed the impacts of tree cutting both as part of development and non-development situation on erosion of the roadway, and neighbors' properties in my own neighborhood.

The programmatic permit system makes sense, as long as a provision for appeal is put in for situations that meet a certain threshold of number of trees to be cut in a particular project. This is of particular

concern when looking at the potential large scale cutting of trees by entities such as the Port of Portland, and Drainage Districts and City Bureaus.

Portland faces many challenges. I firmly supporting a compact urban form, using infill while doing our best to preserve and enhance the green infrastructure of the region both within and outside of the urban growth boundary. Shade, clean air, and greenery are elements of livability that should be distributed equitably across housing types. As we move forward with the Portland Plan we will need to find creative ways to balance the needs for density, other forms of green infrastructure (green streets, swales, etc.) and solar access with the need to support a diverse urban forest across a variety of urban land uses.

I will most likely be submitted additional comments and\or testimony as you continue to examine this proposal. I urge you to help this proposal move forward while providing guidance in honing it to meet the needs of the city and it's citizens. It will be critical to find a balance to address costs, provide flexibility while addressing many different site situations, and ensure funding and implementation of this plan. The current proposal provides a great deal of flexibility to address trees during the development process. Portland is becoming a more mature city with most building being redevelopment and infill. As such it is important that we be forward thinking and find ways to encourage the stewardship and growth of our urban forest on properties that are already developed in addition to preserving trees during the development processes.

Thank you for your careful consideration of this code improvement and implementation strategy.

Sincerely,

Margot Barnett
9912 SW 25th Ave
Portland, OR 97219

cc: Roberta Jortner, BPS

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April 13, 2010

Portland Planning Commission
Portland Urban Forestry Commission

RE: Citywide Tree Project-February 2010 Proposed Draft

Dear Members of the Portland Planning and Urban Forestry Commissions:

Thank you for the opportunity to comment on the Citywide Tree Project-February 2010 Proposed Draft. The Port of Portland (the Port) actively supports tree planting and tree preservation on our property within the City of Portland. In addition, the Port has financially contributed toward tree planting performed by other organizations, including Friends of Trees and the Bureau of Environmental Services Revegetation Program.

While the Port has been and continues to be supportive of tree planting and preservation in Portland, we have a number of preliminary questions and comments related to the Citywide Tree Project:

- As noted by the Bureau of Development Services, at more than 500 pages of text, the February 2010 Draft is overly complex and will be very difficult for users, both City staff and the general public, to understand and implement. As a result, we urge you to direct staff to return with a substantially simplified proposal. In addition, we urge you to hold at least one additional hearing in order to take additional testimony prior to making a recommendation to City Council.
- While a programmatic permit approach sounds promising, it is unclear what mitigation or other obligations might stem from such an approach. What will the fiscal and operational impacts be to the Port, city bureaus such as Maintenance and Transportation, and public utilities as they undertake routine pruning and removal of trees?
- Requiring a 15% tree density standard on industrial sites would further diminish the already inadequate industrial land supply in the City of Portland. IG2 zones and IH zones currently require no minimum landscaped area. Over time, a lack of industrial land will force businesses to locate outside of Portland, likely increasing greenhouse gas emissions and further reducing the City's fragile economic base.
- While the proposed code language acknowledges federal requirements related to trees growing near and on flood control levees, it does not acknowledge federal and state requirements related to trees growing into the flight path (airport surfaces) around Portland International

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Airport (PDX). Specifically, the Federal Aviation Administration (FAA) regulates trees around airports under its Part 77 (protected surfaces) and Part 139 (wildlife hazard) requirements. In addition, the State Airport Planning Rule (OAR 660-013-0010) directs cities to prohibit trees from growing into airport surfaces. As a result, the proposed code language should be amended to reflect these federal and state requirements.

- Proposed code language suggests that the property owner as well as a party cutting or pruning trees without a permit would be in violation and subject to City penalties. This situation may be a problem for the Port and other property owners who have a power line or other utility easement across their property, when the easement specifically allows the utility to clear vegetation, including trees. These easement holders, including the Bonneville Power Administration (BPA), a federal agency, may not feel compelled to obtain a programmatic tree cutting permit from the City, since it may be considered a nonconforming or "grandfathered" activity. In other words, the Port does not want to be held responsible for actions taken by easement holders on Port property, since the Port must legally respect the rights of the easement holder.
- The interface between proposed Title 11 and Title 33 is not totally clear. While staff has stated that one or the other, but not both would apply, the draft language does not convey that concept in all cases.

Thank you for the opportunity to comment on the Citywide Tree Project-February 2010 Proposed Draft. We look forward to working with you and staff to further refine this product in the coming months.

Sincerely,

Tom Bouillion, AICP
Planning Manager, Marine & Industrial Development
Port of Portland

Johnson Creek Watershed Council

1900 SE Milport Rd, Suite B • Milwaukie, OR 97222
ph: (503) 652-7477 • fx: (503) 652-7188
info@jcwc.org • www.jcwc.org

April 12, 2010

Portland Planning Commission
Portland Urban Forestry Commission
1900 SW 4th Ave, Suite 7100
Portland, Oregon 97201

Re: Comments on Portland Tree Policy Review and Regulatory Improvement Project

Dear Members of the Planning Commission and the Urban Forestry Commission,

The Johnson Creek Watershed Council concurs with the comments submitted by Audubon Society of Portland, Coalition for a Livable Future and Urban Greenspaces Institute regarding the Portland Tree Policy Review and Regulatory Improvement Project. In addition, we wish to express our support for several proposed amendments to Portland tree policy as outlined below:

- Proposal to delete the allowance in Zoning Code chapter 33.537, Johnson Creek Plan District for removing trees within Johnson Creek below the ordinary high water level. The proposed change would mean this activity would be subject to the e-zone regulations in Chapter 33.430.
- Proposal to apply tree removal and replacement standards to the outer 25 feet of environmental zones citywide (what are known as transition areas). Currently the tree standards do not apply so all trees can be removed with no replacement. See 33.430.140, page 67 of Title 33 amendments.
- Proposal to change the definition of "Identified Wetlands, Identified Streams, Identified Waterbodies" to include resources identified on the resource inventory map, or in the resource inventory text. This change recognizes that the mapping in most of the resource inventories was coarse and often incomplete and did not include all important water resources. It is intended to provide more consistent protection of water resources and riparian vegetation in existing e-zones (see 33.910, page 249 of Title 33 amendments).

Every year, the Council and its volunteers plant thousands of trees along Johnson Creek and its tributaries to provide shade, erosion control and future large woody debris recruitment. The proposed amendments are necessary to protect our investment in the long-term health of the creek. Like Audubon, UGI and CLF, we believe that recent dramatic increases in tree planting will only be truly effective when coupled with concurrent protection and mitigation of older and larger trees across the entire landscape. This proposal will do that.

In closing, the Johnson Creek Watershed Council applauds the Bureau of Planning for their work on this effort. The proposal will create clear, consistent and comprehensive protections for our urban trees. We strongly encourage the Planning Commission and Urban Forestry Commission to recommend to Portland City Council to adopt and fund this program.

Sincerely,

Matt Clark
Executive Director

T.31

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April 12, 2010

City of Portland Planning Commission
1900 SW 4th Avenue
7th Floor, Suite 7100
Portland, OR 97201-5380

Dear City of Portland Planning Commission:

I am writing to you to express Metro's support for the Citywide Tree Project as proposed by the Bureau of Planning and Sustainability. As you know, Metro acquires natural areas to safeguard water quality, protect and restore fish and wildlife habitat, and also to develop regional parks and trails. Updating and clarifying existing tree regulations will better help us manage these public lands for future generations.

There are two elements of concern for managing the natural areas that we would like to raise for your consideration. The first involves the city's lack of a master planning process that would allow Metro to seek a 10-20 year approval for management activities that currently require individual reviews. The second involves the existing Natural Resource Management Plan (NRMP) process and how out-of-date and burdensome it has become.

Master Plans. The city does have a master plan land use review process, but it is applied only to institutional campuses such as hospitals and colleges. As we understand it, the master plan for these uses allows future projects to be reviewed at one time, and pre-approved for up to 10 years. Changes to the master plan are allowed and reviewed by the city based on the significance of the change. There is no similar process for natural resource areas, yet the management of large land areas for habitat and people require levels of analysis and review similar to those applied to campuses. The natural areas that Metro manages/co-manages with jurisdictional partners involve habitat restoration, management for fire hazard, trail development, and the like.

In our work with the Bureau of Planning and Sustainability on past planning projects we have often discussed this lack of available process and the concept of a new type of land use review master plan for natural resource management. We would suggest that this is a good time to introduce such a concept.

Natural Resource Management Plans. Metro currently manages the Smith and Bybee Wetlands Natural Area, which has an NRMP. Speaking from experience, this document type has severe limitations. The Smith/Bybee NRMP was adopted by Portland City Council in 1990, and since then it has not changed. To contrast, Chapter 33.430, the environmental zoning code has changed over 18 times since 1990. Many of the Smith/Bybee projects identified in the NRMP would be allowed outright, or through a simplified permit process if we were allowed to use the existing environmental zoning code. The key problem is that the NRMP *is* the regulatory framework for the management area, so unless it is updated the changing regulations cannot be applied to the management area. Because a legislative process, costly and time-consuming, is required to make changes, none has been made. We need to move to a different type of document.

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As you may know, since the environmental zoning rules were adopted (1991), the simplified permit process has been added (1995), and some resource enhancement and trail projects have been deemed exempt from the regulations altogether (2005). Unfortunately, the NRMPs in the city (Smith/Bybee, Forest Park, and Pen 1) are not able to benefit from the modified regulations and are basically stuck in time.

From the title, one would think the NRMP provides a solution to the issue of master planning for an area. This is not so – since the NRMP is a legislative process, it must be approved by both the Planning Commission and City Council and because of this is almost impossible to update. The master plan that we desire is a land use review (quasi-judicial) and would be initiated by the land manager(s) and approved either by planning staff or the hearings officer. Changes to a master plan would also be subject to staff review, but the purpose of the master plan is to provide a living document that can be updated periodically. Long-term management of natural areas requires some flexibility to allow for changes along the way – our understanding of ecosystems is constantly evolving and we need to be limber in order to provide the best practices to these important systems.

To close, we urge your support of the new Title 11, Trees, and revisions to all City Titles, including Title 33, with an additional change to include a master plan process for natural area management.

Best regards,

Jim Desmond, Director
Sustainability Center

cc: Zari Santner, Portland Parks and Recreation
Dave McAllister, Portland Parks and Recreation

Hamilton, Joan

From: Robert [r_elan@yahoo.com]
Sent: Monday, April 12, 2010 3:23 PM
To: Planning Commission
Cc: Jortner, Roberta (Planning)
Subject: Tree Project

Greetings,
I'm very pleased to see that progress is being made to protect and improve the urban forest. I want to mention a few of my concerns about current policies and practices. Some of them may already be addressed in your Action Plan.

-Preservation:
Currently, when someone purchases a home and a large, healthy tree on the lot is perceived as "a danger" or "a mess" they may cut it down. It is true that sometimes a tree in decline is a danger but sometimes the fear is irrational and the decision impacts many others in the neighborhood. That a tree sheds leaves should not be reason enough to eliminate it.
I have also noticed that when developers plan they often want a clean slate. Existing trees are not seen or are viewed as a nuisance to heavy equipment. They are an afterthought. I would like to see the city encourage creative development that includes preserving and integrating existing trees into new developments.

-Tree Care:
Very often I see trees mangled and topped. Urban Forestry has some great pamphlets on tree planting, pruning and care. There's a lot that could change with just a little information. Maybe nurseries and growers could be asked to hand out a simple list of things to do and not to do when planting or caring for a tree. I understand that a major reason for tree failure is simply planting trees too deeply or topping them or spraying too much "weed and feed" around them. Sometimes it's just a matter of putting out some basic information.

-New Rules:
Often homeowners are not the ones that cut down trees and they assume that professionals know the rules. Perhaps service providers should be required to ask homeowners if they have permits before removing trees.

-Enforcement:
I've seen commercial developments in NE where a mix of trees was required. But after a few months the conifers were all removed, presumably to increase visibility of signage? Whatever the reason, there is no reason to go through all the planning if the developer is going to undermine the requirements with no consequences.

Again, I'm pleased to see attention given to tree preservation.
Thank you! Robert E.

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Portland Planning and Urban Forestry Commissions
April 13, 2010
Testimony from Builder Jeff Fish, Fish Construction NW, Inc.

Tree policy as you are aware of is a very emotional issue. To make rational decisions facts must be considered and not hearsay, law must prevail over emotions, and logic must be considered not irrational thinking.

The facts are that Portland, Oregon is a city of some 537,081 individuals as posted on the U.S. Census Bureau site, as of this date. You see testimony of maybe less than 100 individuals regarding tree policy. That means that the majority of the population is content with the current tree policy otherwise they would be down testifying in front of your commissions or marching in the streets as we have recently see regarding police policy. We should not let the emotions of a few individuals dictate what is acceptable by the majority of the population. We complain that only about 60% of the population shows up to vote in our elections in a good year, yet we think we must do something about trees when it only concerns .00002 of our population? That does not make sense.

Additional facts are that we had tree removal or extensive cutting of trees to the extent of 14 trees as reported by the Urban Forestry Division over about the last 14 months with some of those possibly legitimate actions done without the first approving of a permit. This is a far cry from an epidemic as portrayed by some individuals. That means at minimum, approximately one out of every 38,357 citizens violates Portland's current tree policy. Again this is not an epidemic.

This issue is about change. People as a whole do not like change. We expect to arrive home from work, school, a vacation, or any other situation that takes us away from our home to find things as when we left. We are shocked to find the neighbor painting his home a different color or changing the color of his roof, but the real world changes all the time. We fail to remember that the Washington Park Rose Gardens, the gardens and roses at Peninsular Park, the Chinese Gardens and other locations that once were not as beautiful as they are today. How many remember the old *Portland Journal* building and Harbor Drive of the 1950's that now is what we know and love as Waterfront Park. The bigger question is "Would Waterfront Park be more useful to the public and the downtown core if it had never been cut down, been left a strip of Douglas fir trees and natural vegetation?" No, it is by far more useful to the public with the planting, spacing, sizing, and coloring of the trees that were planted there the last 50 years.

The other issue of changed is the part of the public to often assume too much. Constantly some in the public assumes that if there is a vacant lot in a neighborhood, maybe even the buildable side yard of a neighbor's home is always going to remain a beautiful groomed side yard or garden spot. Again, being naïve of the fact the neighbor owns more than the lot his home sets on does not automatically 'grandfather' it in as the neighbor's personal park or view corridor. People need to realize that nearly, if not everyone, in Portland that resides in a home whether in Lents, Laurelhurst, Alameda, Brooklyn, or other neighborhoods live in a home that had trees cut down to construct their

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T.34

home. View pictures of downtown Portland in the 1800's or Laurelhurst and Alameda of the early 1900's and there are remarkably few trees. Trees in many of those neighborhoods enhance the homes probably to greater and better extent than if there had been existing tress on the sites when the homes were originally built.

As a residential developer, there are many considerations in building a home on a property, not the least of them are trees. As mentioned in earlier testimony trees do have an economic value on a properties value. But it is not the only value that has to come into a decision. First, the average full grown tree like a maple or Douglas fir is going to cost $1,000 to $1,500 to remove, minimum. Most builders will avoid that cost and position their home around the tree if it is functionally possible. They have just saved at least $1,000 in expense and have preserved some intricate value to their betterment in the sale of the home. But in positing a home on a site there are other factors that come into play. Nearly all Portland streets have overhead power lines. Often there are guy wires that affect which side of the lot you will need to placed your driveway and it is not as simple as telling the electric utility to move the guy wires. Some years ago I had a situation on NE 34th Avenue where the guy wire in the right of way in front of my home supported a pole anchoring 11 poles from my property south over Killingsworth Avenue for nearly 2 blocks. Pacific Power and Light wanted many thousands of dollars to change the guying system (I don't remember the exact amount) and that type of fee reimbursements are written into Public Utility Commission rate filings. It is not as simple as asking them to move the guy wire for a tree. As a result of that situation I could only place my driveway on one side of the lot affecting the location of the home and any decision concerning trees.

Other factors come into play also. Often neighbors homes across and down the street a home or two, might be unsightly. A purchaser will not desire to purchase the new home if they have to look at the unsightly home. Flipping the layout of the home on the site to use a wall projection to block that unsightly view is a common decision a builder makes in orientation of the home to make it saleable. Should that need to be done it may make removing a tree a requirement. Again, saving the tree is important in the cost savings of building the home but a tree, especially one like a large fir that does nothing to block the unsightly view is useless if the home can not be marketed. Yes, if the unsightly home has nuisance items that the city can help correct that is great; but unsightly disrepair, awful paint colors, or other factors sometimes are not solvable by city bureaus.

Size matters also. Many of the sights we build on are 2,500 square feet or less. If the site is 25' x 100', that gives the builder a very narrow footprint of 15 feet to build within, with no options to move the home. Tree preservation reaching over the property line, up to 15 feet on to the property, will greatly influence that footprint. The situation is made even worse on a 50' x 50' or less lot. On a site of that size there nearly always less than 6 to 7 feet in the backyard and 5 feet on the side yards. Tree preservation in such a case is nearly impossible.

Speaking to law and logic, Governor Tom McCall and others pushed for Senate Bill 100 and other similar bills in the 1970's to preserve farm and forest lands and to form an Urban Growth Boundary (UGB) with the intent to focus urban development into that those UGB's. Logically, if we preserve farm and forest lands but also allow logging in certain parts of those preserved lands, doesn't it logically mean that if we are forcing development into UGB's that there is the assumption in increased density that we will need to remove some trees to make that density work? You can't argue that if we preserve forest land yet allow logging in certain locations that the tradeoff of urban density can not allow required tree removal to construct those densified cities.

Our Comprehensive Plan and Zoning Laws are based on utilizing the different zoning regulations to develop the city to a previously publicly agreed to standard as intended. To allow tree policy to trump those decisions without taking into consideration the major decisions made on Comprehensive Planning is a mistake and undermines the intent of Comprehensive Planning. Better to take the time

to work with BDS and other bureaus to see how these regulations influence residential construction and to develop tree policy as part of the Portland Plan.

Many trees may not be best preserved for the site. Mr. John Gibbons testified in the March 23, 2010 hearing that he had spent approximately $20,000 dealing with trees left by his developer that were not appropriate for the site and for the relationship to his home. Saving a tree that needs to be trimmed to the extent that it is off balance because you need to work a home around it creates a dangerous situation. Like wise, trying to save a Douglas fir, a tree with limited root structure, next to a home may well be a dangerous situation also.

The Bureau of Environmental Services does favor the drafted tree policy to enhance the control and cleansing of storm water. However, nearly all new construction on the east side of Portland takes the water from the roof of the structure and deposits that runoff water directly into a soakage trench or drywell. For the most part new construction greatly reduces the water runoff from the site without the use of trees over the previously undeveloped site, especially if there were a limited number of trees on the site. Maybe tree policy should be classified by the soils under the trees; essentially the eastside of Portland where most of our housing density is developed being less restricted, and the west side where we have hill sides, more clay type soils, landslide potential, and other risk factors having some greater restrictions.

The bottom line is that there is not the wanton destruction of trees in Portland as some will claim, that current policy works, and that the new tree policy is too large and complex for the Bureau of Development Service to manage. Better if we are to spend nearly two million dollars to purchase trees and let the general public add more trees to their yard if they desire.

Sincerely yours,

Jeffrey Paul Fish, President
Fish Construction NW, Inc.

Testimony Re Proposed Adoption of Title 11 – Tree Code

John Gibbon 9822 SW Quail Post Rd. worked on the SWNI Tree white paper and supports adoption of the tree code as proposed because it creates equity by requiring every property owner to participate in maintaining and improving Portland's tree canopy. Professionally works as an attorney mostly advising people who live in condominiums and home owners associations as to their rights and responsibilities in these community associations.

Support for a Tree Code is entirely based on liinge in a neighborhood where by CC & R requirement (and some form of City land use approval) native trees are "protected". This is now done by the HOA on an ad hoc basis non-expert basis with some scofflaws and the apparent possibility of all owners being subject to the costs of potential violations of the uncertain current tree regulations. The HOA (and the City) would benefit from the proposed simpler, more transparent and definitive code because it could easily rely on compliance with the City code as compliance with the CC &Rs.

As a something of a "Housing Professional" and a long time participant in and observer of Oregon's land use system believes it is absolutely true that, as the PMHBA has contended that the tree code as purposed will on some level be biased against the type of denser new development which apparently has the most acceptance in the market, particularly townhome style housing. This is particularly true if the standards adopted in Title 11 are treated and used as "clear and objective" standards for land use purposes. However if the city is willing to accept a some reduction in the of this type of housing, along with more expensive and probably smaller single family housing and an increase in new multi-story multi-family structures in residential neighborhoods where significant development occurs it can probably gain the apparent environmental well the arguable aesthetic and "livability" benefits this proposal offers.

The proposal as presented does however offer the home building and remodeling industry the "benefit" of subjecting all its members to the same type of regulation where now it is new land dividers who are bearing the burden of the City's regulation. Supports making this change because it is not only "fair" in this sense to all members of the industry but beneficial to the public and the City in the sense that retention of larger trees on more sites will have on both personal and public storm water systems as well as possible energy "benefits". In dealing with this industry however believes that it would be entirely appropriate for the City to, after quantifying the benefits that trees provide, to adjust portions of the SDCs now charged to the developers and builders to reflect these benefits.

Believes that this proposed new Title 11 is the right first step in recognizing the City's responsibility to fully require all its citizens to reasonably participate in the stewardship of a dynamic natural resource that provides manifestly benefits all members of the community. Based on tree experience to date believes, at least in areas where more dense development has occurred, that the current City hodge-podge of policies related to trees is materially unfair to those individuals who are concerned and active in maintaining this resource, it is time for the city to act get those citizens either benefit from a free ride on their neighbors trees or either somnambulate or at best reactive in dealing with their own.

T.35

4 April 2010

City of Portland Tree Policy
Planning Commission

To whom it may concern,

This letter is a follow up to the verbal comments I had made at the Planning Commission Hearing on 23 March 2010.
My name is Simone Goldfeder and I live at 2975 SW Upper Drive. In addition to being actively involved with my local Neighborhood Association, SWHRL, as a both a board member and Land Use member. I am also an active participant in the Citywide Land Use Group.
I am also a licensed Architect and co-owner of an architectural practice in the City of Portland.

I strongly support the proposed Tree Guidelines. Prior testimony has clearly described the numerous economic, environmental, habitat and qualitative benefits that trees and an urban canopy provide. I will direct my comments to a few additional issues.

Trees & Site Design

The proposed tree policy guidelines have been carefully developed, with ongoing dialogue and outreach to all stakeholders. The proposal is carefully balanced to integrate development with the preservation and planting of trees. The proposal allows many options and possibilities for how one can plan and approach a site- using a more flexible performance based approach vs. a prescriptive approach. If the goal to is to balance development with a healthy tree canopy, then this can be shown to be done through allowing flexibility in setback, height, and lot coverage requirements.

Clean air, natural light and trees / vegetation should be looked at as "materials" that one should consider and integrate into the design, approach and building of every site, no different than sustainability, water, sewer, paved areas, building codes, planning codes and structures. These are not abstract qualities, but integral to supporting a healthy, green environment and site sensitive design approach to any project, regardless of its size, scale or use. The site – with its existing characteristics, whether topography, trees, solar access, adjacent context, should inform, mold and generate the design and building. All sites / places are unique and particular and will require a thoughtful approach.

It is not possible to anticipate every potential design variation for every type of site, as there will always be different and unique situations. It is important that the City analyze as many potential options as possible and if the new guidelines are implemented, carefully track and review the implementation over time. This could be done through a performance verification and revisions considered similar to recent reports like the Land Division Study and Infill Report that were issued by the City.

Just as the form and cover of the urban canopy changes - as trees are planted, grow and die – our city's built and natural form evolves as well. The City of Portland strongly advocates an environmental approach, a green and sustainable policy. The proposed tree policy does not limit a developer or property's owner right to develop; it only requires that we all must consider trees as an important and additional variable integrated into the design, instead of ignored or clear cut to accommodate a cookie-cutter / template / flat desertland approach to all sites.

Equity

If one looks at an existing plan of the City or Portland and the current canopy cover, it is clear that much of the canopy is located in the more affluent areas of the cities. Much of the canopy loss in the last 5, 10 , 20 years from development within the City of Portland has occurred in East Portland, North Portland and other poorer areas of the City. These parts of the City, in particular, have few if no regulations protecting trees. For example, many of the existing environmental zones are currently located and mapped in areas of Portland with steep slopes and streams. These are primarily areas in the southwest, northwest and some portions of the southeast. Even these zones are inadequate, they provide some minimal portions of sites within resource areas. In most of other areas of the City, there are no protections, especially in economically less affluent areas of the City.

Street trees and trees on private property located in side front and back yards are the "pocket parks" for many residents who have limited or no access to city parks, at any scale. The loss of this vegetation greatly impacts the form, identity and value of these neighborhoods.

The City of Portland is rapidly losing an important piece of its heritage and identity. The proposed tree policy is an opportunity, for the City of Portland, to implement a strategy / policy / codes on the ground that will support many of the lofty sustainable and green goals that are advocated 'in the air'.

Thanks for your consideration.

Best regards,
Simone Goldfeder, Architect LEED AP
2975 SW Upper Drive, Portland OR

T.34

April 13, 2010

Portland Planning Commission
Portland Urban Forestry Commission

SUBJECT: Citywide Tree Project - February 2010 Proposed Draft

I am John Lof, Green's Superintendent of Riverside Golf and Country Club. I am writing to you on behalf of a coalition of four Airport area golf courses (Broadmoor, Columbia Edgewater, Colwood and Riverside). We have had the opportunity to meet with project staff and wanted to offer a few comments. We appreciate the explanations and ideas provided by staff.

By way of background, I will use Riverside as an example meant to be representative of typical golf course issues in this area. Riverside is comprised of 160 acres and has an estimated 1000 trees. The fundamental use of the course requires that we employ skilled staff to steward these resources for the enjoyment of our customers. We are all proud of the work we do with trees and the many other plants we manage.

In our discussions with staff we agreed with the overall goals of the program and discussed different ways we could achieve these results. We also discussed with them the Airport Futures process of implementing updated environmental zones, especially as it relates to our coalition. There are extensive proposed revisions to the environmental code that affect large areas of our courses. Ultimately, there may be a way to address both initiatives in an integrated fashion.

Specifically, related to current revisions to the Tree Ordinances, the draft envisions a Programmatic Permit for governments and utilities in Chapter 11.300.070. We believe such a similar mechanism might be appropriate for our situation. Our initial conversations with staff have conceived of a Tree Management/Maintenance Plan that would be adopted for a multi-year period, subject to periodic reviews and renewals. Such a Plan could incorporate the operating practices and standards of the many facets of golf course operations while ensuring that tree management practices meet the goals of this program. This would streamline the process for a large area and still comply with the intent of the program. It may also be possible to integrate this effort with the Airport Futures Environmental Code updates.

We would encourage the Planning Commission to support the general concept of a programmatic type of approach. We look forward to working with staff to develop a program that would meet these requirements.

John Lof, Golf Course Superintendent
Riverside Golf and Country Club

cc: Roberta Jortner
Mindy Brooks
Jay Sugnet

T.37

Riverside GOLF AND COUNTRY CLUB
8105 NORTHEAST 33RD DRIVE PORTLAND, OR 97211-2095 PHONE: (503) 288-6468 FAX: (503) 282-1383

PORTLAND PARKS & RECREATION

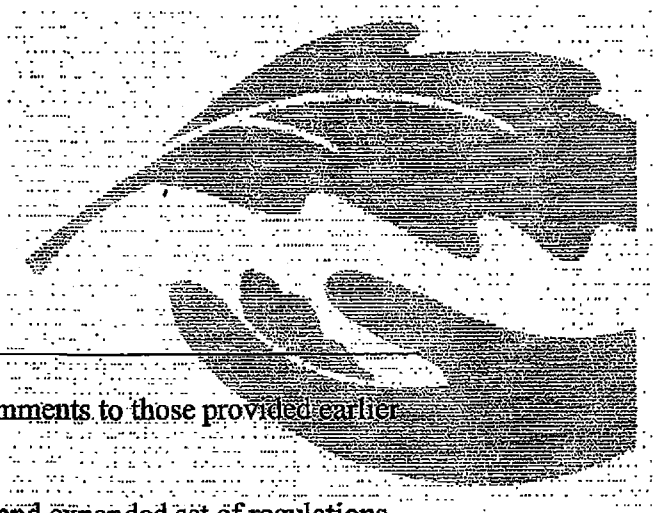
Healthy Parks, Healthy Portland

Date: April 12, 2010

To: Planning/Forestry Commissions

From: David McAllister City Forester

Re: Citywide Tree Project Draft Review



Urban Forestry offers the following additional comments to those provided earlier on the draft:

1. The proposed draft represents a more complex and expanded set of regulations that will require additional staff, additional training, and additional outreach. It will certainly add time and may increase confusion for most tree permitting activities. Trees are living biological entities that do not lend themselves to strict code language at the detail that it is being proposed. Rather, trees are best addressed by code standards with implementation on a case by case basis and consideration by professionals. The proposed code should emphasize professional judgment with an explicit set of standards rather than the proposed listing of alternative approaches that may or may not meet the intent.

In non-development situations, the three different permit types, coupled with appeal rights, and different mitigation standards will be a challenge for staff to effectively communicate. Staff fears that a high level of complexity will contribute to higher levels of non-compliance because of a lack of public understanding and acceptance. Communication is essential to help the public understand the City's goal for the regulation, its rationale, and the regulated community's responsibility. In reviewing this draft, staff hopes that Commissioners try to keep in mind the goal of this section of the code which is to compensate for tree cutting by requiring mitigation by which our future urban forest can be maintained. Much of these regulations can be removed while still retaining the strength of the intent and its application. Procedural overhead should be kept to a minimum with the focus placed on providing adequate funding for the professionals working in the field.

2. Encouraging tree preservation and requiring tree mitigation for tree cutting in development situations is a significant and noteworthy addition to achieving City tree canopy goals. Development and especially in-fill development is its own

City Nature Department
Urban Forestry Division
1120 S.W. 5th Ave., Suite 1302
Portland, OR 97204
Tel: (503) 823-7529 Fax: (503) 823-6007

www.PortlandParks.org
Zari Santner, Director
Nick Fish, Commissioner

important City goal but is contributing to loss in mature tree canopy. City tree inspectors find that most of the mature tree cutting they investigate is associated with development actions. Any manner that the City can find to encourage more tree preservation during development and to require mitigation for canopy loss is positive. Contrary to what is oftentimes expressed, tree preservation is not a lose-lose proposition for developers since scientific study after study indicates that mature trees enhance property values and increase salability. Builders may well see higher profits if they retain trees during development, thus reducing building costs, and pricing accordingly since the development can now be sold with mature plantings already established.

3. Staff feels that the code can be more tightly written and thus briefer if much of the procedural information is codified through administrative rules. Procedures are subject to change and therefore should be easily amended rather then, as drafted, only through Council action. Several examples are 11.300.030 Application Requirements on Page 49 and 11.600.050 Tree Plan Submittal Requirements on page 119. Both of these procedures should not be adopted in the Code. There are numerous other areas that should be removed and placed in an administrative rule procedural document.

4. The draft code (Sec 11.100----) deals with established and authorities for payment in lieu. This draft code language confuses authorities previously established under the City Urban Forestry Tree Fund and Title 33 private tree fund. The new code should be changed to reflect historic authorities and responsibilities for allocation of these funds.

5. The proposed code (11.600.060) offers the public the right to appeal tree cutting of healthy trees greater than 20" in diameter or slow growing natives greater than 6" in diameter in non-development situations. These code provisions are very confusing, increasing code complexity by creating a separate permit and process (Type C), without providing a clear public benefit. There are several issues with this section which should be addressed:

- The provision applies only to non-development situations. If the intend is to provide the pubic with the right to appeal removal of large trees than it should be equally applied to development situations where most of the healthy large trees are being removed;
- The criteria for issuing and/or appealing a permit are unclear and thus nearly impossible to adequately implement. This criteria "the proposed removal will not significantly affect the neighborhood character or identity" is impossibly fuzzy.
- The appeal can be brought by any public, even those outside the City of Portland, without a specific interest or concern with the neighborhood.

6. Section 11.300.070 which addresses programmatic permits is currently implemented by Urban Forestry to efficiently and effectively address large tree care and maintenance issues. The narrative states "these programmatic permits are for more routine and customary maintenance practices". If this is the case, staff is not

sure why the proposed section of the code adds significant process without any clear affect to the permit or the public. The section also needs to be rewritten because the language contradicts itself providing criteria for the City Forester to grant the permit in one section and implies a role for the Forestry Commission to delegate this responsibility to the City Forester in another section. Staff encourages code where it meets the intent helping reach City canopy goals. This whole section could be removed without jeopardizing this objective.

April 12, 2010

RE: CITYWIDE TREE PROJECT

Dear Portland Planning Commission President Hanson:

I have already testified regarding the Citywide Tree Project you are considering and while there are many more things to say, I know you will work hard to find ways to send a good proposal forward to Council for further consideration.

I think there are two elements of this discussion that focus things for me and I wanted to pass them along as my additional testimony.

1. The current project came about to bring various code elements together from many different bureaus and combine them into one area of the code. The result is complex and may be overly complex, but it can't be as complex as having the code spread throughout many bureaus for their interpretation, implementation, and disclosure. I have provided an example of this jurisdictional chaos in this letter.

The Tree Project came about in the absence of a coherent city policy about trees. That, in my opinion, is what you are being asked to recommend to Council for adoption. The process to implement the policy should be subject to more attention and work during FY 2011-2012, with a set timeline for beginning implementation funding in the near future.

2. Trees are in a transition as to how we think about them. They have been considered decorative to a large extent, subject to only owner control, and replaceable. That limited view no longer serves the interests of our City residents.

I believe we are moving into thinking of trees in terms of function. That makes canopy loss and watershed values of primary importance as we regulate and inform our actions regarding trees. It also makes the protected tree size more important to the discussion.

The functional loss of tree value cannot be separated from where we live. We cannot be expected to replace those functional values elsewhere. That makes it essential to find ways to avoid the loss. Incentives for tree retention, education about tree value, information about how to protect trees and our tree canopy, and regulation that evaluates and guides unavoidable tree removal are all tools we can use.

A significant part of maintaining those functional values has got to be a realistic assessment of mitigation, identification of geographical areas impacted by tree loss, and the philosophical transition of trees into the status of green infrastructure that deliver public good beyond the property on which they grow.

I have included a small example of our current "system" described in code as tree protection. This is a currently active case which we have challenged so I will not refer to it beyond the fact that it is in East Portland. A Tree Preservation Plan was a condition required by the decision permitting a land division. The land division removed 61% of the trees on site, only 4% less than the maximum tree removal allowed by code. The Tree Preservation Plan was chosen by the applicant as one of four approaches provided in code to address tree protection requirements for the land division.

The majority of the removed trees were mature Douglas Fir. The Tree Preservation Plan stipulated the land division retain 3 mature Douglas Fir (24", 25", and 13") at the resulting sites. The new owners of the houses that were built cut down those remaining "protected" trees and are currently being cited for a violation. They state they knew nothing of the Tree Preservation Plan nor that the trees were to be protected.

Whether or not that is true (the current Tree Preservation Plans are not attached to the deed as the Citywide Tree Project would propose) the solutions provided by various involved bureaus are where the real problem discloses itself.

Our East Portland Neighborhood Coalition Land Use Committee responded to the violation notice suggesting a less expensive way for assisting the home owners to return tree canopy to the neighborhood area in which it was lost:

Here is part of the staff comment to that suggestion:

"Overall, I understands the Association's frustration that 61" of tree diameter was removed, unfortunately, the Zoning Code does not require the same number of inches of tree diameter to be replaced or mitigated for as was removed during a tree violation. I also understand your desire to have the mitigation trees planted in the same watershed. I spoke with my supervisor about it, and their is really not a code nexus. The environmental code allows you to require mitigation in the same watershed, but the Tree violation code chapter does not have that option. I would recommend contacting the Park Bureau about using the new tree fund money they receive from this violation to use for new trees for Parks in the area the violation occurred."

Note: There are no parks in the area, the Parks Bureau is not required to plant trees in areas in which they are lost, and Tree Fund decisions are made internally by the bureau.

I think this single example explains in many ways why you, as a member of the Planning Commission considering the Citywide Tree Project, need to send a strong set of recommendations forward to Council that finally begin to deal with trees more broadly than internal jurisdictional distinctions or views of trees as replaceable decoration.

I look forward to seeing the results of your consideration of the Citywide Tree Project and how it can provide clear guidance to our City's green infrastructure in the future.

Bonny McKnight

1617 NE 140th; Portland 97230

503-253-6848 or bonnymck@comcast.net

FRIENDS of CATHEDRAL PARK NEIGHBORHOOD ASSOCIATION



March 26, 2010
Planning Commission
c/o Bureau of Planning
1900 SW 4th Ave., Suite 7100
Portland, OR 97201-5380

Dear commissioners,

As a north Portland neighbor and neighborhood association chair, I completely support the Citywide Tree Policy and have long wished for a better way to protect existing tree canopy and a policy to help advocate for increased canopy. The single point of contact and single manual is helpful in offering citizens a better connection to information. I support neighborhood tree plans to reflect the differing needs of individual areas and to engage local citizens in feedback. Because half of Portland's tree canopy is in private hands, the educational outreach will be a crucial element. In fact, it would be very beneficial to do more education than outlined in the policy.

I especially support better protection for native trees like Oregon oak and Madrone that dominate the Willamette Bluff which ends in the St. Johns neighborhood. We have very few oak groves left from a once vigorous population on our peninsula and have had difficulty protecting what's left. In fact it's estimated there are only 1-2% of native oak left in the Willamette Valley due to human encroachment. It is not well known that only a few miles from St. Johns, there is a National Historic Landmark archeological site on Sauvie Island that has more than 60 native American made acorn pits, each able to hold thousands of acorns. It is the largest acorn pit site in North America[1]. This gives some idea how numerous and important native oak once were here.
Other relevant facts:
- Native oak are one of the highest value trees for wildlife habitat and food. Their lichens, mosses, and acorns are important food sources for a wide variety of species. They create important habitat both underneath the tree and vertically.
- Native plants evolved with wildlife so native trees are particularly important as a natural, lesser expensive aid in helping maintain both plant and local animal biodiversity.
- It is believed by some scientists that heat-tolerant native oaks will be able to withstand global warming better than other trees.
- Oregon oak are historically important in the native American culture of north Portland and we would like to work toward preserving and capturing that history for future generations.

Another important feature of tree canopy in a pedestrian district like St. Johns is its role in offering a shaded environment to encourage walking in the summer. Attractive transportation alternatives are important in making shopping and working locally doable. In the summer, I always choose walking routes with trees. By encouraging neighbors to stay local there can be the added benefit of efficiency and savings on auto transportation infastructure.

Thank you sincerely,

Barbara Quinn

Barbara Quinn, chair, Friends of Cathedral Park Neighborhood Association
7034 N. Charleston
Portland OR 97203

[1] Bramlett, Gina. "'Sunken Village' unearths Native American culture on Sauvie Island." The South County Spotlight, Oct. 3, 2007. www.spotlightnews.net/features/story.php?story_id=119143980327063700.

T.40

EAST PORTLAND PARKS COALITION

April 6, 2010

Mayor Sam Adams
Commissioner Amanda Fritz
Commissioner Nick Fish
Commissioner Dan Saltzman
Commissioner Randy Leonard

Director Zari Santer, Portland Parks and Recreation

Greetings,

Title 11 to the City Code: The Tree Policy would allow for a concise and consistent City repose to issues relating to trees.

Currently, there is confusion amongst citizens and staff, between bureaus and within the development community regarding trees. Title 11 will provide a clearer understanding for residents and businesses.

East Portland Parks Coalition thanks the City of Portland for supporting Title 11 and funding the project.

We strongly encourage adoption of Title 11.

Thank you,

Respectfully,
Alesia J. Reese
Chair
East Portland Park Coalition

T.41

April 13, 2010

Portland Planning Commission
1900 SW 4th Ave, Suite 7100
Portland OR 97201

Urban Forestry Commission
1120 SW 5th Ave, Suite 1302
Portland, OR 97204

RE: Citywide Tree Project Policy Review and Regulatory Improvement Project

Dear Commissioners:

As one of several citizens who "pestered" the city for several years to "fix" the many problems with the existing tree codes, and as a member of the Citywide Tree Project Stakeholders Advisory Committee, I strongly encourage the Planning Commission and the Urban Forestry Commission to move forward with a recommendation that City Council adopt and fund this important program.

Tree issues have been a part of my daily life for many years. In addition to serving on the Project Stakeholders Advisory Committee, my background includes being a founding member of the Columbia Slough Watershed Council, developing and managing the Naturescaping for Clean Rivers program for many years (until I retired), and being a member of the Hazelwood Neighborhood Assn (where I chair the Parks and Environment Committee). In addition, I currently serve on the Portland Parks Board.

I'm pleased to see that the city has recognized the importance of trees as part of the city's infrastructure and is making this effort to codify that status. I believe Planning Bureau staff have made a concerted effort to develop consistent standards for the preservation and planting of trees without unduly increasing the time and cost to development in the city.

Here are a few more specific comments/questions/concerns that I would like to share with you.

a) The proposed Tree Manual and single point of contact for citizen inquiries will be a very important part of this program. Both should be developed and implemented as soon as possible.

b) While I appreciate the educational value of face-to-face interaction with individuals/businesses seeking tree permits, I am concerned that the volume of such interactions could be overwhelming. Some of these contacts could/should be handled on-line. You might be surprised at how often citizens turn to on-line sources for information.

c) I'm especially pleased to see the proposed changes that require replacement of trees removed from the transition zone (within the environmental zone). This is critical for riparian areas, which tend to be long and narrow with a considerable portion of the environmental zone falling within the transitional area.

T.42

d) Will these new tree codes apply within Plan Districts like the Columbia South Shore Plan District? Because some of these plan districts have their own environmental requirements, citywide code changes don't always apply within the plan district area. Is there some way to make sure that the new code sets a minimum standard that applies to all plan districts, while still allowing them to have more stringent codes as appropriate?

e) The proposal is to delay the effective date for at least a year. This will provide time for the City to "gear up" for the change. I'm concerned, however, that little if any funding has been allocated for the 2009-2010 fiscal year to set up the single point of contact, create the Tree Manual, prepare printed information explaining the changes, do the staff training and conduct the public outreach (to both tree care professionals and citizens) – all the things that need to be done before the new code goes into effect.

f) In looking at the proposed code for development situations, I feel that the 20-inch diameter threshold is too large. For example, very few of the many trees in the subdivision where I live (developed in the 1960's) are 20-inches in diameter. Actually, there aren't that many that are even 12-inches in diameter, which is the trigger for a tree removal permit. I recommend lowering the threshold sizes for both.

g) Because the proposal before you represents major changes to the existing city code, I understand that you are receiving a large volume of comments, with very divergent perspectives and recommendations. If there are any significant changes to the code in the current proposal, and I understand that some significant changes may be proposed soon, I urge you to undergo another round of public review and comment before making your recommendation to City Council. I realize that this re-iterative process can be time-consuming, but doing so will improve the program and be critical to public understanding and acceptance of the changes.

Finally, I believe the Citywide Tree Policy Review and Regulatory Improvement Project represents a major step forward in acknowledging the importance of the city's green infrastructure, especially the role it plays in stormwater management. I urge you to move the project forward for adoption.

Sincerely,

Linda Robinson
1115 NE 135th Ave
Portland, OR 97230
503-261-9566

Hamilton, Joan

From:	Second Nature Garden Design [sngd@comcast.net]
Sent:	Thursday, March 25, 2010 12:21 PM
To:	Planning Commission
Subject:	Comments for: Citywide Tree Policy Review and Regulatory Reform Project
Follow Up Flag:	Follow up
Flag Status:	Red
Attachments:	image001.jpg

Dear Commissioners:

I urge you to push forward the tree project, with some important changes.

First, I strongly suggest that the proposed regulation to require permits to remove healthy 12-inch or larger diameter trees on private property be changed to 6-inch diameter. Here's why: Depending on the species, 11 or even 7-inch diameter trees are substantial and may be well on their way to providing the mature, wide canopies essential to a healthy urban ecosystem. If we allow any trees less than 12 inches to be removed, it will be extremely difficult to get to the desired tree density. And as the older, huge trees (that would be protected under this regulation) die out, we would be left with very few large trees to take their place. Exceptions should be made for property owners who want to replace trees that remain small at maturity—for example, replacing a small, non-native, ornamental 20-foot tree, with a native tree that grows to 70 feet tall and 50 feet wide.

I have personally witnessed several situations within a mile of my home in northeast Portland in which many healthy, mature native conifers – no doubt heavily relied upon by native wildlife – were removed by homeowners, for no good reason other than to let more sun into their backyard. In one case, the homeowners reside most of the year in California! But even if the trees removed had been smaller – say 10 inches in diameter – their removal would have been just as unnecessary and equally unjustifiable.

Second, I'd like to see much more emphasis on native trees, especially conifers. Native species are absolutely crucial for wildlife because they evolved together. Native fauna is highly dependent on native plants that provide food, shelter and breeding habitat. If we claim we want to help dwindling native birds flourish in our city, we must provide for their needs. Conifers are especially important and can be lifesavers after deciduous trees have dropped their leaves. In addition, they are an important source of seeds and insects and serve as excellent nest and roost sites for many birds.

Finally, one of the worst things we can do for wildlife is to be to too tidy outdoors. Snags (dead, decaying trees) should and can be safely retained, as they provide tremendous value to wildlife with immense amounts of food, as well as nesting and perching sites. People removing trees should be encouraged to leave down wood (logs left on the ground) that also provides shelter and food for many small animals as it slowly returns nutrients to the soil.

Because trees have a positive effect on everyone – humans and wildlife, alike – they ought not be regarded as personal possessions. Instead, trees should be fiercely protected and considered green infrastructure that provide essential services. Unlike infrastructure such as sewers and roads, trees offer much more but cannot be repaired or quickly replaced. Therefore, it is imperative that trees on public *and private land* be revered and protected to the greatest extent possible.

Thank you for considering my comments.

Sincerely,

Eileen Stark
Biologist and landscape designer

Second Nature Garden Design
3820 NE Wistaria Dr.
Portland, OR 97212
503-467-8545
www.sngdesign.net

.....

"The wonder is that we can see these trees and not wonder more." - Emerson

Hamilton, Joan

From: Second Nature Garden Design [sngd@comcast.net]
Sent: Tuesday, April 06, 2010 11:43 AM
To: Planning Commission
Subject: Citywide Tree Policy Project comments
Attachments: image001.jpg; Tree Policy Comments ADDENDUM.doc; Tree Policy Comments 3.24.10.doc

Dear Commissioners:

Please accept the following additional comments that were inadvertently left out of my previous comments dated March 24, 2010. (This addendum and my previous comments are also offered as attachments.)

I strongly recommend that the commission advocate for more **native broadleaf evergreen trees and conifers,** for the following reasons:

- Persistent leaves. Because their leaves hang on during our rainy months, broadleaf evergreens and conifers are much better than deciduous trees at slowing rainfall, which results in less stormwater runoff. Deciduous trees also collect rainfall on their branches, but to a much smaller extent. Which type of tree would you chose to stand under on a rainy Portland day—dense conifer or leafless maple? If Portland is serious about mitigating excess stormwater, planting evergreen trees should be compulsory.
- Essential for wildlife. No doubt you are aware of the grave decline of many wild bird species due to habitat loss and other man-made perils. Deciduous trees, particularly native species, are critical to wildlife which depends on these trees to provide cover, nesting habitat and food.
- Northwest beauty. Although there are some disadvantages of growing evergreens as street trees (branches that may obstruct paths and potential weakening in windstorms if planted in too small a parking strip), they are often a beautiful choice for yards and open spaces and are an important part of the region's natural heritage and identity.

For the above reasons I urge you to advance a substantial increase in the number of evergreen – primarily native – trees in the Portland area.

Thank you again for considering my comments.

Sincerely,

Eileen Stark
Biologist and landscape designer

Eileen Stark
Second Nature Garden Design
3820 NE Wistaria Dr.
Portland, OR 97212

4/6/2010

T.44

23 March 2010

SWHRL Tree Policy testimony for Tuesday, 6pm joint Hearing of Planning Commission and Urban Forestry

To whom it may concern,

My name is Jim Thayer, President of SWHRL, The Southwest Hills Residential League. I am here to today to give testimony in strong support, on behalf on my neighborhood association and members, for the proposed Tree Policy Guidelines.

The proposed guidelines are step forward in clarifying the regulation of trees in the City of Portland and supporting the goals of this region and City in providing a clear and cohesive regulator framework and in enhancing the urban forest.

The City Staff on this project have been communicative, responsive, thorough and meticulous in not only their review of the current regulations, a ungainly task in itself, but also in working with all stakeholders in developing policies, code changes, and streamlined regulations that would benefit all parties.

This effort has taken many years to get to this point and it is important that we take this next step to comprehensively address and fix many of the issues surrounding Trees in our City.

Does the proposed package meet all or our expectations? Not necessarily. For example, Would we like even stronger regulations to protect many of our existing, mature native trees within the City of Portland? Yes. There are other specifics that could be pointed to. But, it is our view that the current package before you has been carefully crafted to meet the performance standards and goals of the City of Portland, building in flexibility and performance standards to meet the diverse parts of the City and the specifics of its unique places.

Some might say no regulation is good regulation. The goals of these new, updated policies is to streamline existing complicated, conflicting and ineffectual regulations; not to create new ones.

Even if the City is unable to fund certain pieces of the Tree Project, it is important the overall package, code changes and policies are implemented now. If funding were not initially available, pieces like "Community Tree Manual" could be phased in / developed later, but at least the whole project would be adopted by the City. This is truly an opportunity for the City of Portland to provide real tools and opportunities on the ground to support its goals as a green and sustainable City to address many of the egrerious practices in the removal of our urban forest and its negative impacts on our communities.

SWHRL (Southwest Hills Residential League) strongly supports the adoption of the Tree Project.

Thanks for your consideration,

Best regards,

Jim Thayer, Southwest Hills Residential League, President

T.45

Beckman, Stephanie

From: Hamilton, Joan on behalf of Planning Commission
Sent: Thursday, April 01, 2010 11:15 AM
To: Jortner, Roberta (Planning); Tracy, Morgan (Planning); Beckman, Stephanie
Subject: FW: Showing my support

Joan Hamilton
Planning Commission / PTE Contracts Coordinator
Bureau of Planning and Sustainability
1900 SW 4th Avenue, Room 7100
Portland OR 97201
Interoffice: B299/7100
Telephone: 503-823-5772
email: joan.hamilton@portlandoregon.gov
Please note the City's new web domain www.portlandoregon.gov and my new email address joan.hamilton@portlandoregon.gov

---

From: Judy Todd [mailto:judy@yournatureconnect.com]
Sent: Wednesday, March 31, 2010 1:50 PM
To: Planning Commission
Subject: Showing my support

While I have cut and pasted this information, be clear it speaks for me and addresses concerns I share.

Please support stronger protections for our urban tree canopy: Trees clean our air and water, provide wildlife habitat, increase our property values, sequester carbon dioxide, mitigate urban stormwater, reduce urban heat island effects and improve our quality of life and livability of our city.

It is critical that we protect our existing tree canopy as well as planting new trees. It takes years for a tree to grow and reach its full potential and newly planted trees are highly vulnerable. To be effective, any tree strategy must focus first and foremost on protecting our existing tree canopy.

Please support stronger protections for trees on single, non-dividable, residential lots in non-development situations: The proposed new code calls requires a permit and mitigation (either planting of new trees or payment of a fee that goes toward planting trees elsewhere) for cutting trees over twelve inches in diameter on single family, non dividable lots in non-development situations. These parcels cover more than 25% of our urban landscape. Please support this provision and urge the commissioners to consider lowering the threshold to six inch diameter trees.

It is critical that we all take responsibility for trees: Tree protections should be

T.46

comprehensive across all land use types and for both development and non development related activities.

Judy Todd
1631 NE Broadway St. #723
Portland, OR 97232

503-260-4995 mobile

Cherish nature, be brave, share your vision.

Columbia Slough Watershed Council
7040 NE 47th Ave, Portland, OR 97218

April 9, 2010

Portland Planning Commission
1900 SW 4th Ave, Suite 7100
Portland OR 97201

Urban Forestry Commission
1120 SW 5th Ave, Suite 1302
Portland, OR 97204

RE: Citywide Tree Project and proposed changes to tree codes

Dear Commissioners:

On behalf of the Columbia Slough Watershed Council, I am writing to express support for the City of Portland's proposed Title 11 which consolidates, fixes, and updates the city's tree codes.

The Council reached consensus about the importance of making the tree codes easier to find, more equitable, and easier to understand. We also support the creation of a comprehensive framework for both public and private trees and for development and non-development situations. There is also agreement that inconsistencies, contradictions and gaps in coverage need to be fixed.

Such extensive changes in tree regulations will require substantial investment in implementation and training (of permit staff, inspectors, arborists and others) – and extensive public outreach before and after the new regulations are implemented. We urge the City to move forward on the proposed Tree Code as soon as possible, as it will be a very useful tool in this education and outreach.

One proposed change of special interest to the Council is the one that would require mitigation for trees removed from the transition zone within the E-Zone. It is especially important to provide and protect vegetated buffers along sloughs and wetlands with narrow riparian areas. We support this change.

We also applaud the City's efforts to keep the tree cutting permit process from adding undo time and expense for residents, developers, and those wanting to expand existing businesses. We wish to add that the costs of permits under the code should be reasonable and affordable for city residents.

Given that you are receiving many comments on this project, we ask that any significant changes to the code as currently written should be submitted for public review and comment before final adoption.

Thank you for considering our comments in support of the Citywide Tree Policy Review and Regulatory Improvement Project.

Sincerely,
Jane A. Van Dyke
Jane A. Van Dyke
Executive Director

T.47

My name is Mary Vogel and I run a consulting business, PlanGreen that helps communities and organizations add ecosystem services to excellent urban design—especially to infill design.
I also chair the Portland Downtown Neighborhood Association Sustainability Committee and I'm a founding member of a new Cascadia chapter of the Congress for the New Urbanism.

CCNU has not taken a stand on the Tree Policy yet, but our designers preserved most of the existing trees (more than half of the 430 existing trees and all of the largest ones) while greatly increasing density at New Columbia. (From 400 units in the old Columbia Villa to 852 units, 620 of which are affordable.) They showed that increasing density and tree preservation can go hand in hand. DESIGN MATTERS!

I'm also a Council Member of Tryon Creek Watershed Council (TCWC) and a Crew Leader for Friends of Trees—both of which you have already heard from today.

I agree with Audubon's recommended thresholds and on their stress on the importance of NATIVE TREES as habitat. And also with that of TCWC's similar stress on natives and its further suggestion of leaving snags as habitat as well.

I agree with Bonnie McKnight on the importance of the process that has taken place to get us to this point and would like to recognize her in helping it along the way through involving her Citywide Land Use Group—in which I occasionally participate. Unlike most in that group, I have chosen to live downtown and I support dense infill. As an environmentalist I do not want to be part of a group that uses environmental protection to support its NIMBYISM. So, I watched carefully for this tendency in Bonnie's group of neighborhood Land Use Chairs. I felt this process helped them to overcome such attitudes in fact.

I agree with Barbara Quinn re: the importance of trees in promoting a walkable environment so that people will be more encouraged to "Shop Local!" I'd like to take that one step further to "Plant Local!" and put even more emphasis on native trees.

My one new recommendation would be to even more strongly stress the importance of NATIVE TREES in the new Tree Manual and any other educational material. I would also like to more emphasis on natives as street trees. In the interest of time, I will refer you to my blog for Sustainable Industries at http://blog.sustainableindustries.com/category/built-environment/ for my reasons for why I say GO NATIVE!

Mary Vogel, CNU-A
PlanGreen
Putting Ecosystem Services into Excellent Urban Design
A Woman Business Enterprise in Oregon

503-245-7858
mary@plangreen.net
http://www.plangreen.net

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T.48

(9)

March 28, 2010

Richard Weber
3820 NE Wistaria Drive
Portland, Oregon 97212

Portland Planning Commission and the Urban Forestry Commission
1900 SW Fourth
Suite 7100
Portland, Oregon 97201

RE: Citywide Tree Policy Review and Regulatory Reform Project

Dear Commission Members,

I would like to express my support for the adoption of measures within the proposed Title 11 Tree Code to preserve existing tree canopy within the Portland metropolitan area on both public and private land, especially in those cases when the land is subject to "development." In my own NE Portland neighborhood I have personally witnessed the unnecessary removal of majestic, mature conifers to make way for the construction of perfectly monstrous and hideous houses that neither respect the neighborhood architecture nor display any sensitivity to harmonize with the surrounding environment. The individuals responsible for this are interested solely in constructing the largest possible edifice and to then to quickly sell them (if they are lucky—many times these houses sit vacant for want of buyers). The developers have no vested interest in beauty, wildlife habitat or the long term livability of our neighborhoods. As such, I particularly urge you to:

- Require a permit with a neighborhood comment and review phase for the removal of any tree greater than 6" in diameter on public or private property. The current proposal of 12" is not adequate, as many existing trees may never survive the axe and get the chance to become large trees in this scenario.

- Require that all new construction incorporate, whenever possible, existing trees on the site into the plan. Priority should be given to the preservation of healthy trees, not to the construction of the largest possible structure.

Large, mature trees take generations to grow and mature, yet they can be removed today arbitrarily and without public review. For Portland to significantly increase our urban canopy, I urge you to include these requirements in the proposed Tree Code.

Thank you for your consideration of these comments.

Sincerely,

Richard Weber

T.49

Emerald Tree

March 24, 2010
The Art and Science of Tree Care

RECEIVED
PLANNING BUREAU
2010 APR -2 P 4:21

Concerning The Citywide Tree Policy Review and Regulatory Improvement Project Stakeholder Discussion Group (SDG)

I'm Jim Wentworth-Plato. I participated as an arborist on the SDG. I've been working with trees in the Portland and surrounding areas since the mid 90's and have achieved the Board Certified Master Arborist accreditation from the International Society of Arboriculture (ISA) and I'm a Certified Tree Risk Assessor. I operate a small business caring for our urban forest through planting, pruning for health and longevity, and removing trees when the need arises. I talk with homeowners on a daily basis about their tree concerns and needs.

The proposals in the Review and draft amendments are not focused only on increasing canopy cover in our city, but increasing clarity and communication of regulations concerning trees. I strongly support the creation of a tree manual as a resource for home and business owners, developers, and arborists. There are many resources for identification, choosing, planting, and pruning trees on the web, but it's currently difficult for the average Portlander to find rules regarding what they can and can't do to trees. It's unfair to hold people accountable for what they don't know. A contact person at the city to answer questions, handle complaints, and document violations will create goodwill and allow the city to respond to problems in a timely fashion.

The stated goals of the city are to increase canopy cover from 26 to 33 percent. Another goal of the city is infill instead of sprawl. There is a lot of friction in this debate. I support both goals, but I'm witnessing a shrinking and decline of our urban forest and livability. Smaller lot sizes don't leave room for a large canopy tree and a building. In these areas, the city may want to consider additional mini-parks or groves of trees on a single sacrificial property, so the building density can be higher on surrounding properties and still allow enough space for mature trees.

As an arborist in Portland, I've seen many violations by home owners, developers, landscapers, and people calling themselves arborists. I've forwarded phone calls from clients concerned about what their neighbors are doing or a construction project that they just don't think is right and I appreciate the assistance of Urban Forestry. There are two types of violators, the ignorant, and the ones taking a calculated risk.

P.O. Box 12591 • Portland, OR 97212 • www.emeraldtree.net • 503.310.5046 • CCB# 141020

T.50

We can educate and provide resources for the uninformed to do things properly, but the people betting they won't get caught won't follow improved codes either. The biggest problem with poor tree care is that one bad pruning can destroy 100 years of good pruning and the tree. Another problem is that root damage from construction, grade changes, and compaction, rarely manifest for 3-5 years from the time of injury. It behooves us to enforce preservation now to avoid larger problems later. How? There should be a posted sign for concerned citizens to report illegal behavior near the perimeter of construction sites. That number would get you to a person at the city with the ability to address violations in a timely manner and will reduce repeat offenses.

While I applaud the work done to refine, clarify, and consolidate the tree codes, I have a few specific concerns.

- Removal permits for trees over 12" is too large. I understand the problem of staffing site visits, but many trees, particularly the trees that mature to a smaller height, may take 10 years to get to that size. I recommend 8-10" because many seeded trees grow quickly to 4" and many ornamental trees take quite a while to get to large diameters. Nuisance trees should be exempt.
- Removal should have an emergency permit allowed with photos.
- Replanting should be allowed any time, but encouraged to be done in the wet months, instead of the 30 day timeframe.
- I encourage you to consider requiring businesses that get licensed for tree work in the city to have certified arborists on every job site. The ISA has a widely accepted program for certification.
- There are many trees in the city that are under protection of tree preservation but few arborists or homeowners know if the tree they are working on is on a plan. There needs to be an easy way to access this database if you want compliance. Perhaps putting it on Portlandmaps.com?

Thank you for taking the time to review my concerns.

Sincerely,
Jim Wentworth-Plato
BCMA #PN-1314B
Emerald Tree

Written Testimony Submitted for PC / UFC hearing on Citywide Tree Project

Submitted for 4/27/10 record

	Name	Organization	Date
51	Scarlett, Paul	BDS	4/26/10
52	BES Tree Code Option		4/27/10
53	Colasurdo, Christine		4/13/10
54	Nielson, David	Homebuilders Association	4/27/10
55	Wright, Tom	Group Mackenzie	4/12/10
56	Schifsky, Greg		4/27/10

Office of the Director
City of Portland, Oregon - Bureau of Development Services
1900 SW 4th Avenue, Suite 5000 • Portland, Oregon 97201
503-823-7308 • Fax 503-823-7250 • TTY 503-823-6868 • www.portlandonline.com/bds

MEMO

Date: April 26, 2010

To: Portland Planning Commission
Portland Urban Forestry Commission

From: Paul L. Scarlett, Director
Bureau of Development Services PLS

CC: Susan Anderson, Paul Scarlett, Zari Santner, Dean Marriott, Joe Zehnder, Roberta Jortner, David McAllister, Stephanie Beckman, Morgan Tracy, Mary Wahl, Rebecca Esau, Ross Caron, Ty Kovatch, Mike Liefeld, Douglas Hardy, Kimberly Tallant, Kim Freeman, Rob Crouch, Kathleen Murrin, Frank Krawczyk

SUBJECT: Citywide Tree Project - February 2010 Proposed Draft

BDS is fully supportive of the goal to increase tree canopy in the City of Portland. The regulations that are written to achieve this goal need to be simple, clear, user-friendly, and cost-effective.

Mayor Adams met with Bureau Directors and the City's Labor leaders on April 15, 2010, and discussed the City's financial situation. The City is in a very challenging time financially and many bureaus will need to cut staff and programs. There will be no General Fund money to fund new tree regulations or the positions necessary to administer them.

When you consider the Citywide Tree Proposal, it is important for you to have a realistic picture of the financial and staffing situation at BDS. Our bureau is largely reliant on fee revenue from permit applications, and we receive very little General Fund support. The recession has resulted in a decrease in large, high-value development projects in the City. We still have a lot of development projects to review, permit, and inspect, but the projects are smaller, with lower valuation and, hence, produce less revenue.

Due to our financial situation, we had to make the difficult decision to layoff staff last year to balance the budget. We reduced our staffing levels by about half, from about 315 employees to only 160 employees.

The reductions in staff have resulted in serious impacts to our ability to provide services to the public. For example, we closed the Development Services Center (DSC) on Mondays, to allow staff time to work on Building Permit Plan Reviews and we are unable to comply with the deadlines set in the Zoning Code for Land Use Reviews.

Adding new regulations without a funding source will only worsen the situation, and is simply unacceptable. Given our financial situation and reduced staffing levels, BDS is not in a position to take on any new regulation or task that will add cost or complexity to the bureau's service delivery. It is necessary to either:

- Focus on a cost-neutral approach now - Find small, incremental code improvements that we can move forward with now to achieve project goals, that won't add cost; or
- Focus on a regulatory package that is simpler than the proposed regulations, but that goes further than small, incremental code improvements, but set the effective date to coincide with when General Fund money is available to fund the program. This is a difficult option because we don't know how many years it will be until General Fund money will be available, so we don't recommend it.

Delaying the effective date is not enough without radically simplifying the regulations. The regulations are overly complicated and too expensive to administer, even in the best of financial times. An example of the complexity of the regulations is the number of variables to consider, such as the category the tree is in, the size and species thresholds, the condition of the tree, the types of permits, and the different procedures.

It is not realistic to assume that the proposed tree regulations can ever be completely supported by Tree Permit fee revenue alone. If the program were completely funded by fee revenue, the fees would be too high and would act as a disincentive for getting the required Tree Permits. For example, if a person wanted to cut a tree down on a site that was already developed, the Tree Permit fee (if it was set to cover the actual cost of the services associated with the tree program) would be approximately $1,300. The fees would need to be set to cover the whole tree program, including staff time spent explaining regulations to the public, site visits, inspections, following up on complaints about non-compliance, etc. The reality is that the costs to administer tree regulations will require a subsidy from either the General Fund or some other source, on an ongoing basis.

The Bureau of Development Services recommends the following:

- Focus on a cost-neutral approach now - Find small, incremental code improvements that we can move forward with to achieve project goals, that won't add cost. Then ask BPS to monitor these changes, and return in several years with Phase II to make further improvements.

Again, we are supportive of the goals to consolidate and streamline the City's existing tree regulations, and to find very simple, cost-neutral ways to increase tree canopy. While everyone loves trees, and wants trees to be protected and more trees to be planted, there is a cost associated with this goal. It is necessary to limit the City's regulatory changes to cost-neutral solutions that will result in incremental improvements, and to think long-term with an emphasis on tree planting. We ask that you think of this project as a first phase, and then in several years, the City can assess the tree canopy situation again, and make more incremental changes as needed.

Thank you for your consideration. My staff and I are committed to continuing to work with you and all stakeholders as we collectively develop a simpler, cost-neutral approach that will achieve incremental improvements to the City's urban forest.

— CITY OF PORTLAND —
ENVIRONMENTAL SERVICES
1120 SW Fifth Avenue, Room 1000, Portland, Oregon 97204 ▪ Dan Saltzman, Commissioner ▪ Dean Marriott, Director

BES Tree Code Option

April 27, 2010 Draft

March 22 Memo to PC/UFC

Support

- Uniform permit – for simplicity and consistency, no residential exemption
- Tree regulation trigger size of 12" DBH – opposition to triggers at or greater than 20"
- Public capital projects and public works permit flexibility in consultation with Urban Forester (via programmatic permit)
- Tree density and preservation standards
- Proposal to balance nuisance tree removal and replacement with non-nuisance

Requested modifications

- Revisit use of significant tree list (18 trees) in environmental and land division reviews
- More grove protection – 12' trees and understory
- Tree for tree mitigation of street improvement projects – no exemptions

Continuing Issues

1. **Need for a tree hierarchy as part of preservation standard.** The public draft is written in a way that it could be interpreted as a hierarchy, but is actually a menu of options (i.e. preserve, plant, or pay) reliant on incentives to create the preservation preference. BES advocates a code or administrative rule specifying a hierarchy of preservation first to the degree possible, requiring movement of structure footprints around the site (as allowed by current codes) to avoid tree root protection zones. The next option would be mitigation on-site, on street frontages, or off-site. Last would be payment in lieu of preservation or mitigation.
2. **Offsite mitigation "in-lieu of" fees appropriate to development types.** Development proposals and those absent development, and homeowners and commercial business applicants must be sized to instigate appropriate mitigation. A two- or three-tiered in-lieu of mitigation fee system, providing credit for meeting part of the 35% preservation standard, is needed to reflect the economics of the various scenarios.
3. **Limited priority tree list** – The currently proposed priority tree list used to determine which trees due to their slow growing nature should be protected down to 6 inches in diameter only contains oaks and madrones. A broader list is needed to reflect the diversity of smaller, native trees.
4. **Implementation costs for comprehensive City inspections.** Urban Forestry (UF) inspection of every tree site is expensive and is likely to duplicate contractor and arborist services already required and available for property owners. UF's expertise should be reserved for the most important and technically complicated cases. The City should establish a program of landscape contractors certifying code compliance on the simplest permits, arborists certify the next tier, and Urban Forestry reviews of the largest/most sensitive trees and all appeals. UF spot checking would guarantee the validity of professional certifications.
5. **Need for additional public comment and involvement.** Changes to the options now under consideration warrant additional public review and opportunity for public comment.

T.52

BES Option

The BES option modifies a recent BPS simplification proposal. In general the BES option incorporates the following changes:

1. **Institute a preservation hierarchy for development situations**. Require consideration of changes in building footprint location, and encourage alternative designs and construction practices for tree preservation. See table on the next page and flow chart on last page.
2. **Develop a tiered offsite in lieu of fee**. The goal is to favor onsite tree preservation, or on-site mitigation where preservation isn't possible. To support that goal two tiers of in-lieu fee are suggested: Tier one ($600 per tree, to be determined) matches the current residential non-development fees, and applies when there is onsite tree preservation less than the 35% standard. Tier two would apply where less than half the 35% standard can be met, doubling the tier one fee. Development proposals would have a significant incentive to preserve trees on-site.
3. **Add review of a more comprehensive priority tree list.** Discuss modification of the existing 18 significant trees list and adding groves criteria for application during resource-related (E-zone, Greenway, Pleasant Valley, etc) and land division reviews.
4. **Use self-certification to reduce Urban Forestry inspection costs to the City.** Self-certification would rely on landscape contractors to confirm type A permit information, arborists to assess type B permits, and Urban Forestry staff to concentrate on inspection for Type C permit, appeals and spot checks of A & B permits.
5. **Use Neighborhood Tree Stewards (NTS) to provide education, referrals and compliance checks.** The City could identify the local tree steward on A and B permits to make them available to identify information and help property owners choose the right tree for the right place. These educated neighborhood advocates can help meet the "face to face" discussion need highlighted by Forestry without the cost of a Forestry site visit. NTS already see themselves as auditors of tree cutting.

BES Option Summary

Main Activity in BPS Proposal (4/9/10)	BES Modification	Cost Effect*	Canopy Effect**
LAND USE REVIEW			
Tree preservation criteria applied in LU reviews	Add significant tree list (18 trees) to review for E-zone and other resource-related areas	+ 127 hours [1]	NO CHANGE
DEVELOPMENT SITUATIONS			
Tree Preservation Standard	Hierarchy requires consideration of alternative site layouts, and requiring first preservation, then mitigation, and finally payment in-lieu.	+ 4,114 hours [2]	A 40% increase adding 17 acres. [3]
Tree Density	NO CHANGE		
Property Line Trees			
E-zones			
Capital Projects			
TREES IN NON DEVELOMENT			
Uniform Permit	Use Self Certification for UF inspections. NTS provides education.	- 9,886 hours [4]	NO CHANGE
Pruning permit	NO CHANGE		
Programmatic Permit			
Requirements for Dead Dying , Dangerous	Place detailed criteria in Admin Rule		
CUSTOMER SERVICE IMPROVEMENTS			
Single Point of Contact	NO CHANGE		
After Hours Response Line	Notification of NTS on permits, reduces some calls.	- 42 hours [5]	NO CHANGE
Community Tree Manual	Use internal staff resources over a year long process with limited edit budget (10k) Scope still in discussion.	- $100,000 to 200,000	
Permit Tracking System	Include NTS and NAs in permit approval notices.	+ 508 hours [5]	
Neighborhood Tree Plans	NO CHANGE		

* Costs estimated based on February 26, 2010 spreadsheet numbers.

** Canopy changes based on April 9, 2010 Canopy benefit chart.

[1] Assume 0.5 hours added per review case for LD and Tree reviews. 242 LD cases + 14 Tree Review cases = 254 x 0.5 hours = 127 hours

[2] Start with 4,841 cases with 0.25 hours added for additional initial review = 1,210.25 hours. Assume conservative 40% expected to need redesign at 1.5 hours for each case to coordinate needs for redesign and re-submittal of revised plan. 1,936 cases x 1.5 hours = 2,904 hours.

[3] Start with 4,841 cases which preserve 44 acres or 0.0091 acres of tree per case. BES assumes that represents likely 10% of cases who choose to retain site trees (assume 90% pay full off site mitigation). BES proposal requires 40% of sites to do redesign (1,936 cases which would save an additional 17.6 acres or a 40% increase in acreage.

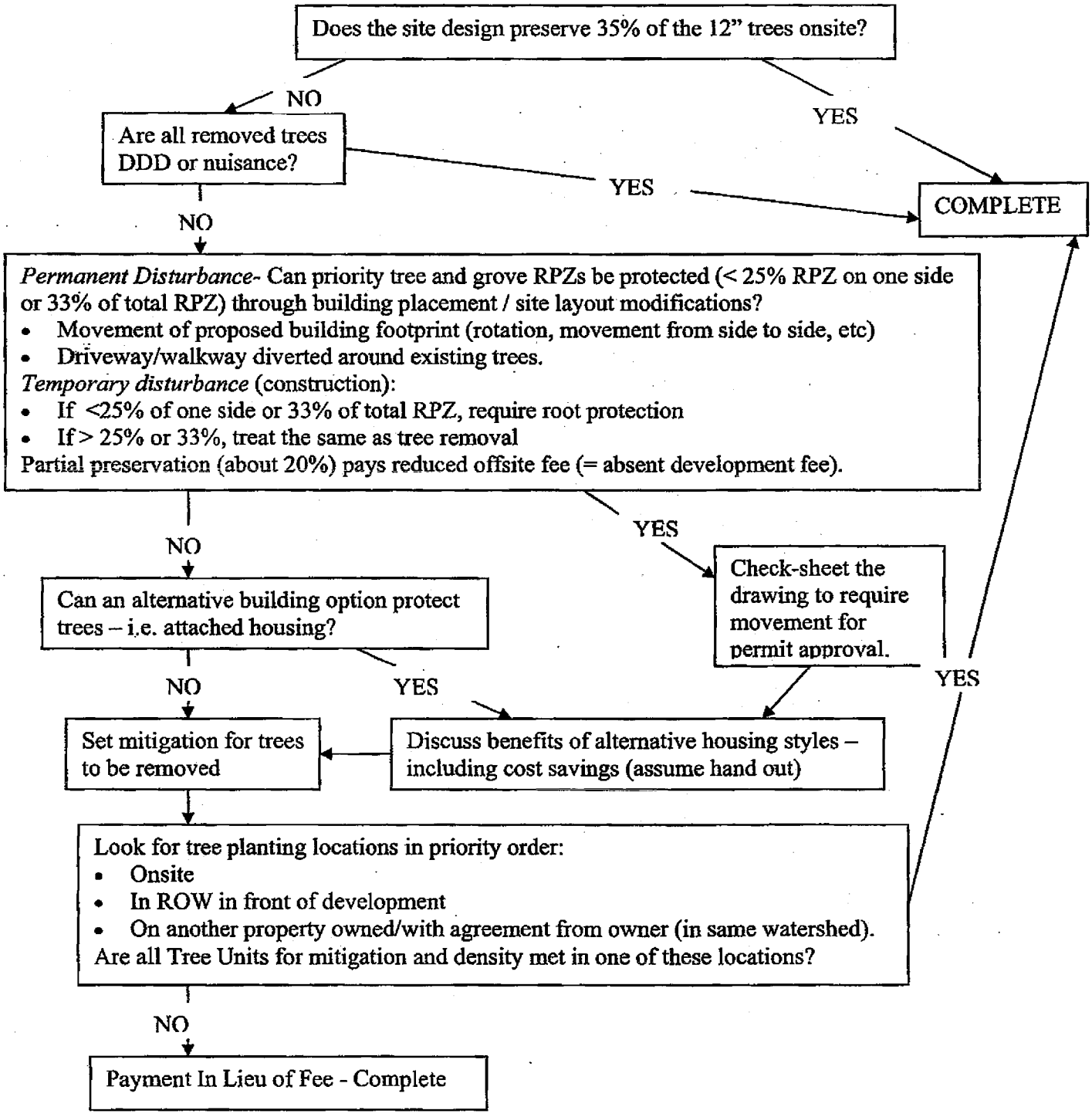
[4] Self cert assumes landscape contractor for type A permits, certified arborist for type B permits and UF for type C permits Keep UF on 40% check of LU and 10% check of Building and absent development permits and on appeals processing (the largest time load predicted). For absent development look to 12" uniform permit summary and pull out DDDs (66+123 = 189) that could be subject to professional determinations (this does not account for healthy nuisance trees). These trees could be permitted under and online applications with professional certification. Form spreadsheet assume 242 LU+68 CU/DZ+ 224 AD+ 34 EN/GW cases = 568 cases total (keep UF on TR cases). Assume 60% inspection savings or 341 cases. Use 4,841 building permits assume 90% time savings = 4357 cases. Add in 90% time savings for absent development DDD cases and type B cases (not DDD) of 83 cases = 245 cases saved. Add all cases that could be professional certifications: 341+4,357+245 = 4,943. Use UF 2 hours per site visit and assume one site visit per case = 9,886 hours saved.

[5] Assume main work in on building permit and A & B absent development cases. There are 4,841 building permit cases and 236 A & B permits absent development. Assume 0.10 hours per cases to add Neighborhood Tree Stewards (NTS) info to permit approvals and to send e-mails to NTS & NA groups = 508 hours. BES original cost estimate for hotline responses assumed 33% of cases general a call or 167 calls. Assume calls need at 0.5 hours each = 83.5 hours. Assume NTS reduce those calls by half – saving 41.75 hours.

EXAMPLE TREE DECISION HIERARCHY

April 27, 2010 Draft

Looking at 35% preservation standard:



Determining Compliance with the 35% Standard

Projects shall be deemed in compliance if:

- The root protection zones of 35% of the 12" or priority trees are completely outside of the building coverage footprints; if not then
- The building foot prints only encroaches into less than 33% of the total RPZ for any 12" or priority tree – confirmed by arborist visit; if not then
- The building foot prints only encroaches into less than 25% of the RPZ for a single side of any 12" or priority tree confirmed by arborist visit; if not then
- Preserves to maximum extent practicable (MEP) 12" and priority trees present on site (less than 35% standard) and mitigates for the remaining tree preservation load.

Determining Preservation to Maximum Extent Practicable

Staff shall determine whether a site design has preserved to MEP based on the following:

- Site ***has utilized all*** applicable flexible design standards allowed in the zoning and Tree Code (assume Title 33 issues would already be in a review situation):
  - Move sidewalk or street around trees in proposed ROW.
  - Lengthen pedestrian connections
  - Preserved trees (in clumps or rows) within ultimate required landscaping, buffer or screening areas.
  - Moved required outdoor area in front of the building.
  - Reduction to required parking.
- Site changes ***will not trigger***:
  - Any change requiring an adjustment, most common to avoid:
    - Encroachment into setbacks
    - Front door placement relative to street
    - Building wall window coverage
    - Building / wall height – from pushing a building to a steeper sloped portion of the lot.
  - Movement into a steep sloped area (>20%). If already in a steep slope area, modification can be made.
  - Significant increase in the amount/cost or extent of foundation work – not sure how to get at this.
  - Problems with vehicle egress to or from property – i.e. not remove requested turn around area.

Process

1. Applicant submits plan for review
2. City staff reviews to see if 35% standard met (already in assumed costs)
3. If 35% not met, reviewer evaluates use of flexibility standards and avoidance of adjustments/slopes/etc. Assume add 30 min per case.
4. If potential to relocate or modify building design (guess at 40% of sites), then check sheet back to applicant. Assume 1.5 hours to work with applicant for re-submittal.
5. Applicant resubmits a plan that can be approved.

Hamilton, Joan

From: Christine Colasurdo [c.colasurdo@yahoo.com]
Sent: Tuesday, April 13, 2010 2:22 PM
To: Planning Commission
Subject: Portland trees

Hello Portland Planning Commission:

I couldn't make the hearing today but wanted the commission to know that as a resident of Portland I strongly support a new, improved, and stronger plan for Portland's trees. I strongly support regulations that would require a permit for removing trees 12 inches or larger in diameter on private property regardless of the lot's location or size. In just the last two years I have witnessed 4-5 large trees removed in my neighborhood alone.

I fully support strengthening city regulations so that Portland has an educated citizenry as well as a healthy, large and thriving urban forest.

Thank you.

Sincerely,
Christine Colasurdo
2776 SW Old Orchard Road
Portland, OR 97201

T.53

Home Builders Association
of Metropolitan Portland

APR 27 2010

April 27, 2010

Portland Planning Commission
City of Portland
1900 SW 4th Ave.
Portland, OR 97201

Re: Citywide Tree Policy

In follow up to the testimony HBA provided to the Planning Commission on March 23, we have been working both internally and in meetings with various stakeholders to provide ideas on how to address the issues at hand.

Our belief is that the challenge before the Portland Planning Commission and the Urban Forestry Commission is to consolidate the existing tree regulations into a cohesive, simple regulatory package and amend the proposed regulations in a way that will result in the ongoing development of a strong tree canopy in Portland while balancing other City goals.

As has been pointed out, the proposed regulations need to be radically simplified. As proposed, they fill up two thick binders. They need to be greatly simplified so that users of these regulations can understand them and to lower administration/implementation costs for the City and property owners. As currently proposed, the costs would be too great to rely solely on fee revenue (or fees would be too high, and would act as a disincentive for people to get permits). The program as proposed would need to be heavily subsidized by the General Fund, and this is not feasible given the City's financial situation.

In addition, we want to reiterate the major concerns we expressed in our letter on March 23, namely:

- Ensuring that a strong tree canopy continues to develop over time is a different goal than simply preserving existing trees. While mature trees have value, our belief is that the policies need to provide more flexibility and focus on the long-term goal – ensuring a healthy tree canopy continues over time.

- Portland's overall tree canopy has not suffered under the existing tree policies. There are very few examples of violations of tree codes by the development/building community over the years. In fact, there are many examples of neighborhoods whose tree canopy was significantly improved (e.g. Eastmoreland and Laurelhurst) as a result of being developed.

- We believe almost no consideration has been given to how these proposed policies would impact several other City and Metro regional goals, including the large amount of housing units anticipated through infill and redevelopment over the next 20-30 years in order to grow more

Home Builders Association of Metro Portland
15555 SW Bangy Rd., Ste. 301
Lake Oswego, OR 97035
503-684-1880 • Fax 503-684-0588

T.54

densely. However, there are other needs and desires that should be considered and that the policies should provide flexibility to achieve. Solar energy impact, insurance requirements, and personal preferences for shade/sun on a lot are all important considerations.

- The policies need to provide clear and objective standards. For example, having a hierarchy (e.g. first option preserve, second option plant, third option pay) means an applicant would have to first show that it was not practicable to preserve a tree, before they could move on to the next step of planting new trees, and then the applicant would have to show it was not practicable to plant the new trees before they could go to the payment option. Land Use law draws a sharp line between standards that are clear and objective, and standards that involve discretion. To require that a tree be preserved if it is "practicable", is discretionary. The reason this is important is that if discretion is used, than a Land Use Review is required. It makes no sense to send every Building Permit application through a Land Use Review to consider if tree preservation was practicable or not. It is critical to keep the standards clear and objective, and not introduce discretion at the Building Permit stage.

As an alternative to the proposed tree regulations, HBA would like to suggest that the City review its current "T1 standard" (33.248.020.H, shown in Addendum to this letter) and consider the following:

1. Currently the T1 standard only applies to new single-dwelling development in single-dwelling zones, multi-dwelling zones, and commercial zones. This is a standard that people can understand, and are familiar with. There were no specific tree regulations before the T1 standard went into effect several years ago. There has been no evidence provided to show that this standard is ineffective, and it can be assumed that the standard has resulted in some increase in tree preservation and tree planting (either on site or through the Tree Fund).

2. Propose that the T1 standard be expanded to apply not just to single-dwelling development but to all "New Development" in Single-dwelling, Multi-Dwelling, and Commercial Zones. ("New Development" is defined in the zoning code as, "Development of a site that was previously unimproved or that has had previously existing buildings demolished.") In other words, it would apply if you were doing a single-dwelling, multi-dwelling, or a commercial development. *There needs to be an exemption for lots that are in zones that allow 100% building coverage, since the City's intent with these lots is that they be fully built out.*

3. Modify the T1 standard to allow any tree planted for code/regulatory reasons on a lot (e.g. street trees, trees for storm water mitigation) to count towards the T1 requirement. This is especially important on small lots (5,000 sq.ft. or less), where preserving/planting trees is extremely difficult already due to building footprint, setback and other considerations.

4. If there is some desire to preserve existing mature trees as an added value to our overall tree canopy, than provide incentives to accomplish this. One suggestion would be to provide a credit towards a stormwater SDC or fees for any trees beyond a certain diameter that are preserved on an existing lot.

The advantages of modifying/adapting the "T1 standard" are several. The standard is simple to explain, and easy to understand, and contains clear and objective standards. It provides certainty to property

owners about what their options are, while at the same time provides the flexibility needed for different situations, while keeping the costs of administration down. We would have an increase in preservation of trees, tree planting, and payment into the Tree Fund simply by expanding these requirements to apply to more situations.

One last comment. Our understanding is that the policies as currently proposed would require the City to spend between $1.5-$2.0 million annually to administer. There are organizations out there (e.g. Friends of Trees) that could help coordinate neighborhood tree plantings and really encourage certain areas with lower tree canopies to plant and develop trees. The City could likely achieve far greater success in enhancing tree canopies in existing neighborhoods if it just took one-third of the proposed budget and put that towards the purchase of trees for neighborhoods to use as part of these efforts. This would be much simpler, require less money, and would achieve a far greater benefit than simply adding to the administration layers within City departments.

Respectfully,



David Nielsen
Chief Executive Officer

ADDENDUM

Existing Zoning Code Language commonly known as "the T1 standard" (Zoning Code Section 33.248.020)

H. T1, trees.

1. Intent. The T1 standard is a tree requirement for new residential development. It encourages the retention of trees, minimizes the impact of tree loss during development, and ensures a sustained tree canopy in Portland.

2. Tree requirement. This requirement may be met using any of the three options below. The applicant may choose to meet one or more of these options. Adjustments to this Subsection are prohibited. The options are:

   a. Tree preservation. At least 2 inches of existing tree diameter per 1,000 square feet of site area must be preserved. On lots that are 3,000 square feet or smaller, at least 3 inches of existing tree diameter must be preserved per lot. This standard may be met using trees on the lot and within 5 feet of the edges of the lot. Trees within public and private rights-of-way may not be used to meet this standard. When this option is used, a tree preservation plan is required.

   b. Tree planting. At least 2 inches of tree diameter per 1,000 square feet of site area must be planted. On lots that are 3,000 square feet or smaller, at least 3 inches of tree diameter must be planted per lot.

   c. Tree Fund. This option may be used where site characteristics or construction preferences do not support the preservation or planting options.

      (1) Fund use and administration. The Tree Fund fee is collected by the Bureau of Development Services and is administered by the Urban Forestry Division of the Bureau of Parks and Recreation. The funds collected will be used to plant trees on public or private property in the same watershed as the site.

      (2) Calculation of required fund contributions. Applicants must contribute the cost to purchase and plant trees, as set out in (3), below. The cost to purchase and plant trees will be adjusted annually as determined by the Urban Forester based on current market prices per inch for materials, labor, and maintenance.

      (3) Required fund contribution. The applicant must contribute the following to the Tree Fund before a building permit will be issued:

      - For lots with 3,000 square feet or more of area, the cost to purchase and plant at least 2 inches of tree diameter per 1,000 square feet of site area; or

      - For lots with less that 3,000 square feet of area, the cost to purchase and plant at least 3 inches of tree diameter per lot.

GROUP MACKENZIE
CELEBRATING 50 YEARS

RiverEast Center | 1515 SE Water Avenue, Suite 100 | Portland, OR 97214
P.O. Box 14310 | Portland, OR 97293
Tel: 503.224.9560 Web: www.grpmack.com Fax: 503.228.1285

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Seattle, Washington
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April 12, 2010

City of Portland
Attention: Planning Commissioners
Portland Planning Commission/Urban Forestry Commission
1900 SW 4th Avenue, Suite 7100
Portland, OR 97201

Re: **Comments on Proposed City-wide Tree Policy and Regulatory Improvement Project**

Dear Commissioners:

Thank you for the opportunity to provide comments on this process. We had the opportunity to be apart of the stakeholder sessions in which staff presented and discussed several tree-related issues. We would like to offer the following comments on the proposed code to address tree protection/preservation. While the following is not an exhaustive list, we thought it would be important to highlight some of the issues for your consideration.

Our comments are mainly focused on impacts related to properties and users of industrial or employment zoning designations as these users have unique development characteristics which are relatively inflexible.

Although we support tree protection/preservation, we believe the proposed code language has the potential for significant impact to not only existing and future users, but also to BDS staff when they attempt to implement the proposed regulations. Since a new code title and amendments to several other titles are proposed (over 500 pages not including appendices), it is imperative that code language is closely examined by the reviewers and the users to ensure it is properly interfaced and does not result in unanticipated regulatory constraints/conflicts.

In addition, the Project Overview in Volume 1 (Chapter 1) mentions possible future measures to make, "…tree related information and regulations more user-friendly…" and one of the recommendations is a, "…new Community Tree Manual." With the extent, detail, and complexity of this proposed code language, we question why the tree manual concept was not part of the current program. A tree manual approach, similar to a stormwater manual, would help to provide much more flexibility and best management practices that cannot be accomplished by a rigid zoning code that is subject to strict land use review procedures. If funding is not currently available to implement the tree manual, it seems a possible result is non-user friendly regulations until the funding is in place. Our concern is that the City cannot contemplate enough code to address the numerous situations that arise with trees. With the amount of code changes currently proposed, it seems less code combined with a tree manual and best management practices is a more appropriate approach for tree protection/preservation. It is our assumption the City of Portland would want to be perceived as having the most advanced/creative code rather than the most lengthy.

With many private and public agencies facing limited staff resources and a relatively short period to review this public draft, we feel additional public review time is necessary to ensure unnecessary regulatory reviews and/or requirements do not occur that would add to the economic difficulties facing new development. There appears to be numerous potential situations where trees would need to be

evaluated and it is difficult for us to identify all situations without thorough review of the draft code, review with City staff, and, preferably, input from development and environmental professionals. Therefore, we request consideration of an extended public review period to solicit public input/comments followed by another public hearing before this joint commission prior to the Commission making recommendations. In the event this request for additional review time is not granted, we have provided a preliminary summary of our comments (outlined by proposed code section) below.

I. PROPOSED TITLE 11 CODE COMMENTS

1. Proposed Code: Introduction (Table 1)

"Private Trees" and "Development Trees"

Comment: Although it appears this is explained in more detail in later sections, the difference between "Private Trees" and "Development Trees" may result in confusion, since most trees involved with development will be on private property. In addition, there is no definition of just "Development" (e.g., "…when specific types of development are proposed") in Title 11.

2. Proposed Code: Introduction (Table 2)

Comment: This chart is helpful, but the difference between "Other Activity" and "Development" is unclear. Also, "Development" is not defined, and it is not clear how development applies to "Street" and "Resource." It is not clear if this means that in addition to environmental review required for disturbance in an e-zone, for example, that a tree permit review will also be required. A possibility would be to indicate on this chart what type of tree permit (i.e., A, B, or C) is required for each activity/location.

3. Proposed Code: 11.100.030 Code Administration and Duties Performed

"This Title is primarily implemented by two City officials; the City Forester and the Bureau of Development Services (BDS) Director. The City Forester is responsible for Street Tree development requirements and administering the rules affecting other trees when not associated with a development project. The BDS Director is responsible for ensuring compliance with Title 33 overlay and plan district requirements as part of the tree permitting program, and land use and development approval requirements as part of the development process. In addition to the City Forester and BDS Director, the City Engineer has a role as further described below in the resolution of infrastructure conflicts within the public rights of way and city-owned easements."

Comment: This section exemplifies the concern we have regarding the complexity of the code and how (and by whom) the review of tree applications will occur. This section indicates the City Forester and BDS Director will oversee these regulations, which results in oversight by two separate bureaus. In addition, the City Engineer, who is in a separate bureau (PBOT), is also involved when trees are in rights of way and public easements. In addition, the bureau responsible for preparing this code is a separate bureau (BPS), which is not a reviewing agency.

4. Proposed Code: 11.100.040 (1-3) Hierarchy of Regulations (D. Relationship to Title 33, Planning and Zoning)

Comment: We are not aware of another situation in City code where two titles (i.e., 11 and 33) are so closely referenced and connected. We are concerned there will be conflicts between the two titles and this will complicate review/implementation.

5. Proposed Code: 11.100.090 Tree Planting and Preservation Fund

"B. Calculating the in-lieu fee rate. The fee in lieu of planting or preservation will be calculated to fully cover the cost of planting a new tree. Such cost includes materials and labor necessary to plant and maintain the tree through a two year establishment period. This cost will be reviewed annually based on current market prices per inch for materials, labor, and maintenance, and compared to costs paid for planting trees in the previous year. The required payment will be set forth in the City's adopted fee schedules."

Comment: Since maximum flexibility is needed for projects in industrial/employment zones, this code section is critical since it is likely that payment of an in-lieu fee will be necessary in many instances. Therefore, the amount of fee is a primary factor, and our concern is the fee will be established at a high rate to discourage using a fee in-lieu option. As an example, the rate once utilized by the City for fee in-lieu for trail construction in the Columbia South Shore project was significantly higher than the actual cost if installed by a private party. A process for establishing a fair in-lieu rate is critical to the success of this option, and the success of development in employment/industrial zones where trees are involved. Lastly, a process that establishes public oversight (e.g., by Urban Forestry Commission) for a priority/timeline for spending the funds is critical.

6. Proposed Code: Chapter 11.300 Permit Procedures

Comment: We are very concerned about the additional cost and time associated with obtaining permits for the numerous development projects, as well as the on-going maintenance that occurs on Port property. We strongly recommend a streamlined permit process be established for large property owners such as the Port. This streamline permit process could be similar to the City's popular Facilities Permit Program, and could allow those property owners to apply under a separate streamlined review process (and private utility providers, etc.), particularly those who include trained staff and face on-going tree-related issues. Possibly, this streamlined facility-type permit could be addressed through an expanded "programmatic permit" as provided in Section 11.300.070 for public agencies.

We are also very concerned that the timeline for a decision for Type A, B, and C permits is not specified. The commentary in this section indicates, "...the implementing Bureaus have expressed concern having these timelines in code," yet appeals of such decisions must be filed within 14 days. It is not sufficient to indicate in the commentary, for example, that "Type A permits are intended to be processed quickly,..." As indicated above, it is not clear what measures are in place to ensure the three bureaus involved in tree reviews can actually process simple permits in a timely manner.

Lastly, it is also unclear how current agreements with the City regarding special planting standards in/near the airport will be affected by this proposed code.

7. Proposed Code: Chapter 11.600 (Table 600-1) Applicability of Tree Standards in Development

Comment: The threshold of $25,000 for additions and alterations is not realistic (i.e., too low). It is quite possible the requirement to plant trees could approach the cost of the minimum threshold in the code (i.e., $25,000), depending on the amount of street frontage, need for tree wells, etc. It is also unclear why protection and preservation standards apply to every permit type, regardless of whether the requested permit was for interior alterations or zoning permits, for example, that do not result in site disturbance.

8. Proposed Code: Chapter 11.600 Trees In Development Situations (Exemptions)

"D. Emergency Tree Pruning or Removal"

Comment: It is unclear why emergency tree pruning is listed under exemptions in the Trees in Development Situations section.

9. Proposed Code: Chapter 11.600.050 Tree Plan Submittal Requirements

Comment: The detail required for a tree plan submittal, which is required for all development permits, seems excessive considering some permits may not include exterior work. It is likely the level of detail requested for a tree plan could not be prepared accurately unless a topographic survey is accomplished, which may not be warranted. Once again, there should be a reasonable approach to requiring tree plans and review for projects that may not include work that impacts trees.

10. Proposed Code: 11.600.060 (A-3) Tree Preservation Standards, and Table 600-6 Tree Density Standards for site and street trees

Comment: We are very concerned with the Replacement Tree Specifications, and particularly, the standards of Table 600-6. This table requires one site tree unit per 1,000 SF of "development impact area" or 15% of site area. Typically, industrial development (which we assume also includes employment uses) would result in disturbance of 85% or more of the site, depending on how much grading is required to provide a suitable building pad. We do not understand the relationship of this tree replacement requirement to the number of trees that are impacted. For example, it appears if one tree or 50 trees are being removed, that the one per 1,000 SF standard applies based on 15% of site area, or the amount of development impact area. Therefore, regardless of the number of trees removed, for a five-acre site, it is likely 33 tree units could be required to be provided, which appears to be in addition to trees already required for parking lots and perimeter landscaping. Using the City's figure of $300 per 1/3 tree unit, this would result in $29,700 replacement cost for removal of only one tree on the site.

Regarding street trees, for example, we will use a $25,000 interior alteration on a five-acre site with a 450 LF street frontage (assuming no corner lot). This example could result in planting of 18 street trees. Assuming $500 per tree, this could result in a $9,000 street tree requirement for a $25,000 project (in addition to other permit costs).

As a general comment, this chapter appears to include code that is difficult to understand and does not appear to have a clear relationship between tree removal and replacement. The commentary is not clear on how these limitations (i.e., 15%, one unit per 1,000 SF, etc.) were established. Lastly, the reference to 11.600.060.A.2.c in the footnotes of Table 600-6 appears to be an error.

11. Proposed Code: Chapter 11.800 General Terms

Comment: We have concerns regarding definitions for "Development Impact Area" as it relates to industrial/employment uses, as frequently an entire site may be disturbed to accommodate a project (except for resource areas). This is due to the need for flat areas for industrial buildings, and the grading and filling that must occur. We question that this definition is necessary as it relates to tree replacement, but may be useful if only a portion of an undeveloped site is proposed for development.

We are also concerned with how a "grove" will be determined, since the definition includes terms such as, "...that form a generally continuous canopy over a non-linear area, or where tree spacing is generally characteristic of that species or species assemblage."

II. PROPOSED TITLE 33 CODE AMENDMENTS

1. Proposed Code: 33.140.240 (B-1-A-1) Pedestrian Standards

"Where a Priority Tree proposed for preservation, or its root protection zone, is within the straight line path, the path may meander to avoid the tree or root protection zone and may be up to 150 percent of the straight line distance."

Comment: Although the application of pedestrian standards is limited within Port property, we feel an increase of only 30% to meander around a tree/root zone is not adequate. We recommend at least 50% (i.e., total 200%) to allow adequate flexibility to accommodate trees.

2. Proposed Code: 33.248.030 (D-1) Plant Materials

"Existing vegetation. Existing vegetation except those plants on the Nuisance Plants List may be used to meet the standards, if protected and maintained during the construction phase of the development. as specified in Section 33.248.065. If existing trees are counted as follows: used, a. Each tree between 1.5 inches and 6 inches in diameter counts as ½ tree unit; b. Each tree greater than 6 inches up to 12 inches diameter counts as 1 tree unit; c. Each tree greater than 12 inches up to 20 inches counts as 2 tree units; and d. Each tree greater than 20 inches diameter counts as 3 tree units."

Comment: It is unclear how existing trees required by City code for previously developed parking lots, etc. will be counted for non-conforming upgrade requirements (or if partial redevelopment is proposed). For example, if the perimeter landscape requirement is one tree unit per 30 LF, but an existing landscape area currently includes trees that are less than 6" in diameter (but met code at time of planting), it is unclear if it is necessary to plant additional trees since the applicant would only receive credit for ½ tree unit. It is unclear what the case would be if the current density and spacing do not allow additional trees to be planted.

3. Proposed Code: 33.248.060 Landscape and Tree Plans

"For the purposes of meeting Chapter 11.600, Trees in Development Situations, a Tree Plan must be submitted showing the trees on site to be retained and methods for their protection, trees to be planted to meet Tree Density requirements and street trees to be protected and planted. Applicants may submit a combined Landscape and Tree Plan, when all of the information can be shown in a clear and legible manner. Tree Plan requirements that apply at the time of land use review are specified in Section 33.730.060."

Comment: We are concerned that the extent of area that a tree plan must include is not clear. For example, if only a portion of a large site is being developed or redeveloped, then it is unclear what

assurance would be provided in the code that an unnecessary survey/inventory of existing trees on the entire site would not be required.

4. Proposed Code: 33.258.070 D-1 and D-2) Nonconforming Development

"a. Landscaping required for the following areas:"
"Tree density standards of Chapter 11.600"

Comment: As noted above, it is not clear if this means that anytime the non-conforming upgrade threshold is met, that the number of tree units must be recalculated and complied with each time a permit is requested.

5. Proposed Code: 33.266.110 (B-4) Minimum Required Parking Spaces

"Exceptions for sites where Priority Trees are preserved. Minimum parking may be reduced by one parking space for each Priority Tree preserved and protected in accordance with the requirements of Title 11, Section 11.600.080. A maximum of 2 parking spaces or 10 percent of the total required may be reduced, whichever is greater. However, required parking may not be reduced below 4 parking spaces under this provision."

Comment: Although we appreciate the ability to reduce minimum code-required parking, it is more common that the amount of parking in commercial/industrial development is based on market need or user requirements that exceed minimum requirements.

6. Proposed Code: 33.430.080 (7-b) Items Exempt From These Regulations

"Dead, diseased, or dangerous trees or portions of trees when they pose an immediate danger, as determined by the City Forester or an arborist."

Comment: It needs to be determined what type of approval is needed for removal of these trees, or if only having an arborist report available, if needed, is sufficient.

7. Proposed Code: 33.430.080 (8) Items Exempt From These Regulations

"Pruning trees, when conducted under an approved tree pruning permit as required by Title 11, Trees..."

Comment: We are concerned about the cost, delays, and unnecessary review required for a tree pruning permit for any pruning.

8. Propose Code: 33.430.130 (B-5) Permit Application Requirements

"A Tree Plan, meeting the requirements of Title 11, Section 11.600.050, must be provided. The plan must indicate trees proposed to be retained, trees to be removed, location and methods of tree protection, and quantity of small, medium and large size trees to be planted; and.."

Comment: As indicated in II-3 above, the extent of a tree plan requirement is not established.

9. Proposed Code: 33.430.150 (E) Standards for Utility Lines

"Native trees more than 10 inches in diameter may not be removed.;"

Comment: Since the tree replacement code has been refined, we feel the limit on tree size should be increased (to at least 18") if the replacement requirement is met. The ability to relocate/replace utility lines is not always possible due to grade and other issues, and sometimes there are situations where removal of one larger tree could result in preserving a larger grove of smaller (i.e., under 10") trees.

10. Proposed Code: 33.430.175 Standards for Right-of-Way Improvements
"Trees within the right of way may be removed within the improvement area and within 10 feet of the edge of the right-of-way improvement. In no case may the combined total diameter of all the 6-inch and larger greater native trees cut exceed 225 inches."
Comment: The threshold of 225" is arbitrary, and has no relationship to the size of the site. In addition, most frequently, the requirement for right-of-way improvements is established by the City, placing the applicant in a difficult position.

11. Proposed Code: 33.430.180 (B) Standards for Stormwater Outfalls
"Native trees more than 10 inches and larger in diameter may not be removed;"
Comment: See comments above (II-9) regarding utility lines.

12. Proposed Code: 33.430.240 (1-b) Supplemental Application Requirements
"The existing conditions site plan must show the following for the entire site: b. Tree crown cover outline and generalized species composition, or trees 6-inches and larger identified by species."
Comment: Tree crown is very difficult and costly to identify, particularly on large sites with a large number of trees and no limit on which portion of the site must be inventoried.

13. Proposed Code: Chapter 33.440-Greenway Overlay Zones
Comment: We are not clear what the relationship is between proposed code changes in Greenway Overlay Zone and regulatory measures proposed with the River Plan project. It is unclear if the proposed code language for these two code projects has been reviewed to ensure the codes do not conflict.

14. Proposed Code: 33.508.314 Items Exempt From These Regulations (Cascade Station/Portland International Center (CS/PIC) Plan District) and 33.515.274 (N) Items Exempt from these Regulations (Columbia South Shore Plan District)
"Pruning trees, when conducted under an approved tree pruning permit as required by Title 11, Trees or when exempt from the Title 11 permit requirements."
Comment: As indicated in II-7 above, we are concerned about the cost, delays, and unnecessary review required by a tree pruning permit for any pruning.

15. Proposed Code: 33.630.200 Tree Preservation Requirements for Trees Located on the Site (TREES)
"2. Proposals to divide sites in C, E, or I zones where all of the proposed lots are currently developed with commercial, employment or industrial development have the option to defer tree preservation review to the time of any subsequent redevelopment of the site. If this option is used, the preliminary plan approval must be subject to a condition of approval that subsequent development permits are subject to the tree preservation standards of Title 11, Chapter 11.600; and"
Comment: We support this requirement, but we are not clear why there is an option to defer the tree preservation plan for undeveloped sites. Frequently, sites move through the land division process and the actual development (which would establish the trees that can be preserved and those that must be removed). Also, for existing developed lots, the proposed code indicates, "...where all of the proposed lots." It is not clear what the outcome would be if all but one lot in a subdivision is developed, and it is unclear if this means the deferral option is not available.

16. Proposed Code: Chapter 33.630 Trees

Comment: As a general comment, it appears this chapter is written for residential-type land divisions, but clearly applies to C, E, and I zones which is a concern. There does not appear to be any flexibility for undeveloped sites in C, E, and I zones. For example, Section 33.630.300 (Modifications that Will Better Meet Tree Preservation Requirements) provides modifications to site-related development standards as part of the land division review. However, the only standard listed applies to allowing reduction in minimum density, which does not apply to C, E, and I zone development. We recommend this section be modified to more closely address the conditions that exist with employment and industrial zones specifically, or allow more flexible options for compliance with tree requirements during a land division.

17. Proposed Code: Chapter 33.730 (F-1) Quasi-Judicial Procedures

"33.730.050 Pre-Application Conference 1. Preliminary tree assessment. A preliminary tree assessment involves a site visit by City staff to evaluate trees on the site and help set priorities for tree preservation. A preliminary tree assessment is required for Type III land division and planned development applications that have trees present on the site. The Director of BDS may require a preliminary tree assessment on a case-by-case basis for other review types if relevant to the approval criteria for the review. Preliminary tree assessments should generally occur in conjunction with the pre-application conference. Required assessments must occur prior to submittal of the land use application. A separate fee may be charged."

Comment: This step appears to be an unnecessary and costly requirement for a Type III land division. First, it is not clear from this requirement which staff will be involved, and if City staff have the qualifications to assess tree conditions and priorities, particularly if a separate fee is charged. We feel trees should not be treated any differently than other elements of development (traffic, wetlands, etc.), whereby an applicant's consultant can provide a tree assessment for review by City staff. Further, it is often premature to require this at the time of the pre-application conference, since the purpose of the conference is to review preliminary ideas and strategies prior to specific studies by consultants.

Thank you for the opportunity to present these comments. We are not opposed to the protection and preservation of trees, but feel extensive and complex code does not properly address the numerous situations that arise with trees, particularly in employment/industrial zones. We recommend consideration of less code combined with options such as a tree manual addressing best management practices. We look forward to continuing to work with City staff to review our comments if additional time is provided for public input.

Sincerely,

Tom Wright, LEED AP, AICP
Principal/Director of Planning

Hamilton, Joan

From: Greg Schifsky [gregschifsky@yahoo.com]
Sent: Tuesday, April 27, 2010 9:00 AM
To: Planning Commission
Cc: Jortner, Roberta (Planning)
Subject: Portland and its Trees

BOP,

Involvement by Portland citizens to protect remaining significant (priority) trees has gone on for probably 100 years, with the principles of The Japanese Gardens, The Rose Society and Festival, the Lewis and Clark world's fair exibition, and more.

Back in 1989 an old logger of age 70 or so, explained to me that as a young man (1920s-30s), he couldn't understand the mentality of "there's no end to all these trees". Clearly, the administrators he spoke with were wrong as was the Forest Services' planting an incorrect species on both sides of the Cascade Mt. Range.

There is an end to Portland's significant tree skyline unless enactment of meaningful tree codes and regulations that preserve/protect trees is implemented by the City Council, and BDS along with full cooperation of all City Bureaus and interested parties.

You have already heard the lists of benefits that trees provide this, or any, city. A permanent exclusion of priority or large trees from Portland forever would alter healthy livability here. Forever.

Sincerely,

Greg Schifsky
4131 SW Lee St.
Portland, Oregon

Written Testimony Submitted for PC / UFC hearing on Citywide Tree Project

Submitted for 5/11/10 record

	Name	Organization	Date
57	Bassos, Alex	HAND	4/29/10 (dated 3/23/10)
58	Esau, Rebecca	BDS	5/11/10
59	Fike, Jean	East Multnomah Soil and Water Conservation District	5/10/10
60	Gorlin, Lisa		5/6/10
61	Leggett, Nicole		5/10/10
62	Livingston, Peter		5/10/10
63	Livingston, Peter		5/11/10
64	Ross, Richard	Save Our Elms	5/11/10
65	Jenny Wadman		5/11/10

Rec. 4/29/10

HOSFORD-ABERNETHY
NEIGHBORHOOD DEVELOPMENT ASSOCIATION

March 23, 2010

Roberta Jortner, City of Portland
Bureau of Planning and Sustainability
1900 SW 4th Avenue, Suite 7100
Portland OR 97201-5380

RE: Citywide Tree Policy Review and Regulatory Improvement Project

The Hosford-Abernethy Neighborhood Association (H.A.N.D.) is pleased to support the initiatives taken by the Bureau of Planning and the Forestry Division to articulate clear goals and policy directives aimed at improving urban canopy cover for the entire city. Neighbors have been frustrated by overlapping accountability, conflicting guidelines, and uneven compliance that plague the current system. By bringing all regulations and regulators together in one place, residents, businesses, developers, and other stakeholders can confidently make decisions concerning tree removal and re-planting.

The unified policies under the proposed Title 11 set measurable goals for canopy cover, and provide a regulatory framework that will help the City reach those goals. Additionally, we have confidence that the City and neighborhood associations will continue collaboration to find solutions and improvements that support both preservation and addition of trees to provide greater wildlife connectivity throughout the City and region, as well as the increase storm water and health benefits. We feel the goals outlined in the Tree Policy Draft can be accomplished while also providing opportunities for integration of solar arrays, and that the two are not mutually exclusive, but rather parts of the City's infrastructure.

In general, we believe that city policy that encourages the retention of large trees and educates residents concerning the benefits native species will enhance the livability of Portland for generations to come.

Sincerely,

Alex Bassos, HAND Chair

Cc: HAND Board, Matt Wickstrom, SE District Liaison

HOSFORD-ABERNETHY NEIGHBORHOOD DEVELOPMENT ASSOCIATION
PO Box 15033, Portland, OR 97293 | www.handpdx.org | chair@handpdx.org

T.57

City of
Portland, Oregon
Bureau of Development Services

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Portland, Oregon 97201
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www.portlandonline.com/bds

MEMO

Date: May 11, 2010

To: Portland Planning Commission
Portland Urban Forestry Commission

From: Rebecca Esau, Manager, Land Use Services Division, BDS RE

CC: Susan Anderson, Paul Scarlett, Zari Santner, Dean Marriott, Joe Zehnder, Roberta Jortner, David McAllister, Stephanie Beckman, Morgan Tracey, Mary Wahl, Ross Caron, Ty Kovatch, Matt Grumm, Mike Liefeld, Douglas Hardy, Kimberly Tallant, Kim Freeman, Rob Crouch, Kathleen Murrin, Frank Krawczyk

SUBJECT: Citywide Tree Project

The Bureau of Development Services is in the process of having to cut an additional 17 positions this month due to our bureau's financial situation. This involves conducting layoff meetings with staff, dealing with union issues related to seniority and bumping rights, re-organizing the Divisions and Sections in the Bureau, training staff who have "bumped" into different positions, and developing plans quickly on how we will change our operations in light of the reduced staffing levels. For this reason, my staff and I are no longer able to participate actively in the discussions and development of further iterations of the proposed tree regulations. We believe with this memo, we have conveyed our issues and concerns and our recommendations. As you know we previously cut the size of the bureau by half, and this most recent phase of layoffs this month brings us to a new level that is even more challenging, and we are busy strategizing on how to even function, or offer the most basic essential services expected of a development bureau.

The situation is that our workload is too high relative to our staffing levels, and our revenue is too low to support even these inadequately low staffing levels. So to bring the staffing levels more in line with the low fee revenue coming in, we have to cut another 17 positions this month. But that results in an increased gap between the high workload and the remaining staffing levels. The fee revenues are down because of the type of work that is coming in (a lot of small projects) which have fees far beneath the actual cost of the service provided. And the large projects with high project valuation which would have helped subsidize the small projects, have all but disappeared. We are addressing this partially by bringing a proposal for fee increases to Council later this month, but it alone will not be enough to solve the bureau's financial and staffing situation, or the workload issue we face with inadequate staffing.

On May 6th, the Mayor released his proposed budget for fiscal year 2010-11. BDS had requested additional one-time and ongoing General Fund support for the Neighborhood

Inspections and Land Use programs and to allow the bureau to restore service levels by adding staff. Unfortunately, the Mayor did not approve our requests for additional General Fund support. This means that we will not be able to add positions back until we have sufficient revenues to afford them.

All of this is not your problem, but it is the reality of one of the two bureaus that will be on the receiving end of whatever tree regulations are adopted. We will be the bureau responsible for administering the tree regulations associated with development situations, including: public information, land use reviews, plan review and building permits, inspections, responses to complaints, and enforcement. Due to our situation, and growing backlog of work, not only can we not dedicate time to the further development of these regulations, we are again emphasizing the point that whatever the regulatory outcome is:

a) It needs to be cost-neutral -- It is possible to get more trees preserved and planted without spending more money. Our recommendation on how to achieve this is included in this memo.
b) The regulations need to be very simple -- The regulations need to be very simple so the public can understand them quickly and easily, and for cost-savings in implementation - we need regulations that can be explained and understood in a matter of minutes and that do not result in the need for more time during the plan review process. The three essential elements necessary to achieve the greatest compliance with regulations:
   - People are aware of the regulations;
   - People can understand the regulations because they are clear and very simple; and
   - The regulations are reasonable.

The two implementation bureaus, Parks and BDS, deal with the public and real situations every day involving trees. Collectively we have a great deal of experience with what works and what doesn't. I hope you will give great consideration and weight to what the Urban Forestry staff of the Parks Bureau suggests regarding trees in non-development situations and to what BDS suggests regarding trees in development situations. We are sincerely supportive of achieving the goals of the project, and want it to succeed, and we want more trees in the City. If the regulations are too complicated, or too expensive, or not practical, it is Parks and BDS that will be left with that, and will bear the full brunt of that every day indefinitely in our interactions with the public. So we are very interested in a workable, simple solution that will succeed on all levels.

The Bureau of Development Services proposes the following regulatory solution for trees in development situations. This is a solution that will be clear, and simple, and cost-neutral. It will also achieve:

- An increase in the number of trees preserved;
- An increase in the number of trees planted; and
- An increase in money paid into the Tree Fund, which will in turn result in more trees planted.

BDS' Recommended Proposal

We recommend the following the following regulatory approach for trees in development situations: Simply modify and expand the "T1 standard" that is currently in the Zoning Code (Section 33.248.020.H). Attached at the end of this memo is the current T1 standard from the Zoning Code and additional code sections describing where the T1 standard applies.

The T1 standard currently applies only to new Single-Dwelling Development in single-dwelling, multi-dwelling, and commercial zones. This is a standard that people understand and are familiar with. It is a menu that offers three options:

- Preserve trees;
- Plant new trees; or
- Pay into the Tree Fund.

The T1 standard has been a success in increasing tree preservation and tree planting in the City, and we recommend building on that success.

We propose that the T1 standard be expanded to apply not just to Single-Dwelling Development, but to all projects that increase building coverage on a lot in Single-dwelling Zones, Multi-dwelling Zones, and Commercial Zones (except on lots in the CX, CM, and CS zones, where the zoning is trying to achieve a more built-up urban form and greater building coverage of the lots.) By expanding it to apply to more than just new houses, and having it apply when someone increases building coverage, it will get triggered when someone proposes an addition, or a new detached structure such as an accessory dwelling unit (ADU) or a new garage, etc. as well as for all types of new development that add building coverage in the residential and commercial zones.

Also, it is our strong recommendation that the existing T1 standard for tree planting be modified slightly from 2 inches of tree diameter per 1,000 square feet of site area to one inch of tree diameter per 1,000 square feet of site area. The current requirement for 2 inches of tree diameter per 1,000 square feet of site area results in overplanting to a level that does not make sense, especially when the property owner is required to keep these trees alive to maturity and required to replace the ones that might die. For example, on a 5,000 sf lot, when you apply the current requirement for 2 inches of tree diameter per 1,000 square feet of site area, ten inches of tree diameter is required. The minimum size for broadleaf trees planted in residential zones is 1.5 inches. With the size requirement of 1.5 inches, the result is that seven 1.5 inch trees be planted. This is too much for a 5,000 square foot lot with a house, garage, driveway, etc. With our proposal of one inch of tree diameter per 1,000 sf of site area, 5 inches of tree diameter is required to be planted. This would result in 3.3 trees planted, and the Zoning Code requires that this be rounded up, so four trees would be planted. Four trees on a 5,000 sf lot is much more appropriate and reasonable than seven trees.

The Current Success of the T1 Standard

The following is some data on how the T1 standard has performed. We used a sampling of 100 permits for new single-family residential development from 2006, in a variety of geographic areas across the City. Six out of the 100 had Environmental Overlay Zoning on some portion of the lot. We excluded lots that had been created through the land division process because those would have had tree preservation requirements from the Land Division Review. We wanted to focus solely on the effectiveness and results of the T1 standard. Our findings are as follows:

Category	Data	Notes
# of permits with tree preservation	24 out of 100 (24%)	
# of permits with planting only	76 out of 100 (76%)	
# of permits with a combination of planting and preservation	0 out of 100	
# of inches preserved with preservation option	2,354 inches	# is low due to not having info on the additional trees that were preserved in Environmental Zone resource areas on the lots in the sample. The additional preserved trees aren't shown on the plans because there was no disturbance or construction in those areas.
# of inches required to be planted or preserved to meet T1 based on the lots in the sample	1,423	
# of Trees Planted to meet T1	328	
# of Trees Preserved	134	# is low due to not having info on the additional trees that were preserved in Environmental Zone resource areas on the lots in the sample. The additional preserved trees aren't shown on the plans because there was no disturbance or construction in those areas.

Additional data from the 100 residential permits sampled from 2006:

- Two-thirds of the tree preservation occurred on the west side of the City, and one-third on the east side of the City.
- From aerial photos, approximately 90 of the 100 lots likely had trees prior to development, but this is not certain from just looking at aerial photos.
- Of the 100 lots in the sample, 58 of them are less than 5,000 sf in area. Of these lots, three of them preserved trees. This confirms that it is very difficult to do tree preservation on lots less than 5,000 sf. If it could be done, people would do it, since it is expensive to cut down a tree, and developers know mature trees add value to a lot with a new home.

The sample included lots of varying sizes ranging from 2,165 to 51,830 sf. It is easier to preserve trees on a large lot than on a very small lot. But even when excluding the larger lots in the sample, a relatively high percentage of sites in the sample data preserved trees with a large amount of new trees (and future canopy) provided on the remainder. If we look only at the lots in the sample that were 10,000 sf or less:

- 14 of the 87 permits (16%) preserved existing trees on the site (for a total of 35 trees preserved);
- 485 inches of trees were preserved; and
- 73 of the 87 permits (84%) planted new trees (for a total of 295 trees).

This data demonstrates that the existing T1 standard is quite successful in promoting a healthy forest, consisting of a percentage of older existing trees preserved and a percentage of new trees that will each year continue to add to the City's tree canopy.

The following advantages will result from our proposal to expand the T1 standard to apply to more development situations in single-dwelling zones, multi-dwelling zones, and commercial zones.

- By expanding the situations where the T1 standard applies from only applying when a new house is built in the above zones to whenever building coverage is added to a site, it will also capture:
  - Additions
  - New detached structures such as an Accessory Dwelling Units, and a new detached garage, etc.
  - Duplexes , Triplexes, and Multi-dwelling development (new and additions)
  - Commercial development (new and additions)
- Simply be expanding the situations in which the T1 standard would apply will drastically increase the number of lots that will need to comply with the T1 standard, thereby multiplying the results we get today in applying it only to new single-dwelling development.
- The T1 standard is a simple menu of "preserve, plant or pay", or any combination of these things. People can understand the menu. The simplicity will increase compliance.
- The expansion of the T1 standard with the modifications and exemptions we propose does not result in a large increase in work because it is a simple menu offered to the applicant (preserve, plant or pay), and the applicant chooses what works for their situation and site. Regardless of what they choose, we gain either preservation or planting or payment into the Tree Fund which in turn will result in more planting.
- It provides certainty to property owners about what their options are, while at the same time providing the flexibility needed for different situations, while keeping the costs of administration down.

If there is funding available at all, in order to further the goals of ensuring we get the required trees preserved and planted, funding should be used for providing arborist expertise to BDS and for our inspections. Ideally, there would be inspections at these key points in the construction process:

- prior to grading and construction to ensure the protective fencing is in place around trees to be preserved,
- during the construction process, to ensure the required trees to be preserved are protected; and
- at final inspection, to ensure any required new trees are planted, and the preserved trees are still present.

But if there is no funding available for arborist expertise and these inspections, we can still apply the T1 standard as we do today, and most people will do what is required of them.

<u>Some other information of note as you consider the Citywide Tree Project</u>
A Parks Bureau document titled "Urban Forest Canopy: Assessment and Public Tree Evaluation" from October 2007 states that:

- Just under 1/2 of the City's tree canopy is on publicly owned land;
- An inventory was included of the 1.2 million street and park trees. Of these trees, 17% had a "dbh" (diameter at breast height) of 18 inches or greater;
- A little less than 1/2 of all street tree planting opportunities have been planted.

What these figures show is:

- Nearly half of the City's tree canopy can be protected just by managing or regulating trees on publicly owned property. The 16-24% of all sites (from our permit sample of single dwelling residential development) that preserved existing trees, in combination with the ability to regulate existing canopy of publicly owned properties adds up to significant tree preservation.
- The fact that less than half of the street planting opportunities throughout the city have been planted provides significant opportunities for increased tree canopy before we even start talking about tree requirements for private properties. It would be worthwhile to direct funding to developing this part of the City's green infrastructure, and getting more street trees planted, given the extensive opportunities there.
- Not only is a significant amount of the City's tree canopy on publicly owned property, but nearly 20% of that canopy consists of "priority" trees (trees 18 inches and greater). Having the ability to regulate and preserve this amount of mature canopy on publicly owned land, in combination with the sizable percentage of private residential properties (16-24% from our sample) that are already preserving trees should point to less of a need for a hard, regulatory approach to preserving trees on private property, and allow for more of an incentive approach to preservation, possibly through BES credits related to the stormwater benefits they provide.

Approval Criteria about trees added to Land Use Reviews

In past discussions on the Citywide Tree Project, we had indicated we were strongly opposed to adding tree related approval criteria to Adjustment Reviews, Design Reviews, and Conditional Use Reviews, but were in agreement with adding tree-related approval criteria to Conditional Use Master Plans, due to their typically large site size.

We are still strongly opposed to adding approval criteria to Adjustment Reviews. However, we have found a solution with BPS that is workable for Design Reviews and Conditional Use Reviews, where it is not a separate criterion, but trees are taken on balance with other factors being considered in the review. This gives us the tools we need for the appropriate situations to save trees without adding more time and cost to every one of these reviews. Regarding Conditional Use Master Plans, although previously we were in agreement with adding tree-related approval criteria, due to the most recent phase of more layoffs, we are now changing our position on adding tree-related approval criteria and strongly recommend just using the same solution that was developed for Conditional Uses. Furthermore, it is not our experience that Conditional Use Master Plans are the source of unnecessary tree loss. These sites are large, and people have options in the layout of the master plan, and generally are not choosing to unnecessarily remove trees. Adding new criteria is a solution in search of a problem, and adds more unnecessary time and cost to the administration of these reviews for no clear benefit.

Self-Certification System for Inspections

BDS strongly recommends against a self-certification approach to ensuring trees are preserved or planted as required. On the surface it sounds simple and like it wouldn't cost very much to administer it. However, in our experience in trying a similar approach with landscaping, the administrative work associated with self-certification was very time-consuming. First, it would require new programming in TRACS to be able to track these projects and run the necessary reports on a weekly basis to ensure the certifications were coming in. BDS does not have the capacity to get new programming done in TRACS. It would also require staff time each week to figure out which certifications should have come in each week, and follow up with each of those situations where the certification didn't get returned, and dealing with those. In our experience

with the landscape self-certification program we tried, it was not a success. Inspections are far more effective and worthwhile.

If there is any funding available to help the tree project succeed, it would best be used to get inspectors in the field, particularly those with arborist expertise. Currently BDS does not have sufficient inspections staff for even the most basic building, structural, electrical, and plumbing inspections. We have no arborists on staff, and have no funding to pay for time and expertise from the Urban Forestry staff at the Parks Bureau. Arborist expertise available to BDS from early customer assistance, during the review process, and during the construction process, is a critical need and essential to making any tree regulations successful.

SUMMARY

In summary, our proposal to expand and modify the T1 standard is a solution that will achieve the goals of preserving and planting more trees in the City, keeping the regulations simple for the public, and keeping the administrative costs low. We believe it is the best solution for the following reasons:

- It is simple and builds on a system already in place and familiar to the public;
- It offers certainty (preserve, plant or pay into the Tree Fund);
- Administration is simple and requires minimal staff time both in explaining the regulations and options, as well as in the plan review phase. (As stated before, if funding is available, it would best be directed at providing arborist expertise and inspections.);
- It provides flexibility for different site and development situations; and
- With the changes we propose to the planting density portion of the T1 standard, it is practical and reasonable.

We hope that the information we've provided and our recommendations are useful to you as you seek to finalize your work on this project, and move the project on to City Council. It is an important project, and your work on it has been greatly appreciated. We will continue to be in communication with BPS as the project progresses.

I am sorry we are unable to dedicate more time to this very important project, especially at this important juncture in the code development. But at this time, more urgent demands require our full attention as we address the situation at BDS and the increasing gap between our staffing levels and the workload, and take steps to address this situation.

ATTACHMENT

Existing Zoning Code Language commonly known as "the T1 standard"

Zoning Code Section 33.248.020

H. T1, trees.

1. Intent. The T1 standard is a tree requirement for new residential development. It encourages the retention of trees, minimizes the impact of tree loss during development, and ensures a sustained tree canopy in Portland.

2. Tree requirement. This requirement may be met using any of the three options below. The applicant may choose to meet one or more of these options. Adjustments to this Subsection are prohibited. The options are:

   a. Tree preservation. At least 2 inches of existing tree diameter per 1,000 square feet of site area must be preserved. On lots that are 3,000 square feet or smaller, at least 3 inches of existing tree diameter must be preserved per lot. This standard may be met using trees on the lot and within 5 feet of the edges of the lot. Trees within public and private rights-of-way may not be used to meet this standard. When this option is used, a tree preservation plan is required.

   b. Tree planting. At least 2 inches of tree diameter per 1,000 square feet of site area must be planted. On lots that are 3,000 square feet or smaller, at least 3 inches of tree diameter must be planted per lot.

   c. Tree Fund. This option may be used where site characteristics or construction preferences do not support the preservation or planting options.

      (1) Fund use and administration. The Tree Fund fee is collected by the Bureau of Development Services and is administered by the Urban Forestry Division of the Bureau of Parks and Recreation. The funds collected will be used to plant trees on public or private property in the same watershed as the site.

      (2) Calculation of required fund contributions. Applicants must contribute the cost to purchase and plant trees, as set out in (3), below. The cost to purchase and plant trees will be adjusted annually as determined by the Urban Forester based on current market prices per inch for materials, labor, and maintenance.

      (3) Required fund contribution. The applicant must contribute the following to the Tree Fund before a building permit will be issued:

         - For lots with 3,000 square feet or more of area, the cost to purchase and plant at least 2 inches of tree diameter per 1,000 square feet of site area; or

         - For lots with less that 3,000 square feet of area, the cost to purchase and plant at least 3 inches of tree diameter per lot.

Where the "T1" standard currently applies:

In the Single-Dwelling Zones
33.110.282 Trees

A. Purpose. The purpose of the tree standard is to maintain and add to Portland's tree canopy and to enhance the overall appearance of single-dwelling development. Trees are an integral aspect of the Portland landscape and add to the livability of Portland. They provide aesthetic and economic value to property owners and the community at large. Trees help to:
- reduce stormwater run-off by intercepting and transpiring precipitation;
- help to reduce summer temperatures by providing shade;
- buffer noise;
- stabilize slopes;
- provide oxygen;
- clean the air; and
- provide wind protection in winter.

B. Minimum tree standard. New development must meet the T1 standard of Chapter 33.248, Landscaping and Screening. Adjustments to this standard are prohibited.

In the Multi-Dwelling Zones
33.120.237 Trees

A. Purpose. The purpose of the tree standard is to maintain and add to Portland's tree canopy and enhance the overall appearance of single-dwelling development in multi-dwelling zones. Trees are an integral aspect of the Portland landscape and add to the livability of Portland. They provide aesthetic and economic value to property owners and the community at large. Trees help to:
- reduce stormwater run-off by intercepting and transpiring precipitation;
- help to reduce summer temperatures by providing shade;
- buffer noise;
- stabilize slopes;
- provide oxygen;
- clean the air; and
- provide wind protection in winter.

B. Minimum tree standard. New development must meet the T1 standard of Chapter 33.248, Landscaping and Screening. Multi-dwelling structures are exempt from this standard. Adjustments to this standard are prohibited. Trees provided to meet the requirements of Section 33.120.235, Landscaped Areas, may apply toward meeting this requirement.

In the Commercial Zones
33.130.227 Trees

A. Purpose. The purpose of the tree standard is to maintain and add to Portland's tree canopy and to enhance the overall appearance of single-dwelling development in commercial zones. Trees are an integral aspect of the Portland landscape and add to the livability of Portland. They provide aesthetic and economic value to property owners and the community at large. Trees help to:

- reduce stormwater run-off by intercepting and transpiring precipitation;
- help to reduce summer temperatures by providing shade;
- buffer noise;
- stabilize slopes;
- provide oxygen,
- clean the air; and
- provide wind protection in winter.

B. Minimum tree standard. New residential development must meet the T1 standard of Chapter 33.248, Landscaping and Screening. Multi-dwelling structures are exempt from this standard. Adjustments to this standard are prohibited. Trees provided to meet the requirements of Section 33.130.225, Landscaped Areas, may apply toward meeting this requirement.

C. Exception to minimum tree standard. Residential development is exempt from this standard when buildings cover 90 percent or more of the site.

May 10th, 2010

Portland Planning Commission
1900 SW 4th Ave, Suite 7100
Portland, OR 97201

Urban Forestry Commission
1120 SW 5th Ave, Suite 1302
Portland, OR 97204

RE: Citywide Tree Project and proposed changes to tree codes

Dear Commissioners:

On behalf of the East Multnomah Soil and Water Conservation District, I am writing to express support for the City of Portland's proposed Title 11 which consolidates, fixes, and updates the city's tree codes.

We are delighted by the City's decision to elevate the importance of trees by strengthening and combining the various, and sometimes conflicting, tree codes into a single cohesive and consistent source. This revision makes the tree codes more equitable and easier to access and understand. We also support the creation of a comprehensive framework that addresses both public and private trees in both development and non-development situations. This is a huge step forward. The existing code has many inconsistencies, contradictions and gaps in coverage that have needed to be fixed. You are to be commended for undertaking this project and for making such tremendous progress.

In the spirit of holding Portland's place as a sustainable leader for the Nation, we have two suggestions that we feel would strengthen this policy even further:

- We believe the diameter of trees to be protected is too large. For development it is 20 inches and for private property it is 12 inches. We would like to see a substantially lower diameter of protections especially for development. A 20 inch tree is very large. We feel this diameter should be reduced to 14-16 inches at the largest. 12 inches across the board would be preferable.
- There will be significant personnel time required to make these new rules real on the ground. We believe that trees are among this City's greatest treasures – they define our region. We urge the Council to fund the capacity needed to fully implement this "new "code. Let us transcend the stigma of "Stumptown"!

Given that you are receiving so many comments on this project, we request that any significant changes to the revised code as currently proposed be submitted for public review and comment before final adoption.

Thank you for considering our comments in support of the Citywide Tree Policy Review and Regulatory Improvement Project and for doing this important work!

Sincerely,

Jean Fike
Executive Director

Ex. 59

Hamilton, Joan

From: Lisa Gorlin [lianagan@hotmail.com]
Sent: Thursday, May 06, 2010 1:23 PM
To: examiner@inseportland.com
Cc: Planning Commission
Subject: Preservation of Urban Trees is More Important than Planting
Importance: High

To the Editor:

Contrary to what developer Jeff Fish believes (*Fish Flies at Trees - SE Updates, May, 2010),* there is nothing emotional about the fact that cutting down a tree on one piece of property effects the ecology of surrounding properties, and when this action is multiplied, the entire city's ecosystem is compromised. This is science, not imagination. Private property owners in Portland do not exist on islands or in a vacuum.

Most people know that healthy, plentiful trees are beneficial to the city environment. They filter air and noise pollution, manage storm water by intercepting rainfall, cool down hot spots to keep temperatures at livable levels and provide valuable habitat for birds. They're also good for property values.

Preservation is more important than planting. Mature trees provide up to 70 times more pollution removal than small trees, and they also provide anti-flood protection. Every time a tree is removed the volume of storm water a city must manage increases. With Portland's ageing sewer system and skyrocketing maintenance costs, it is easy to see where the savings are.

The preservation of trees is important for both the city's environment and budget and essential if Portland is to remain on the list of Tree Cities USA. In addition to public image and citizen pride, Tree City USA communities are sometimes given preference over other communities when allocations of grant money are made for urban forestry programs. In our current economic climate this is vital for the management of Forest Park, for example. In order to maintain its Tree City designation
Portland must insure the preservation of the urban tree canopy and make it a priority before it's too late. Simply allowing developers to mitigate by planting trees is not acceptable. Stricter regulations must be applied and fines levied for non-compliance. Preservation should always be the least expensive option.

The rest of us are not silent, as Mr. Fish stated. The low attendance at the Planning Commission/Urban Forestry Commission work sessions is just an indication that the meetings were poorly publicized. There is still time for public input. Comments can be sent to planningcommission@ci.portland.or.us The draft of the proposed code amendments can be viewed at www.portlandonline.com Go to: Government → Bureaus & Offices → Planning & Sustainability → What We Do → Planning → **Citywide Tree Regulatory Improvement Project**

In San Francisco, mature trees are treated like historic buildings. We can have this model for Portland, too. Increased regulations and a greater focus on preservation, instead of just planting, will insure the livability of our city, environmentally, aesthetically and economically, for generations to come.

Sincerely,

Lisa Gorlin

T.60

Hamilton, Joan

From: BPS City Tree Project
Sent: Tuesday, May 11, 2010 1:41 PM
To: Hamilton, Joan
Cc: Jortner, Roberta (Planning)
Subject: FW: Tree Plan Portland

Can you include with the testimony received? Thanks

From: NICOLE LEGGETT [mailto:nmleggett@msn.com]
Sent: Monday, May 10, 2010 8:55 PM
To: Black, Myles; BPS City Tree Project
Subject: Tree Plan Portland

I'd like to thank Morgan Tracy & Myles Black for giving me your time for my understanding. Below are my comments to the commissioner.

Nicole Leggett

From: nmleggett@msn.com
To: samadams@ci.portland.or.us; nick@ci.portland.or.us; randy@ci.portland.or.us; amanda@ci.portland.or.us; dan@ci.portland.or.us
Subject: Tree Plan Portland
Date: Mon, 10 May 2010 20:44:11 -0700

Commissioners,

The Portland Tree Plan must compliment The Portland Plan.

I was moved to tears seeing many trees clear cut in my Kenton neighborhood. This act of destruction motivated me to contact Urban Forestry. From there I gathered that lots that are that are segregated vs. divided lack any protection or preservation for trees. I then investigated further hoping to find that the loop hole would be closed inside the New Portland Tree Plan. I found that the original plan it had, but now it isn't again. It seems the development community in it's quest for quick profit have convinced your committee away from this protection. I'm hear to say they are wrong. The segregated lots, that housed much wildlife, now will contain two row houses. These houses are undesirable (as many are not selling in my neighborhood) and unaffordable (medium income in Portland couldn't support buying one.) This kind of development does not support Portland's long term planning around substantial, affordable, high density housing. In the same space could have been built a multiple unit dwelling. The heritage worthy tree and many others could have been saved. The finished units would house more people and be more affordable.

I understand that lots under 3000sf have no mitigation for removing trees. That all you'll need is a building permit. There will no Tree Preservation Plan. No contributing to planting or protecting other trees in the watershed. These lots may only represent 4% of Portland's lots. But isn't it's Portland's Plan to maintain the urban forest? Why decide now to just let all those lots be cut. It's less practical to replant and wait for shade then to set up standard to keep what we have. It makes sense to plan better rather then quicker. When getting through more permits takes longer then wanted, tell them Portland is planning for your Grandchildren. The Urban Forester has to visit all sites before a building permit is issued. Why not send them in to protect trees. This plan needs to give them the standards to stand buy.

T.61

If Portland wants to be the most livable city in the nation we must plan on preserving tree cover while building affordable high density housing. We must do our share to keep our air, water, and earth pure. We must protect what is beautiful as we develop what will be beautiful. Please protect all lots equally and prevent cutting trees that should be kept as Heritage Trees.

Nicole Leggett
9213 N Endicott ave
503-283-7958

Permit/Case Report	Understand this Report
8729 N CURTIS AVE	
Permit/Case Number	2010-115418-000-00-RS
Permit/Case Type	Residential Bldg/Trade Permit Single Family Dwelling New Construction
Work/Case Description	NSFR / 2 STORY / ATTACHED GARAGE / FLAT LOT / SIMPLE
Issue Date	
Final Date	
Latest Activity	3/23/2010
Status	Approved to Issue

Activities	Must Check	Activity Status	Last Activity	Completed	Staff
Application					
2nd Screen App Set-Up	Y	Approved	03/02/2010	03/02/2010	Millar 7379
P & Z - Property Check	Y	Approved	03/02/2010	03/02/2010	Millar 7379
Life Safety - Application Check	Y	Approved	03/02/2010	03/02/2010	Millar 7379
Issuance/Intake					
Intake - DSC	Y	Intake	03/02/2010	03/02/2010	Millar 7379

Process Management				
Process Manager	N	Completed	03/23/2010 03/23/2010	Thorn 7455
Assign Reviews - RS	N	Completed	03/09/2010 03/09/2010	Thorn 7455
Corrections Received - RS	N	Completed	03/10/2010 03/10/2010	Millar 7379
Addressing				
Assign Address	Y	Approved	03/11/2010 03/11/2010	Richa 0678
Planning and Zoning				
Planning and Zoning Review	Y	Approved	03/16/2010 03/16/2010	Freen 5663
Erosion Control				
Erosion Control Plan Review	Y	Approved	03/08/2010 03/08/2010	Freen 5663
Life Safety				
Life Safety Plan Review	Y	Approved	03/18/2010 03/18/2010	Qurai 823-7
Structural				
Structural Review	Y	Approved	03/18/2010 03/18/2010	Qurai 823-7
Plumbing/Subsurface Review				
Residential Subsurface Site Evaluation	Y	Approved	03/08/2010 03/08/2010	Hyatt 7979
Environmental Services				
BES Environmental Review	Y	Approved	03/26/2010 03/23/2010	Matth 823-7
Transportation				
Transportation SDC Review	Y	Approved	03/19/2010 03/19/2010	Redea 7570
Trans - Street Systems Review	Y	Approved	03/19/2010 03/19/2010	Redea 7570
Street Systems - Assign Reviews	N	Completed	03/19/2010 03/19/2010	Redea 7570
Water Bureau Review				

Water Available	Y	Approved	03/03/2010 03/03/2010	Curtis 6988
Parks Bureau				
Parks SDC Review	Y	Approved	03/25/2010 03/05/2010	Spenc 7720
Urban Forestry Review	Y	Approved	03/22/2010 03/22/2010	Black 4018
Issuance				
Pre-Issuance Check	Y	Completed	03/23/2010 03/23/2010	Eudal 7081

May 10, 2010

City of Portland Planning Commission/Urban
Forestry Commission
1900 4th Ave., Suite 7100
Portland, OR 97201

Re: Proposed Title 11 (Trees)

Dear Commissioners:

The proposed Title 11, which would regulate all trees in the City of Portland, would interfere with the replacement of the historic street trees in Ladd's Addition. I have attached the following: (1) cover sheet and page 7 from the Ladd's Addition Conservation District Guidelines (Guidelines), which were adopted by the City Council on February 10, 1988; (2) the first page of the City's Nuisance Plant List; (3) a description of the extraordinary efforts that residents have undertaken as volunteers to preserve the tree heritage in Ladd's Addition.

From the "Street Tree Plan Map," which is included on page 7 of the Guidelines, it becomes clear that the historic street tree on most of the streets in Ladd's Addition is the Norway Maple. The Norway Maple is on the city's Nuisance Plant List. If Norway Maples cannot be planted in the city right of way, then it will become impossible to replace those Norway Maples in Ladd's Addition that succumb to age.

In the 1980s, I participated in a street tree replanting project that was extremely successful. We partnered with the City Forester at the time, Alex Wynstra, and we later became a source of information to those engaged in forming Friends of Trees. To re-establish the uniform streetscape, we planted well over 150 Norway Maples in spots along the street where there had not been a tree for years.

The Norway Maples define the neighborhood as much as the American Elms. The Guidelines expressly state that the "Street Tree Plan adopted by the City for Ladd's Addition governs street tree selection and replacement on each street." If a different tree is substituted for the Norway Maple on those streets where Norway Maples are the designated tree, the character of the neighborhood will change. First, the new trees will not preserve the consistency that is so important to the character of the streets. Second, any substitution will not have the scale and quality of the Norway Maple itself.

I strongly urge the city to adopt a limited exception to the general prohibition on planting Norway Maples in city rights of way so that the character of the streets in the Ladd's Addition Historic District can be preserved.

Very truly yours,

Peter Livingston

Peter Livingston
1524 SE Poplar Ave.
Portland, OR 97214

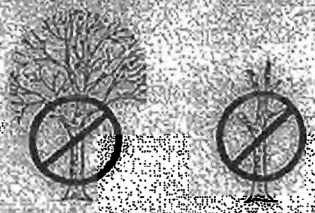
PLI:mca
Attachments

Ladd's Addition Conservation District Guidelines





Unpruned *Properly Pruned*



Sheared *Pollarded*

6. STREET TREE CONSERVATION, REMOVAL AND MAINTENANCE: All prudent measures should be taken by the City, utility companies and property owners to preserve original street trees, especially the American Elms and Norway Maples. The Street Tree Division will notify the Advisory Council of requests for removal permits. Removal is warranted only when an imminent danger to the public exists. Sidewalk repairs and other excavation or construction near trees should avoid cutting tree roots.

The City is responsible for disease prevention and tree spraying. The City Code makes normal maintenance and pruning the obligation of property owners. Pruning practices should respect natural growth habits; topping, shearing and pollarding of street trees is strongly discouraged. Permits from the Street Tree Division are required for the planting, removing, or pruning of all trees except those on private property. Street trees are on public property.

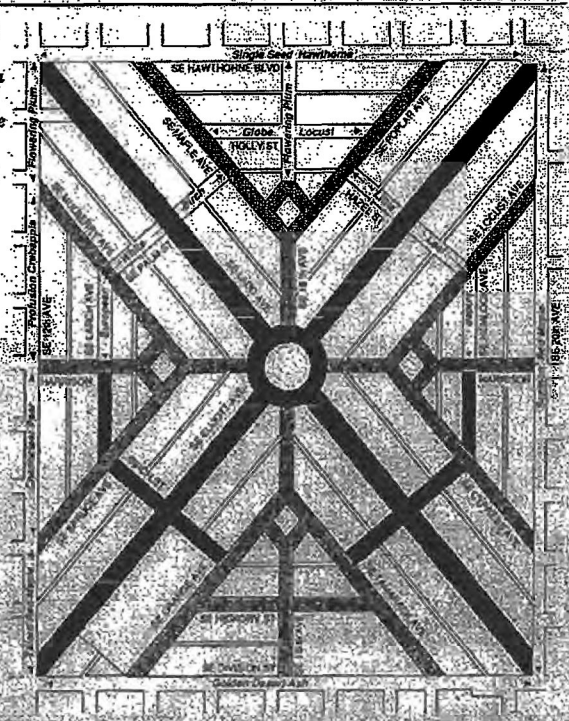
7. STREET TREE REPLANTING: On all frontages, replanting of missing street trees should be done in accordance with the Ladd's Addition Street Tree Plan. Replanting is required in obtaining tree removal permits.

8. STREET TREE PLAN: A Street Tree Plan adopted by the City for Ladd's Addition governs street tree selection and replacement on each street. Species designated in the plan should be consistent with the character, height, canopy and spacing of a street's original plantings, the width of the parking strip, and the scale and function of the street within the district.

STREET TREE PLAN MAP

LEGEND

- *American Elm*
- *Norway Maple*
- *Other species as labeled*





Flowering Plum *Chanticleer Pear* *Profusion Crabapple* *Tilford Red Maple*

Nuisance Plant List

Plants on this list can be removed without environmental or greenway review. Other local, state, or federal laws may still regulate removal of certain plants on this list. These plants may be native, naturalized, or exotic. They are divided into two groups — plants which are considered a nuisance because of their tendency to dominate plant communities, and plants which are considered harmful to humans.

Scientific Name	Common Name	Indicator Status
Acer platanoides	Norway Maple	NI
Acroptilon repens	Russian knapweed	
Aegopodium podagraria and variegated varieties	Goutweed	
Agropyron repens	Quack grass	
Ailanthus altissima	Tree-of-heaven	NI
Alliaria officinalis	Garlic Mustard	
Alopecuris pratensis	Meadow foxtail	
Anthoxanthum odoratum	Sweet vernalgrass	
Arctium minus	Common burdock	
Arrhenatherum elatius	Tall oatgrass	
Bambusa sp.	Bamboo	
Betula pendula lacinata	Cutleaf birch	
Brachypodium sylvaticum	False brome	
Bromus diandrus	Ripgut	
Bromus hordeaceus	Soft brome	
Bromus inermis	Smooth brome-grasses	
Bromus japonicus	Japanese brome-grass	
Bromus sterilis	Poverty grass	
Bromus tectorum	Cheatgrass	
Buddleia davidii (except cultivars and varieties)	Butterfly bush	
Callitriche stagnalis	Pond water starwort	
Cardaria draba	Hoary cress	
Carduus acanthoides	Plumeless thistle	
Carduus nutans	Musk thistle	
Carduus pycnocephalus	Italian thistle	
Carduus tenufolius	Slender flowered thistle	
Centaurea biebersteinii	Spotted knapweed	
Centaurea diffusa	Diffuse knapweed	
Centaurea jacea	Brown knapweed	
Centaurea pratensis	Meadow knapweed	
Chelidonium majou	Lesser Celandine	
Chicorum intybus	Chicory	
Chondrilla juncea	Rush skeletonweed	
Cirsium arvense	Canada Thistle	FACU+

Keeping Ladd's Addition Green: 1891-2007

A Brief History of Ladd's Addition, it's street trees, and SAVE OUR ELMS.

1891 **WILLIAM S. LADD PLATS LADD'S ADDITION** out of one of his Eastside farms. New Hampshire native and Portland business leader lays out a Victorian "residence park" and dedicates five "village greens" as city parks.

1893 **WILLIAM S. LADD DIES** and is buried in Riverview Cemetery.

1905 **PRESS DENOUNCES LADD FAMILY** for using undeveloped city parks and streets as private cow pastures!

1907-1910 **LADD ESTATE COMPANY PAVES MOST STREETS,** sidewalks, alleys. **Plants 1600 street trees.**

- Earliest homes built near Hawthorne.
- Classic street trees planted: American Elms, Norway Maples, Little Leaf Lindens, Birch, Walnut.
- City develops four formal rose gardens and Ladd Circle Park, led by Olmsted Brothers' associate Emanuel T. Mische.

1977 **CITY DESIGNATES LADD'S ADDITION A HISTORIC DISTRICT.** Oregon's oldest planned community, known for its unique street system, alleyways, formal parks, and extensive street trees.

1910-1985 **HALF OF THE ORIGINAL STREET TREES LOST TO STORMS,** bad pruning, neglect, age, and street widening. By 1985 40% of the district's 640 properties have no street trees.

1986-1987 **HISTORIC DISTRICT ADVISORY COUNCIL LAUNCHES LADD'S ADDITION TREE BANK.**

- Goal is to reforest Ladd's Addition. Volunteers plant 250 Norway Maples and Little Leaf Linden street trees **at no cost to residents**.

1988 **LADD'S ADDITION NAMED TO THE NATIONAL REGISTER OF HISTORIC PLACES,** in recognition of the district's community design. City adopts new historic district guidelines to govern new tree plantings, streets and parks, new construction, exterior remodeling.

1990 **VOLUNTEERS PLANT FIRST NEW DISEASE-RESISTANT HOMESTEAD ELMS** (102 trees) with 30 Little Leaf Linden, Maples, and Birch trees. (140 trees total). New elms, grown in Oregon, are the first authorized for planting by Oregon Dept. of Agriculture.

1991-1995 **FIRST AREA LOSS OF AMERICAN ELMS TO DUTCH ELM DISEASE** (six trees on Ladd Circle and SE Birch) 270 American Elms remained in 1995.

1995 **SAVE OUR ELMS ESTABLISHED.** Volunteers lead Oregon's first community inoculation program for American Elms against Dutch Elm Disease. Winter pruning program for large street trees started in 2005.

1996-2007 **TWELVE ANNUAL SAVE OUR ELMS TREE PLANTINGS (at no cost to residents).** Volunteers annually plant 10-20 new street trees, 10 new elms per year, including new disease-resistant Homestead and Accolade Elms.

2007 **BENEFITS OF KEEPING LADD'S ADDITION GREEN**

- Minimal losses of mature American Elms to Dutch Elm Disease (DED) through annual inoculating 1/3 of the grove. Typical DED losses would be 10% of our grove a year or **25 elms per year.** Our losses since 1995, **only 15 elms.**
- Ladd's Addition is now inner city Portland's most heavily forested community.
- A cooler place in the summer. Less storm water runoff with both mature and new canopy.
- Most complete reforestation of street trees in Portland, plantings follow the 1988 historic district tree plan.
- 540 new street trees planted by volunteers from Historic District Council and SAVE OUR ELMS since 1986.
- Largest planting of new elms in Oregon. (220 trees).
- Property values are higher than similar neighborhoods that lack a mature, complete street tree canopy.

ALL ACCOMPLISHED BY COMMUNITY VOLUNTEERS, CONTRIBUTIONS, GRANTS AND BEQUESTS.

Hankins True Value Hardware 1720 SE Hawthorne
H A N D
Friends of Ladd's Addition Gardens
New Seasons Market
Palio
Starbucks Coffee

Support these neighborhood Organizations and Businesses that support SAVE OUR ELMS

EXHIBIT TO PETER LIVINGSTON LETTER (5-11-10)



Looking south on SE Poplar Avenue (west side) at small trees recently planted with approval of City Forester. These do not match the Norway Maple designation of SE Poplar Avenue



Looking south on SE Poplar Avenue (east side), showing the Norway Maples planted in 1987 mixing with older trees.



Looking down SE Holly Street, where the trees are a hodge-podge, creating a disjointed effect. The street is not visually unified. These trees were planted at different times. The street tree recommended by the City Forester in 1987, some variety of locust, did not work out because it was a grafted tree, which in all cases split at the graft. All of these trees had to be removed. The new tree recommended by the City Forester is another small variety, which further undermines the historic character of the street.



Looking at the Norway Maples on SE Poplar Avenue, south of SE Holly Street, which enters at the left.



On the north rose garden (east side), a row of Norway Maples planted in 1987.



On the north rose garden (west side), a row of Norway Maples planted in 1987. The quiet uniformity of the trees focuses attention on the rose garden itself.



On the north rose garden (south side), an example of a non-Norway Maple, planted after 1987, whose columnar shape does not match the Norway Maple to the left in its configuration.

May 11, 2010

City of Portland Planning Commission/Urban
Forestry Commission
1900 4th Ave., Suite 7100
Portland, OR 97201

Re: Proposed Title 11 (Trees)

Dear Commissioners:

This letter follows up on a letter I sent yesterday. Since then, I have had an opportunity to develop additional information about the Norway Maples in Ladd's Addition.

I attach several pages from the National Register of Historic Places application for designation, which was filed in 1988. As the application explains:

> "Generally, the major diagonal avenues and Ladd Circle are planted with American Elms and the minor diagonals and Harrison and 16th are planted with Norway Maples. The other interior streets are planted with Norway Maples, Persian Walnuts, European White Birches, and American Elms. Over the years, some homeowners have planted ornamental species in the strips fronting their houses, which are not compatible design, but the overall number of these is slight. In 1987 the district advisory council sponsored a street tree planting program to reintroduce historic tree species on streets where they had been lost."

This discussion and mentions elsewhere in the application show that the existing plantings of Norway Maples are an essential part of the character of the neighborhood. The uniformity of the trees on individual streets was emphasized in the application for National Register designation because these historic plantings are critical to the quality of life and historic character of Ladd's Addition. Having a uniform row of street trees on either side of the existing streets reinforces the formal design of the street plan, which is the essence of Ladd's Addition.

I attach photographs showing how Norway Maples support the street plan and how efforts (mostly by the City Forester) to introduce other, more modern or trendy species have weakened the visual impact of the street trees on at least one street. In 1987, neighborhood volunteers spent hundreds of hours researching the historic trees, obtaining federal funds for new

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trees and organizing teams of additional neighbors to plant them. This effort was critical to enhancing the quality of life in the neighborhood, which has attracted new residents and dramatically increased property values (and property tax collections). Instead of fighting the historic character of the neighborhood, the City Forester and the Urban Forestry Commission should be supporting it.

The city should adopt a limited exception to the general prohibition on planting Norway Maples in city rights of way so that the character of the streets in the Ladd's Addition Historic District can be preserved. Better still, the city code should clearly indicate that the trees designated by the Ladd's Addition District Guidelines for individual streets are required and that undesignated trees are prohibited.

Very truly yours,

Peter Livingston

Peter Livingston
1524 SE Poplar Ave.
Portland, OR 97214

PLI:mca
Attachments

Physical Development of Ladd's Addition: 1891-1918

In 1891 banker and entrepreneur William S. Ladd hired civil engineers Arthur Hedley and Richard Greenleaf to survey the land he had acquired in the 1870s. Greenleaf already had connections with Ladd; he had surveyed a number of early Portland plats and, by 1890, was working as a surveyor for the Real Estate Title and Trust Company (Photo 2). This company had been established by Ladd in 1888 as a trustee service for managing residential and commercial real estate, as part of the expanded services offered by Ladd and Tilton Bank: Ladd's son, William Mead Ladd, was president of the company. The genesis of the geometry of the plat is unknown, although oral traditions attribute the idea to Ladd, who overrode the objections of surveyor Hedley. With the exception of the diagonal avenues, Ladd and Elliott--Elliott was Ladd's wife's maiden name--the streets were given the names of various species of trees. Prior to the final plat recording, seven names were changed: the two streets bisecting Ladd's Addition, which linked it with the city grid, were renamed to provide continuity within the city: thus, Chestnut Street became Harrison Street (which itself had formerly been called Alaska Street), and Elm Street became 16th Street, later 16th Avenue. Five other names were changed because they duplicated the names of other city streets: Cedar became Orange, Linden became Hickory, Walnut was changed to Tamarack, Myrtle was altered to Lavender, and Laurel became Poplar.

Ladd's death early in 1893 and the recession following the economic panic later that year halted development of the plat. Although water was provided to the undeveloped lots in 1895, there were to be no further improvements for a decade. The land was leased to a farmer, who raised hay and pastured livestock on the property (Photo 3).

Development began in the district as general economic activity picked up after the turn of the century. In 1907 the city granted a permit to the Ladd estate to improve the streets in Ladd's Addition, and in April an ordinance was passed fixing the curblines within the district; a few weeks later over three miles of asphalt pavement were laid, and sidewalks installed along the two major avenues and in the north end. Several streets in the south end of the district--Birch, Orange, Tamarack, Lavender, Cypress, Hickory and the south half of 16th, were not improved until 1910. When sidewalks were installed, tethering rings for horses were anchored at irregular interverals along the curbs on all streets; many of these are still in place. It appears the street trees--Elms (*Ulmas americana*), Norway Maples (*Acer platanoides*), Little Leaf Lindens (*Tilia cordata*), European White Birches (*Betula pendula*), and Persian Walnuts--were planted in the north half of the district in 1907, followed by plantings in the south end several years later.

Until 1908, the Ladd estate heirs--Ladd's wife, sons and daughters--legally owned most of the property in Ladd's Addition. In 1905, some of the lots were sold to realtor Rufus L. Cate, who built the first houses in the district, near Hawthorne Boulevard: two houses on S.E. Poplar Avenue (20-20 and 20-29) and one house on S.E. Holly (19-09), built in 1905, are attributed to him (Photo 4). Built in the Craftsman style, these large, two-story, wood-framed structures had ample room for large families and servants. In 1906-08, eighteen more commodious Craftsman style and Colonial Revival residences were built, some on speculation by realtors like Cate, and some by contractors hired by the owners. Development was limited to six blocks in the north end of the district (See Map 2).

In May of 1908 Ladd's three sons--William M., Charles E. and John Wesley--incorporated the Ladd Estate Company and immediately purchased the unsold holdings in Ladd's Addition from their relatives, amounting to all but seventeen lots on which houses had already been built, and six vacant lots on the northwest end of Block 21, which had been sold but not developed. William M. Ladd assumed the presidency of the company, and Frederick H. Strong, who had been a department manager

development of the five public parks, which reinforce the unusual juxtaposition of public and private spaces and serve to spatially organize subcenters within the district; (4) its relatively early use of street trees, which today reinforces the unity of the district; (5) the consistency in scale, massing and style of its residential buildings (Photo 11); (6) the development of the service alleys and construction of auxiliary buildings, creating a tertiary network of narrow "streets" lined with small scale buildings, related to, but visually independent of the major buildings; (7) the inception of additional building typologies--particulary churches-- which provided stylistic and typologic variation within the district and began to establish a pattern of secondary development leading to its present-day nature as a complete neighborhood comprised of a variety of building types (Photo 12).

Physical Development of Ladd's Addition: 1919-1939

The physical characteristics developed prior to 1918 were completed and augmented during Ladd's Addition's secondary period of historic significance. By the end of the 1930s it had essentially achieved the qualities for which it is known today: sixty percent of the major structures in the district were built during the years between the wars. During this period, infill houses--primarily bungalows and period revival style residences-- were constructed on vacant lots in the northern quadrants of the district, and the vacant blocks and lots in the south quadrants were developed, almost exclusively by contractors building on speculation. The variety of building types increased: commercial structures and large apartment buildings were erected along the district boundaries; a public school was built, and a manufacturing plant constructed. All of these changes reinforced the sense of place within Ladd's Addition without violating the qualities established prior to the first world war (See Maps 4-6).

Between 1919 and 1921, fifteen houses were built, most of them bungalows on blocks with already existing houses. Towards the end of 1921 or in early 1922, the Ladd Estate Company apparently began a promotional campaign, possibly accompanied by a liberal financing policy, which, coupled with an increasing demand for housing in the city, sparked significant development in the district, primarily in the south quadrants (See Map 4). Twenty-four buildings were constructed in 1922, 105 in 1923, 113 in 1924, fifty-four in 1925, and thirty-three in 1926. Construction dropped rapidly after 1926: between 1927 and 1939 only forty-four buildings were erected (See Table 2).

The residential buildings constructed during this period were generally more modest than their predecessors. They were smaller in scale, and simpler in detail. Most were bungalows, although a number of period revival residences and duplexes were also built--primarily Colonial and English Cottage styles. They were usually built on standard sized lots, and retained the street and side setbacks which characterized the placement of the earlier houses. Like the earlier buildings, they were wood frame houses, and the use of horizontal wood board siding, double-hung windows and front porches on most of these structures visually linked them with the pre-war residences (Photo 13). While many houses in the primary period were constructed on speculation, it was during this interval between the wars that the district experienced wholesale development by contractors, realtors and speculators. Entire blocks in the southern quadrants were developed by a handful of contractors, resulting in many identical and almost identical houses. This is most noticeable in Blocks 2, 3, 28, 29, and 31, where most of the buildings were constructed by Fitch, Potts and Sons, G.C. Goldenberg, A.J. Brugger, J.W. McFadden Building Company, Fred. E. Conley Company, Pacific Building Company, or the Lauman family (See Table 3 for a list of major contractors in the district).

Commercial development within the district began during this period. The Ladd Circle Grocery, built prior to the establishment of a citywide zoning code in 1924, was the first commercial building in the district; it was built in 1923 in the heart of Ladd's Addtion, on Ladd Circle (Photos 14,.15). It was also the first building constructed on the circle, where the large, irregular lots were priced higher than

Contributing Resources: 1
Non-Contributing Resources: 0

006 Ladd's Addition Street Trees 1907
All Streets in Ladd's Addition Legal: B00: N/A
Ladd's Addition Conservation District
Contractor: Ladd Estate Company Designer: Unknown
Style: N/A Contributing: Primary

Description: In 1907, when the Ladd Estate Company paved the streets and installed the sidewalks, they also established a hierarchy of widths for the parking strips widths, where the street trees are planted. The diagonal avenues, Ladd and Elliott, and Ladd Circle have twelve foot wide parking strips, and generally, the secondary streets have ten foot wide parking strips. Generally, the major diagonal avenues and Ladd Circle are planted with American Elms and the minor diagonals and Harrison and 16th are planted with Norway Maples. The other interior streets are planted with Norway Maples, Persian Walnuts, European White Birches, and American Elms. Over the years, some homeowners have planted ornamental species in the strips fronting their houses, which are not compatible with the original design, but the overall number of these is slight. In 1987 the district advisory council sponsored a street tree planting program to reintroduce historic tree species on streets where they had been lost. Most streets in the district have iron horse tethering rings located at irregular intervals along the curbs, and contractors' names and dates of construction stamped on the walks, which were installed when the concrete sidewalks and curbs were poured.

Cultural Data: The Ladd Estate Company apparently installed street trees in the north half of the district when the streets were paved and the sidewalks installed in 1907. The trees in the south half were probably installed in 1910, when the remaining streets in the district were paved. In a 1909 letter from Frederick Strong, secretary-treasurer of the Ladd Estate Company, to park superintendent E.T. Mische, Strong asked for advice on the selection of suitable species of trees and appropriate spacing between individual trees for the south end of the district.

May 11, 2010 Hearing

Portland Planning Commission
Portland Urban Forestry Commission

RE Proposed Title 11 .300, and 11.400

Will the new Tree Code Eradicate Portland's most popular Street Tree?

Dear Commissioners

As a past member of the Urban Forestry Commission and Vice President of Save Our Elms, I am concerned about the death warrant for Norway Maples, Portland's most popular street tree, that is hidden in the Proposed Code.

The broad nuisance designation of the City's most common tree, which provides a large share of our street canopy, sends a confused message about street trees. *Absent public awareness about damages to local natural areas that may be caused by these trees*, this action seems contrary to existing City policies that support large canopy street trees for their stormwater, environmental, habitat, urban design and historic value.

Norway Maples and their many cultivars have provided environmental benefits to scores of Portland neighborhoods for a century or more. Oregon nurseries (e.g. JFrank Schmidt) have been national leaders in developing new and healthier cultivars of the Norway Maple. According to the Proposed Code, eradication of Norway Maples as street trees is now the City's policy and replanting of any of the cultivars is forbidden.

Ladd's Addition Historic District for example was designated to the National Register in part because of its mature American Elms and Norway Maples. For 25 years, neighbors here have engaged in replanting disease-resistant varieties of elms and maples, following close advice from Urban Forestry at every step. I agree with other testimony you have received that Historic District Norway Maples should be eligible for exceptions to the prohibition on replanting.

However, the death warrant for Norway Maples needs more public outreach by Urban Forestry. If this is the direction of the City, there is a lot of public education needed about why this favorite tree is no longer allowed.

Urban Forestry should be designated to work with neighborhood groups with large Norway Maple streetscapes to resolve future planting and transitions on those streets, rather than allow a menagerie of new trees to replace the Norway Maple's orderly and iconic streetscape.

Save Our Elms works in seven neighborhoods to protect Portland's unique heritage of urban elms and support the health of the broader urban forest. We would be happy to participate in this dialogue.

Sincerely

Richard N Ross
2041 SE Elliott Ave
Portland, Oregon 97214
503-807-0612

T.64

Hamilton, Joan

From: jwadman@comcast.net
Sent: Tuesday, May 11, 2010 5:08 PM
To: Planning Commission
Subject: City Wide Tree project

I am writing in regards to the City Wide Tree Project and the recommendations that have been presented by this team. I would like to voice my support for all the recommendations put forward as outlined in the April issue of the Southeast Examiner.

I live in the Buckman neighborhood of inner Southeast Portland where we purchased our home in 2002. We have recently been faced with a situation regarding a mature, healthy Sycamore Maple tree that is on our property, but close to the property line and an adjoining property owner's request of us to have the tree cut down. I have found navigating the current policies, regulations and laws related to 'city trees' to be a very confusing and time consuming process. The recommendation to have a 24 hour information hot line as well as one source to consult for all regulations governing trees would have helpful.

Our choice to purchase a home in Portland was due to many reasons; high on the list was the value that Portland places on the Urban Canopy. I found that the infrastructure for supporting the Urban Canopy (consistent easy to find regulations, laws and permitting process) surprisingly lacking when I was faced with this recent conflict. I feel that many of the recommendation made by the City Wide Tree Project would begin to truly support the goal of a healthy Urban Canopy in more than just words.

Thank you for your consideration

Sincerely

Jenny Wadman

T.65

Written Testimony Submitted for PC / UFC hearing on Citywide Tree Project

Submitted for 6/08/10 record

	Name	Organization	Date
66	Leitgeb, Brian	Columbia Edgewater Golf Course	5/18/10
67	Haney, Richard	Portland Fire & Rescue	5/25/10
68	Ross, Richard	Save Our Elms	6/7/10
69	Bassos, Alex	HAND	6/7/10
70	Netusil, Noelwah	Reed College	5/28/10
71	Gibbon, John		6/8/10

Rec 5/18/10

COLUMBIA EDGEWATER COUNTRY CLUB

May 10, 2010

City of Portland
Attention: Planning Commission
1900 SW Fourth Avenue, Suite 7100
Portland, OR 97201

Re: **Proposed City-wide Tree Policy and Regulatory Improvement Project**

Dear Commissioners:

Columbia Edgewater Country Club has been located at 2220 NE Marine Drive for over 85 years. CECC encompasses approximately 158 acres, and is surrounded by a mix of residential, industrial, marine and airport related properties. The purpose of this letter is to express our concern regarding the City's proposed tree regulations.

Trees within and surrounding CECC are important to the visual quality and functionality of our property as a golf course. We employ skilled professionals to maintain these trees and many other plant types to ensure that the CECC continues to reflect a high quality environment. With that said, we frequently assess the trees on site as part of our ongoing maintenance and prune, remove, relocate and replant trees that may present safety concerns, are needed to assist with the health of the tree. Temporary and permanent course modifications and the addition of accessory structures (ie. concessions, restrooms, etc) may also result in the relocation of trees and other vegetation.

Based on our initial review of the proposed code language released in February 2010, we were quite surprised and concerned with the significant amount of new and complex code as it could possibly be interpreted to relate to our current operations and maintenance practices. As an example, this code is so ambiguous, extensive and complex, it is possible that we could be required to hire consultants anytime we need to accomplish only the simplest of pruning or work within root/canopy area. In addition, permit review as proposed will result in additional time and cost that could become financially devastating in these difficult economic times, and create potential safety and liability issues. We strongly recommend that this permit process include more exemptions for normal maintenance and operations.

If some review is required, the city should include a streamlined permit process for large property owners such as the CECC. We understand the current proposal includes some form of 'programmatic permit' as provided in Section 11.300.070 for large public agencies. We feel that this approach is appropriate for our property, should any review be necessary, in an attempt to streamline the permit process and allow for the continued maintenance and operations of our property.

We understand the importance of trees and are supportive of the general goals of the project. However, we strongly urge you to reconsider adopting these overreaching regulations as currently proposed and encourage the concept of a programmatic permit process for large sites such as CECC. We look forward to discussing our thoughts on this process with staff as this project moves forward.

Thank you for the opportunity to comment on this important issue.

Brian Leitgeb
Columbia Edgewater Country Club President

Given to the Game

T. 66

PORTLAND FIRE & RESCUE

Randy Leonard, Commissioner
Erin Janssens, Fire Marshal
Prevention Division
1300 SE Gideon Street
Portland, OR 97202
(503) 823-3700
Fax (503) 823-3969

May 25, 2010

Portland Planning Commission

RE: Title 11 draft; City Tree Code

Fire & Rescue applauds the City Tree Code improvement project, moving tree regulations from the many city titles and rules, and placing as many of those rules as practical into the new Title 11. The code consolidation will make it easier for City staff, the public, and developers to navigate tree rules. While Fire & Rescue is in agreement on the importance of trees to the City--the aesthetics, ecology, and heritage--because of our public safety mission, it is incumbent on us to insert some caution into the process. One truth about trees is that under fire conditions, they are fuel. If the purpose of the Title 11 is to preserve and protect trees, it is not a leap to provide tools to homeowners in the wildland interface areas to protect their homes, and therefore, their trees from fire.

The current draft of Title 11 allows for much more pruning on trees in preservation zones than Title 33. Looking at the issue through a fire safety lens, this is a good thing; the further a tree is from a burning structure, the less likely the fire will spread from the structure, to the tree, and to surrounding trees. Requiring that the pruning be done under permit provides the necessary balance between tree preservation and competing interests that could provide rationalizations to denude the City.

What Title 33 has, but this draft of Title 11 does not, is any allowance for permit exempt fire safety measures. National fire standards suggest that homes in the interface have defensible zones around structures of 30, 60, and 90 feet depending upon the climate, vegetation and topography. 33.430.080 contains fire safety provisions; it allows pruning of trees and shrubs within 10 feet of structures, and removing of branches on conifers within 30 feet of structures to a level of 6 feet from the ground when within the City's wildfire hazard zone; all without a permit. These wildfire mitigation measures are but a fraction of what national standards call for, but it is something.

If the current Title 11 draft comes into effect, the Title 33 language goes away and all pruning will have to be by permit. This sets fire safety back to where it was prior to 2006, when the current fire safety exemptions where approved. It puts the citizen in the odd position of having to go through a regulatory process to garner permission to even minimally protect their home. Further, it puts the City worker in the odd position of having to explain why this is appropriate. It's a tough position to defend. Therefore, Fire requests that the pruning allowance in 33.430.080 be carried forward into Title 11.

Concerning further provisions in the Title 11 draft, Fire has worked closely with Parks over that past few years to adopt future desired vegetation conditions in Oaks Bottom, Powell Nature Park, and Forrest Park that will help reduce the chance of catastrophic fire conditions on those properties. The programmatic permit outlined in 11.300 will be a great help in implementing these plans.

Fire takes no issue with the proposed change to Title 31, and changes to Title 24.95 aerial access provisions for 5 story wood frame structures.

If you would like further discussion on this matter, please do not hesitate to contact me.

Sincerely,

Richard Haney, Assistant Fire Marshal
Portland Fire & Rescue
503-823-3930
cc. Fire Marshal Janssens, AFM Jones

T. 67

June 8, 2010 Hearing

Portland Planning Commission

RE Proposed Amendments to Tree Code Title 11 .300, and 11.400
Norway Maple Street Trees

Dear Commissioners

Save Our Elms would like to offer amendments to the new Tree Code, to address the proposed ***"citywide objective*** [of] ***"measured and paced eradication"*** of Norway Maple street trees, among other designated nuisance plants. (Tree Code Commentary p 78). Since 1995, Save Our Elms has worked to protect and replant Portland's unique heritage of elms, maples and large canopy street trees in seven neighborhoods.

According to the **Urban Canopy Report** (2007, p17), Norway Maples are the City's "most important" street tree in numbers, leaf area, and canopy cover. They provide substantial environmental, social and economic benefits for the street system in many neighborhoods. Portland's streets only have an estimated 17% canopy cover now, while the **Urban Forestry Action Plan** (2007, p 2) calls for doubling this.

The Tree Code bans these major street trees, without a plan for their orderly replacement or maintaining street system canopy cover.. The Tree Code allows and invites removals of healthy younger Norway Maple street trees(less than 12") under Type A permits and prohibits replanting on large sections of Portland's streetscape where they now predominate. Without a mitigation plan, the Tree Code's objective of eradicating Norway Maple street trees could undermine the 2007 **Urban Forestry Action Plan Goal 1, Outcome A, Enhanced Canopy.**

Save Our Elms home base, Ladd's Addition, is a National Register Historic District. The adopted 1986 District Guidelines for Open Space (p 6-7) and the Street Tree Plan recognize mature elms and Norway Maples as a "unique natural treasure and a significant part of the district's character". This historic elm-maple streetscape is integral with the district's nationally renowned radial street and park plan. Since 1986, neighbors have planted hundreds of disease-resistant elms and Norway Maple cultivars.

We believe the amendments summarized below (See ATTACHMENT) would address citywide and historic district concerns:

I Develop a Citywide Norway Maple Street Tree Replacement Plan:

A. The Urban Forestry Commission will adopt, and the City Forester will develop and implement, a *Norway Maple Street Tree Replacement Plan* as part of the Urban Forest Plan, before fully applying the Tree Code nuisance tree provisions to Norway Maple street trees (planting and removal).

1. This plan and appropriate code amendments would assure the orderly replacement of Norway Maple street trees and canopy, by working with affected bureaus, neighborhoods, and interested groups.
2..Defer the full application of the nuisance Tree Code provisions to Norway Maple street trees (Planting and Removal) until a Replacement Plan is implemented. Neighborhood Tree Plans can be a tool to implement the Replacement Plan.

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B. Amend relevant sections of the Code and tables, to include interim measures for removal or replanting Norway Maple street trees until the City has a Replacement Plan:

1. Process healthy Norway Maple street tree removal requests as a Type B or C permits.
2. Allow new planting and replacement of Norway Maples as infill plantings in existing Norway maple streetscapes as Type A permits.

II. Recognize the adopted Ladd's Addition Historic District Open Space guidelines and Street Tree Plan as part of the Tree Code.

1. Recognize the City adopted Ladd's Addition Historic District Open Space Guidelines in the Tree Code, which require replanting with species consistent with the "character, height, canopy, and spacing" of the original plantings, under a Ladd's Addition Street Tree Plan.
2. Recognize the current adopted Ladd's Addition Street Tree Plan. Allow the Historical Landmarks Commission to amend the plan, with the City Forester's concurrence and implementation, in consultation with community organizations and residents.

Sincerely, Richard N Ross

Vice President, Save Our Elms
2041 SE Elliott Ave
Portland, Or 97214
503-807-0612

CC:
Bureau of Planning and Sustainability, Roberta Jortner
Urban Forestry Division, Dave Mc Allister, Rob Crouch
HAND Neighborhood Assn., Alex Bassos, Linda Nettekoven
Historical Landmarks Commission Nicholas Starin
Urban Forestry Commission
Emily Hicks, Office of Commissioner Fish
Save Our Elms Board and Affiliates

Attachments

1. Draft Amendments to Proposed Title 11, Tree Code

Norway Maple Street Trees COMMENTARY Section 11.200-11.400

The Tree Code proposes a "*citywide objective* [of] "*measured and paced eradication*" of Norway Maple street trees, among other designated nuisance plants. (Tree Code Commentary p 78). According to the Urban Canopy Report (2007, p 17), Norway Maples are the City's "most important" street tree in numbers, leaf area, and canopy cover. They provide substantial environmental, social and economic benefits for the street system in many neighborhoods. Portland's streets only have an estimated 17% canopy cover now, while the Urban Forestry Action Plan (2007, p 2) calls for doubling this.

The Tree Code bans these major street trees, but proposes no plan for their orderly replacement or maintaining street system canopy cover. The Tree Code allows and invites removals of healthy younger Norway Maple street trees(less than 12") under Type A permits and prohibits replanting on large sections of Portland's streetscape where they now predominate. Under these conditions, the Tree Code's objective of eradicating Norway Maple street trees conflicts with the 2007 Urban Forestry Action Plan Goal 1, Outcome A, Enhanced Canopy.

The following section proposes that The Urban Forestry Commission should develop, adopt, and implement a *Norway Maple Street Tree Replacement Plan* as part of the Urban Forest Plan, before fully applying the Tree Code nuisance tree provisions to Norway Maple street trees.

Therefore, the following amendments should be made to proposed Chapter 11.200-11:400 to assure orderly transition, to allow interim measures for removal or replanting Norway Maple street trees. and to protect this resource until a Replacement Plan is in place. These amendments also acknowledge the significance of Norway Maples in defining the character of the streetscape in several historic districts Suggested **new text is in bold and highlights**, deletions are in brackets.

1. Modify proposed 11.200.050: Urban Forest Plan by adding new language to subsection B and by adding the following subsection D.

B. Roles. The City Forester, in consultation with the Urban Forestry Commission and City bureaus, is responsible for coordinating the development, maintenance, and implementation of the Urban Forest Plan. The City Forester will involve the Urban Forestry Commission to inform and solicit advice and recommendations. **When making decisions concerning street trees in historic or conservation districts, the City Forester shall also consult the Historical Landmarks Commission to inform and solicit advice and recommendations.** The City Forester will coordinate with City bureaus whose functions affect the urban forest. City Bureaus must participate with the City Forester and Urban Forestry Commission in developing and implementing the Plan. Working groups made up of representatives of those bureaus and groups who contribute to the management of the City's urban forest must be formed to develop citywide action plans to implement the Plan, and to monitor and report on progress.

11.200.050 D. Norway Maple Street Tree Replacement Plan.

1. The Urban Forestry Commission shall adopt, and the City Forester shall develop and implement, a *Norway Maple Street Tree Replacement Plan* as part of the Urban Forest Plan.
2. The Replacement Plan, implementing actions, and related code amendments will assure the orderly replacement of Norway Maple street trees, streetscapes and canopy cover. The Plan shall be developed by the Urban Forestry Division, working with affected bureaus, neighborhoods, interested groups and individuals.
3. The full application of the Title 11 nuisance plant provisions to Norway Maple street trees (Planting and Removal) shall be deferred until the Urban Forestry Commission adopts the Replacement Plan and implementing actions. Neighborhood Tree Plans (per 11.400.070.B4) can be used as a tool to implement the Replacement Plan.

2. Modify proposed 11.300.020: Overview of Tree Permits

Table 300-2, Removal of Nuisance Trees

Tree Size	City and Street Trees		Private Trees	
	General	Resource Areas	General	Resource Areas
<6"	Type A	1-4 Type A, 5+ Type B	Not regulated	Not regulated
6 to <12"	Type A	1-4 Type A, 5+ Type B	Not regulated	1-4 Type A, 5+ Type B
12 to <20"	Type B	1-4 Type A, 5+ Type B	Type A	1-4 Type A, 5+ Type B
20"+	Type B	1-4 Type A, 5+ Type B	Type A	1-4 Type A, 5+ Type B
Any Heritage Tree	Urban Forestry Commission Review		Urban Forestry Commission Review	

1. Until the City adopts and implements a Norway Maple Street Tree Replacement Plan as an update to the Urban Forest Plan per 11.200.050, the

removal of healthy Norway Maple Street Trees outside of Resource Areas, shall be subject to Type B permits (all trees less than 20"), or to Type C permits (20" or larger), and applicable criteria and Mitigation Standards of Sections 11.400.080 and .090. In historic or conservation districts where the Norway Maple has been designated as an appropriate street tree, a Type C permit shall be required for the removal of healthy Norway Maple Street Trees, regardless of size.

Table 300-5, Other Tree Activities

Tree Activity	City and Street Trees	Private Trees (permits not required except as noted)
Nominating a Heritage Tree	UFC	Urban Forestry Commission
Planting	Type A	Native species required (c,p,v,e,s overlay zones, and greenway setback) Nuisance species prohibited for landscape, mitigation, and replacement
Pruning[1]	Type A	Type A Permit for limited pruning requests (c,p,v,e,s overlay zones)
Root Cutting[1]	Type A	Follow proper arboricultural practices
Miscellaneous[2]	Type A	Follow proper arboricultural practices

[1] For emergency situations, permits must be applied for within 7 days following the tree pruning or root cutting activity.
[2] Miscellaneous activities include attaching lights, signs, artwork, or any other type of activity which may harm a tree.

3. Planting of Norway Maple Street Trees outside of Resource Areas shall be permitted subject to Type A procedure, until the City adopts and implements a Norway Maple Street Tree Replacement Plan, per 11.200.050. These plantings are intended to replace or infill existing plantings, and may be required to be disease resistant cultivars.

3. Modify proposed 11. 400.060: General City Tree and Street Tree Overview of Tree Permits

11.400.060 General City Tree and Street Tree Permit Requirements

Table 400-1, Summary of City and Street Tree Permit Requirements

Tree Size	Removal Requests: Healthy	Removal Requests: Nuisance – General	Removal Requests: Nuisance – Resource Areas	Removal Requests: Dead / Emergency[1]	Removal Requests: Diseased / Dangerous	Planting Pruning[1] Root Cutting[1] Attachment Misc.
<6"	Type B	Type A	1-4 Type A, 5+ Type B	Type A	Type B	Type A
6 to <12"	Type B	Type A	1-4 Type A, 5+ Type B	Type A	Type B	Type A
12 to <20"	Type B	Type B	1-4 Type A, 5+ Type B	Type A	Type B	Type A
20"+	Type C	Type B	1-4 Type A, 5+ Type B	Type A	Type B	Type A
Any Heritage Tree	Subject to the requirements in Chapter 11.200					Type A

[1] For emergency removals, pruning, or root cutting, permits must be applied for within 7 days following the emergency work

2. Until the City adopts and implements a Norway Maple Street Tree Replacement Plan as an update to the Urban Forest Plan per 11.200.050, the removal of healthy Norway Maple Street Trees outside of Resource Areas, shall be subject to Type B permits (all trees less than 20"), or to Type C permits (20" or larger), and applicable criteria and Mitigation Standards of Sections 11.400.080 and 090. In historic or conservation districts where the Norway

Maple has been designated as an appropriate street tree, a Type C permit shall be required for the removal of healthy Norway Maple Street Trees, regardless of size.

3. Planting of Norway Maple Street Trees outside of Resource Areas shall be permitted subject to Type A procedure, until the City adopts and implements a Norway Maple Street Tree Replacement Plan, per 11.200.050. These plantings are intended to replace or infill existing plantings, and may be required to be disease resistant cultivars.

4. Modify proposed 11.400.070 Type A Tree Permits

B. Type A Planting Requests.
1. Nuisance Trees Prohibited. Pursuant to 11.700.050, Prohibited Actions, no tree listed in the City's Nuisance Plants List may be approved for planting or replacement.

Planting of Norway Maple Street Trees outside of Resource Areas shall be permitted subject to Type A procedure, until the City adopts and implements a Norway Maple Street Tree Replacement Plan, per 11.200.050. These plantings are intended to replace or infill existing plantings, and may be required to be disease resistant cultivars.

E. Type A Removal Requests. For any of the following requests, if the removal permit is granted, the City Forester will require the tree to be replaced, in accordance with Subsection F, below:

1. Nuisance Trees.

The City Forester will issue a permit if the applicant demonstrates that the tree is listed on the City's Nuisance Plants List and: ....single year.

Until the City adopts and implements a Norway Maple Street Tree Replacement Plan as an update to the Urban Forest Plan per 11.200.050, the removal of healthy Norway Maple Street Trees outside of Resource Areas, shall be subject to Type B permits (all trees less than 20"), or to Type C permits (20" or larger), and applicable criteria and Mitigation Standards of Sections 11.400.080 and 090. In historic or conservation districts where the Norway Maple has been designated as an appropriate street tree, a Type C permit shall be required for the removal of healthy Norway Maple Street Trees, regardless of size.

5. Modify proposed 11.400.080 Type B Tree Permits

B. Type B Removal Requests. For any of the following requests, if the removal permit is granted, the City Forester will require the tree to be replaced in accordance with Subsection C, below.

1. Nuisance Trees. The City Forester may issue a permit if the applicant

demonstrates that the tree is listed on the City's Nuisance Plants List, and:

c. Until the City adopts and implements a Norway Maple Street Tree Replacement Plan as an update to the Urban Forest Plan per 11.200.050, the removal of healthy Norway Maple Street Trees outside of Resource Areas, shall be subject to Type B permits (all trees less than 20"),and Healthy Tree criteria and Mitigation Standards of Sections 11.400.080B4 and 11.400.080 C. In historic and conservation districts where the Norway Maple has been designated as an appropriate street tree, a Type C permit shall be required for the removal of healthy Norway Maple Street Trees, regardless of size.

6. Modify proposed 11.400.090 Type C Tree Permits

B. Type C Removal Requests. Type C removal requests apply to requests to remove Priority Trees. Priority Trees are any healthy trees not listed on the City's Nuisance Plants List that are 20 inches and larger as well as Oregon oaks and Pacific madrone that are 6 inches and larger.

Until the City adopts and implements a Norway Maple Street Tree Replacement Plan as an update to the Urban Forest Plan per 11.200.050, the removal of healthy Norway Maple Street Trees outside of Resource Areas shall be subject to Type C permits (20" or larger), and the Priority Tree Removal Criteria and Mitigation Standards of Sections 11.400.090 B1 and 11.400.090C. In historic and conservation districts where the Norway Maple has been designated as an appropriate street tree, a Type C permit shall be required for the removal of healthy Norway Maple Street Trees, regardless of size.

City and Street Trees in Historic Districts COMMENTARY Section 11.400

The proposed Chapter 11.400 (City and Street Trees) does not recognize the significance of particular species of trees to the historic character of certain districts in the city. In Ladd's Addition Historic District, for example, American Elms and Norway Maples play a critical role in supporting the formal street plan by establishing a uniform line of trees down individual streets. It must be acknowledged that this historic streetscape, typical of the City Beautiful era, is in some ways inconsistent with contemporary theories concerning street trees. For one thing, it requires long rows of trees, a monoculture, at least along individual streets. For another, the species of trees may go out of fashion or be re-evaluated using a new lens.

The fact that we know more about trees than they knew over 100 years ago does not justify redefining an historic district by planting a different species of tree from the original street tree. The premise of an historic district is that it retains its archaic features. In such cases, unless there is a legitimate health or safety concern or the species of trees is threatened for some reason -as with the American Elm and Dutch Elm Disease - the original tree should be retained. Even minor deviations weaken the impact of historic street tree plantings. Using maples as an example, even similar cultivars have different forms, sizes and leaf colors. They bloom and shed their leaves on similar, but distinctly different, schedules. Substituting a brand new tree for a Norway Maple in Ladd's Addition will destroy the effect desired by the original planners of the neighborhood.

Because few historic or conservation districts outside Ladd's Addition are designated for their original street tree plantings or have adopted tree plans, the impact of preserving and continuing historic tree plantings on the city as a whole will be slight. The importance of preserving the historic quality of certain neighborhoods by continuing the existing street trees exceeds the negligible impact these trees could have on the city's ecology as a whole.

Therefore, the following amendments should be made to proposed Chapter 11.400. Suggested **new text is in bold and highlights**, deletions are in brackets.

1. Modify proposed 11.400.070 Type A Tree Permits

11.400.070 Type A Tree Permits

* * * *

B. Type A Planting Requests

4. Street Tree Planting Standards. The City Forester will maintain the Recommended List of Street Trees that may be planted in Streets. If another proposed variety of tree otherwise conforms to the City's Tree Standards then..... may allow an alternative tree .

In historic and conservation districts, the City Forester shall defer to adopted district guidelines related to street trees or a street tree plan, if existing, as adopted by the Historical Landmarks Commission with the concurrence of the City Forester.

* * * *

E. Type A Removal Requests. For any of the following requests, if the removal permit is granted, the City Forester will require the tree to be replaced, in accordance with Subsection F, below:

1. Nuisance Trees.

The City Forester will issue a permit if the applicant demonstrates that the tree is listed on the City's Nuisance Plants List and: ....single year.

In historic and conservation districts, where a nuisance tree is designated under adopted district guidelines or a street tree plan, the City Forester may only issue a removal permit under Type C permit procedures, and the Priority Tree Removal Criteria and Mitigation Standards of Sections 11.400.090 B1 and 11.400.090C

2. Modify proposed 11.400.080 Type B Tree Permits

* * * *

B. Type B Removal Requests. For any of the following requests, if the removal permit is granted, the City Forester will require the tree to be replaced in accordance with Subsection C, below.

1. Nuisance Trees. The City Forester may issue a permit if the applicant demonstrates that the tree is listed on the City's Nuisance Plants List and:

c. In historic and conservation districts, where a nuisance tree is designated under adopted district guidelines or a street tree plan, the City Forester may

only issue a removal permit under Type C permit procedures, and the Priority Tree Removal Criteria and Mitigation Standards of Sections 11.400.090 B1 and 11.400.090C.

3. Modify proposed 11.400.090 Type C Tree Permits

B. Type C Removal Requests. Type C removal requests apply to requests to remove Priority Trees. Priority Trees are any healthy trees not listed on the City's Nuisance Plants List that are 20 inches and larger as well as Oregon oaks and Pacific madrone that are 6 inches and larger.

In historic and conservation districts, where a nuisance tree is designated under adopted district guidelines or a street tree plan, the City Forester may only issue a removal permit under Type C permit procedures, and the Priority Tree Removal Criteria and Mitigation Standards of Sections 11.400.090 B1 and 11.400.090C.

4. Add Proposed Section 11. 400.100

Ladd's Addition Historic District, Street Tree Guidelines and Plan

11.400.010 Ladd's Addition Historic District, Street Tree Guidelines and Plan

The following code provisions are largely derived from the adopted 1986 "Ladd's Addition Conservation District Guidelines." Similar provisions may be appropriate for other city historic or districts that have adopted Guidelines for Street Trees or Street Tree Plans.

A. Policy. Ladd's Addition's parks and open spaces work together with the radial street plan to create the district's special historic character. The rows of mature American Elms and Norway Maples are a unique natural treasure and a significant part of the district's character, which subsequent replacement plantings have maintained. Except in cases like the American Elm, where the Dutch Elm Disease requires the substitution of a disease-resistant species of elm, the original historic tree species shall be retained. Where a substitution is required, the replacement cultivar shall resemble the original species as much as possible, and shall be consistent with the character, height, canopy and spacing of a street's original plantings, the width of the parking strip, and the scale and function of the street within the district. In no event shall a species of tree not used as a street tree in the city when Ladd's Addition was developed (c 1910) be used as a replacement tree for the original historic tree species.

B. Street Tree Plan. The Street Tree Plan adopted as part of the "Ladd's Addition Conservation District Guidelines" as amended, shall govern street tree selection and replacement on each street and shall supersede any nuisance tree prohibition contained in any other part of this code. The Historical Landmarks Commission must approve any changes to the plan, with

the City Forester's concurrence and implementation, in consultation with affected community organizations and residents.

C. Street Tree Conservation, Removal and Maintenance. All prudent measures should be taken by the City, utility companies and property owners to preserve original street trees, including the American Elms and Norway Maples. The City shall notify the Hosford-Abernethy Neighborhood Association (HAND) and property owners within 150 feet of requests for removal permits. Removal is warranted only when a danger to the public exists. Sidewalk repairs and other excavation or construction near trees shall preserve tree roots. Pruning practices shall respect natural growth habits. Topping, shearing and pollarding of street trees is prohibited.

D. Street Tree Replanting. In the event a street tree must be removed, a replacement tree shall be replanted. On all frontages, replanting of replacement or missing street trees shall be done in accordance with the Ladd's Addition Street Tree Plan.

HOSFORD-ABERNETHY
NEIGHBORHOOD DEVELOPMENT ASSOCIATION

June 7, 2010

Roberta Jortner
City of Portland
Bureau of Planning and Sustainability
1900 SW 4th Ave
Portland, Oregon 97201-5380

In an earlier letter, the Hosford Abernethy Neighborhood Association (HAND) expressed support for the major elements described in the new Portland tree code. After further review, however, we are very concerned about the new prohibitions included in the code on "non-native" trees described as nuisance species. In particular, the new code would prohibit the planting of Norway Maples, which is among the most popular street trees in the city. This policy appears to be in conflict with Metro's "Green Streets" recommendations which list the Norway Maple as a recommended tree for streetscape plantings. This tree, and several of its related cultivars have become a significant part of our neighborhood's "greening" effort.

We have specific concerns about how this new regulation supersedes and invalidates the landscape guidelines that are in codified by the Landmarks Commission for the Ladd's Addition Historic District. The neighborhood has worked with the Forestry Division, Friends of Trees, and Save Our Elms over the past twenty years to address the integrity and maintenance of the landscape plan, which includes a street tree plan developed by the Ladd Estate Company, and the Ladd's Addition parks designs by Portland Parks Supt. and former Olmsted associate, E.T. Mische, about 100 years ago. The historic value of this unique neighborhood is defined by its street pattern and the landscape plan that complements it. In the past 20 years, our neighborhood has invested over $200,000 in preserving (through inoculation and pruning) and re-planting these street trees. We have attempted to honor the intent of the original plan wherever possible. As the original design did not foresee the ravages of Dutch Elm Disease or Verticillium Wilt on the design, we have worked with our partners to find suitable replacement species only where necessary. In the last twenty years, we have planted several hundred trees in Ladd's Addition, including many Norway Maples and Elm hybrids in an effort to preserve the continuity described in the landscape plan.

A BES document was developed in November 2005 in response to City Council order 36360 (Appendix A): "Invasive Plant Lists". In the Executive Summary of the document it states "***This report describes invasive plant management program elements that should be added to existing City programs to maintain existing high quality natural areas and to remove invasive plants in more heavily infested areas.***"

The report later states in section 5.4.1 (Inventory): "within the 92,000 acre City limits (inventory included vegetated areas >0.5 acre)." Areas under 1/2 acre were not included in the inventory of areas with invasive plant species.

HOSFORD-ABERNETHY
NEIGHBORHOOD DEVELOPMENT ASSOCIATION

It appears that the new City Tree Ordinance has taken the all the trees included in Appendix A of this 2005 document which concerned invasive plant removal from "open" "natural" areas (>0.5 acres) and applied it to "urban" "controlled" neighborhood areas without review.

We ask that the Planning Commission and Forestry Division delay implementation of the city-wide ban on Norway Maples and other "nuisance" trees until a well-defined alternative plan can be developed. We further ask that the street tree provisions of the Ladd's Addition Historic District (as approved by the Landmarks Commission) be preserved in city code with modifications to the original design only implemented in the event that the viability of the designated species is threatened by disease or insects. As an example, trees designated for American Elm planting will be re-planted with a disease-resistant elm variety. Maples that have died due to Verticillium Wilt in the soil may be replaced with a species or cultivar that is resistant to the fungus, but grows to approximate the shape, color and scale of the other maples on the street.

While we support the general goals Title 11 to increase the urban canopy, we are not convinced that the outright ban on the Norway Maple is necessary or desirable. In the case of our neighborhood's historic district, it will undo over one hundred years of thoughful landscape design.

Yours sincerely,

Alexander Bassos
HAND Chair

HOSFORD-ABERNETHY NEIGHBORHOOD DEVELOPMENT ASSOCIATION
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ECONOMICS DEPARTMENT
REED COLLEGE
3203 SOUTHEAST WOODSTOCK BOULEVARD
PORTLAND, OREGON 97202-8199

May 28, 2010

Portland Commission/Urban Forestry Commission
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Portland, Oregon 97201

Dear Members of the Planning Commission and Forestry Commission:

For the past ten years my research program has focused on factors that influence the sale price of single-family residential properties in Portland, Oregon. Peer-reviewed published articles include an analysis of environmental zoning's effect on the sale price of properties and how proximity to open spaces such as golf courses, natural areas, urban parks influence the sale price of properties. Recent research is focusing on tree canopy and walkability.

I have reviewed the document "Citywide Tree Project: Frequently Asked Questions" and agree with a statement made in that document that "trees increase property values." This is based on work done by Dr. Geoff Donovan at the USDA Forest Service, PNW Research Station, that focuses on individual trees and on my own work that examines how a property's sale price is influenced by the amount of tree canopy in its surrounding neighborhood, which I define as the area within ¼ mile of a property.

In a peer-reviewed article in the May 2010 issue of *Land Economics*, I estimate the per property benefit from having 25% tree canopy coverage, the current average in the Portland area, is between $4,600 and $13,500. My estimates show that the per property benefit from having 35% tree canopy coverage, which is close to the stated goal of 33% tree canopy coverage, is between $6,100 to $14,400. These estimates are in 2010 dollars. A copy of this article is included with this written testimony.

A current project is looking at the combined effect of land cover and walkability using an index developed by the Bureau of Planning and Sustainability for its 20-minute neighborhood project. Results are preliminary, but we are finding an important interaction effect between land cover and access to urban amenities, that is, while property owners value access to urban amenities, and are willing to pay a premium to live in neighborhoods with these amenities, they are willing to pay even more if those neighborhoods also have tree canopy. This provides some insight into the likely effects of increasing tree density, as proposed, from 7 to 16% in areas that include commercial development.

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I end my testimony with a reminder about the limitations of my research. Our estimates only reflect the benefits perceived by individual property owners. This means that our estimates may not capture the other benefits generated by trees such as their ability to sequester carbon, reduce the heat island effect, reduce stormwater runoff, provide wildlife habitat, etc. Our estimates, therefore, should be regarded as lower bounds on the total benefits of trees.

Sincerely,

Noelwah R. Netusil

Noelwah R. Netusil, PhD
Stanley H. Cohn Professor of Economics

Estimating the Demand for Tree Canopy: A Second-Stage Hedonic Price Analysis in Portland, Oregon

Noelwah R. Netusil, Sudip Chattopadhyay, and Kent F. Kovacs

ABSTRACT. *The benefits of large patches of tree canopy are estimated by applying a hedonic price model to the sale of single-family residential properties in Portland, Oregon. The first-stage analysis provides evidence of diminishing returns from increasing tree canopy past a certain level. The second-stage analysis uses a survey of property owners' preferences and socioeconomic characteristics to overcome the problem of endogeneity. Average benefit estimates for the mean canopy cover within ¼ mile of properties in the study area, using the second-stage model, are between 0.75% and 2.52% of the mean sale price.* (JEL Q21, Q51)

I. INTRODUCTION

Large contiguous patches of tree canopy are considered to be an important part of an urban environment. In addition to the benefits received by private property owners, such as shade and privacy, these areas provide wildlife habitat, improve air quality, reduce runoff and flooding, lower noise levels, and moderate climate.

The Portland metropolitan area is highly urbanized and development is constrained by an urban growth boundary. Despite these pressures, the percentage of tree canopy in the city of Portland increased between 1972 and 2002 (Poracsky and Lackner 2004). This increase is attributed to a natural environment that is conducive to growing trees, Oregon's land-use laws, Portland's environmental zoning regulations, land purchases by the regional government, and planting efforts by nonprofit organizations (Poracsky and Lackner 2004).

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Portland's Urban Forestry Management Plan (Portland Parks and Recreation 2004, 12) lists "protect, preserve, restore, and expand Portland's urban forest" as one of its goals. The effect of this objective on the sale price of single-family residential properties is unknown but is important to assess since the incentives for private property owners to preserve tree canopy may—or may not—be consistent with this goal.

This paper estimates the effect of tree canopy located on single-family residential properties, and in the area within ¼ mile of these properties, on their sale price. In addition to estimating marginal effects this paper estimates, for the first time, the per-property benefits of nonmarginal changes in tree canopy using a second-stage hedonic price model. The second-stage model involves estimating an inverse demand curve for the percentage of tree canopy, which is necessary for measuring the per-property benefits of nonmarginal changes in tree cover. These estimates are provided for existing levels of tree canopy and for several hypothetical increases in tree canopy coverage.

II. LITERATURE

Several studies have examined the relationship between open spaces and the sale

The authors are, respectively, Stanley H. Cohn Professor of Economics, Reed College; professor of economics, San Francisco State University; and research assistant professor, Department of Resource Economics, University of Nevada–Reno. This research was supported by a Paid Leave Award from Reed College and a Goldhammer Summer Research Grant. The authors gratefully acknowledge research assistance provided by Sarah Klain and David Kling; Gary Odenthal provided help with the data used in our analysis. Helpful comments were provided by Joe Poracsky, participants at the 2005 W1133 meeting, and an anonymous referee.

price of single-family residential properties in Portland, Oregon (Bolitzer and Netusil 2000; Lutzenhiser and Netusil 2001; Mahan, Polasky, and Adams 2000; Netusil 2004a, 2005b). Tree canopy on a property and in the surrounding neighborhood is represented by a series of dummy variables in one paper (Netusil 2005a) and captured indirectly as a characteristic of natural area parks and forested wetlands in the other papers (Bolitzer and Netusil 2000; Lutzenhiser and Netusil 2001; Mahan, Polasky, and Adams 2000).

Multiple hedonic studies have found that property values increase if trees are located on a property (Anderson and Cordell 1985; Dombrow, Rodriguez, and Sirmans 2000; Morales 1980). Other hedonic studies have focused on the relationship between property values and forested areas in the surrounding neighborhood (Tyrvainen and Miettinen 2000), with some studies finding negative effects (Garrod and Willis 1992; Geoghegan, Wainger, and Bockstael 1997; Kestens, Theriault, and Rosiers 2004; Tyrvainen 1997).

Tyrvainen (1997) used apartment sales in Joensuu, Finland, to estimate how their sale price is influenced by distance to the nearest wooded recreation area, nearest forested area, and the relative amount of forested areas in the housing district. Sale prices are estimated to increase with proximity to wooded recreation areas and with increases in the amount of forested areas in the housing district. However, the sale price of apartments is found to increase as the distance from a forested area increases. The author attributes this result to the shading effects from dense forests in the study area.

In a related study, Tyrvainen and Miettinen (2000) estimated that a 1-km increase in the distance to the nearest forested area leads to an average 5.9% decrease in the sale price of residential properties in the district of Salo in Finland. Dwellings with a view of forests were found, on average, to be 4.9% more expensive than dwellings with similar characteristics.

Garrod and Willis (1992) used observations on properties located adjacent to Forestry Commission land across Britain to estimate a first-stage model that includes three tree categories and a second-stage model of the demand for broadleaved woodland. An increase in the proportion of Forestry Commission land with broadleaved trees is estimated to increase a property's sale price, while an increase in mature conifers is found to reduce sale prices. The double-log functional form used in the second-stage model, which uses a multiple market approach, results in an income elasticity estimate for the proportion of broadleaved woodland of 0.82 and an own price elasticity of −1.76.

The only second-stage hedonic model attempted for Portland, Oregon, is described by Mahan, Polasky, and Adams (2000). While the authors find evidence of market segmentation, they were unable to get reliable estimates of the demand curve for size of the nearest wetland.

III. STUDY AREA, PROPERTY CHARACTERISTICS, AND SURVEY DATA

The study area includes 91,250 acres of Portland, Oregon, located within Multnomah County (Figure 1). The study area is highly urbanized with an average lot size of 7,043 square feet. Between January 1, 1999, and December 31, 2001, there were 30,015 arms-length single-family residential property sales in the study area; these transactions are the core part of the data set used for the first-stage hedonic price model. Sale price and structural information were obtained from the Multnomah County assessor (2002).[1] Sale prices were adjusted to 2000 dollars using the *Consumer Price Index: All Urban Consumers* (Bureau of Labor Statistics 2002). Table 1 contains a complete list of explanatory variables used in this analysis; more detailed information about the data set is provided by Netusil (2005a). Properties on the west side (NW and SW) have a higher mean sale

[1] Assessment and taxation property records, January 1997 to June 2002, Multnomah County Assesor's Office.

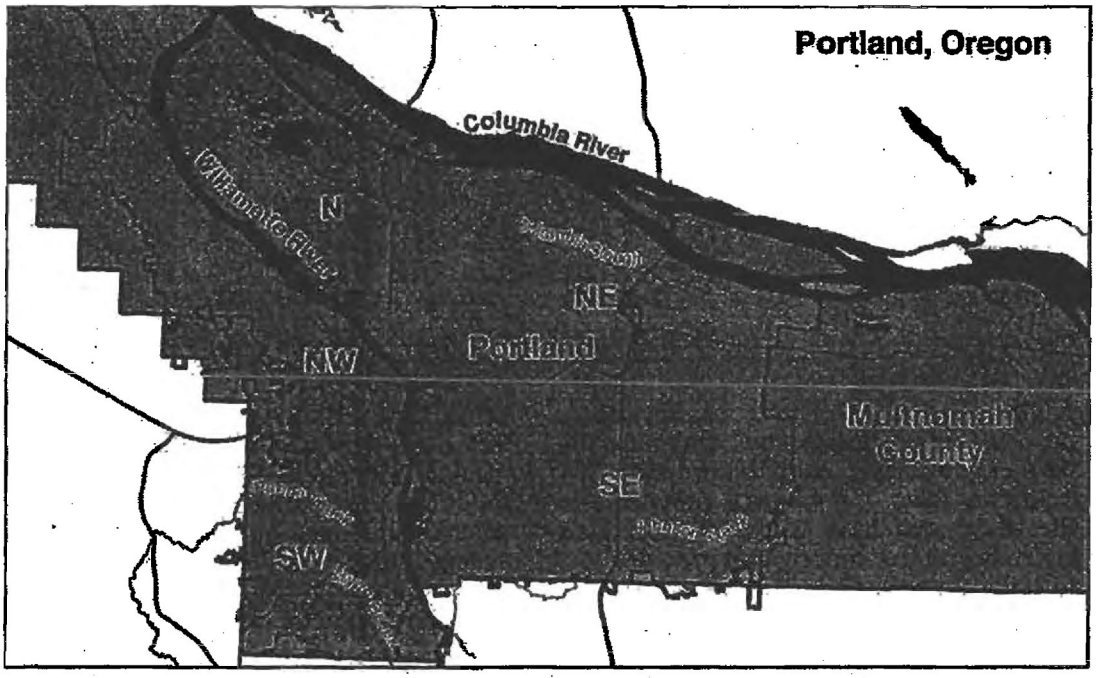


FIGURE 1
STUDY AREA

price, are located in census tracts with higher median incomes, and have a higher percentage of tree canopy on the property and in the area within 1/4 mile of the property than properties located east of the Willamette River (Table 2).

The tree canopy variables were generated using a canopy cover layer derived from satellite images (Metro Data Resources Center 2006). The canopy cover layer used a minimum mapping unit of 1 acre and categorized canopy cover based on the amount of coverage provided by the crowns of trees. For this study we focus on canopy that provides between 76% and 100% coverage, that is, patches of tree canopy of 1 acre or larger where canopy crowns overlap and cover 76% to 100% of the patch.

TABLE 1
EXPLANATORY VARIABLES

Property variables	Lot square footage, building square footage, garage square footage, total number of bathrooms, number of fireplaces, age, structure (1 story, 1 story unfinished attic, 1 story unfinished attic and basement, 1 story with finished basement, 1 story with finished attic, 1 story with finished attic and basement, 1 ½ story, 1 ½ story with finished basement, 2 story or 2 story with finished basement), base zoning (rural, low-density residential, medium density residential, high density residential, light commercial, heavy commercial, light industrial, or open space), distance to nearest commercial district, distance to nearest industrial district
Location variables	Quadrant (north, northeast, northwest, southwest, southeast); quadrant * distance to central business district
Property amenity variables	Percentage of tree canopy on the property
Percentage of area within 1/4 mile of properties with amenities	Percentage of area within 1/4 mile of property with: tree canopy, wetlands, river, stream, and slope equal to or exceeding 25%

TABLE 2

SUMMARY STATISTICS (STANDARD DEVIATIONS IN PARENTHESES)

	Combined	NW	SW	SE	NE	N
Mean real sale price (2000)	$175,160	$443,588	$255,965	$152,679	$168,894	$125,090
Mean median income (census tract 2000)	$45,985	$84,834	$63,790	$41,145	$45,216	$37,148
Mean lot size (ft^2)	7,043	13,626	10,022	6,788	6,310	5,327
Mean percentage of tree canopy on the property	3.48 (14.44)	21.64 (31.26)	16.02 (28.56)	1.22 (7.89)	1.00 (7.22)	0.40 (4.67)
Mean percentage tree canopy within 1/4 mile of properties	7.21 (13.29)	40.26 (20.12) Max: 90	27.03 (17.83) Max: 86	3.86 (7.62) Max: 85	2.53 (4.80) Max: 68	2.66 (3.76) Max: 29
Observations	30,015	767	3,879	11,980	9,597	3,792

The percentage of tree canopy on a property was estimated by combining the tree canopy layer with a property tax boundary layer. On average, properties in the study area have 3.48% of their land covered with tree canopy that provides 76% to 100% coverage and is part of a patch that is 1 acre or larger. This is because much of the study area has no tree canopy at the high-level of coverage of 76% to 100%. In each area (NW, SW, SE, NE, N) there were properties completely covered with tree canopy and properties with no tree canopy.

Tree canopy within 1/4 mile of a property can be located on privately or publicly owned land. The majority of tree canopy for property sales in the data set is on privately owned land. North Portland is an exception with 1.25% and 1.41% of land covered by privately and publicly owned tree canopy, respectively (Table 3).

The second-stage hedonic price model uses socioeconomic and perception variables from a survey to estimate the inverse demand function; this function is then used to calculate the benefits of nonmarginal changes in tree canopy coverage. In the fall of 2005, a packet containing an eight-page survey, a cover letter, a map of the Portland-area highlighting seven regional parks, and a postage-paid return envelope was mailed to a random sample of 1,200 properties selected from the 2001 property sales.[2] Of the 1,141 deliverable surveys, 42% (479) were returned, and out of the 479 surveys returned 92% (440) were useable in the second-stage hedonic price model. The survey sample and the Portland population have similar mean income and age, but the sample is, on average, more educated (Table 4).

The survey asked respondents for (1) their perception of attributes of Portland parks, (2) their use of prominent Portland parks,[3] (3) their willingness to pay for a program to purchase and maintain a large regional park, (4) the features of their choice of residence, and (5) their socioeconomic characteristics. The perception variables of the attributes of Portland parks are from nine-scale Likert-type questions that ask about the influence of park attributes, such as tree canopy, on housing choice. The socioeconomic variables include age, education, income, and the number of family members in the household.

Table 4 includes summary statistics for the variables used as demand shifters and/or as instruments in the second-stage hedonic model. The section of our paper describing the estimation of the inverse demand function explains the hypothesized relationship between these variables and the demand for tree canopy.

IV. HEDONIC PRICE METHOD: FIRST- AND SECOND-STAGE MODELS

The first-stage hedonic price model relates the sale price of properties to their structural

[2] For additional information on the survey see Kovacs and Larson (2008).

[3] These include Forest Park, Mount Tabor, Tryon Creek State Park, Willamette Park, and Powell Butte.

TABLE 3

TREE CANOPY WITHIN 1/4 MILE OF PROPERTIES

	Combined	NW	SW	SE	NE	N
Percentage of tree canopy	7.21	40.26	27.03	3.86	2.53	2.66
Percentage on privately owned land	5.55	32.97	22.41	2.81	1.66	1.25
Percentage on publicly owned land	1.66	7.29	4.63	1.05	0.97	1.41

characteristics, neighborhood amenities, and location. While estimates for marginal changes in attributes can be derived from the first stage, the second stage is needed to estimate per-property benefits from non-marginal changes.

Rosen (1974) proposed that marginal prices from the first stage be used in a second-stage model to estimate the demand curve for the attribute of interest. However, for reliable estimation of the second stage, the inverse demand function must address two important econometric issues: identification of the second-stage demand parameters from the first-stage parameters, and endogeneity of the price and level of the attribute.

Problems with parameter identification arise because the attributes of the composite good cannot be unbundled, resulting in a nonlinear hedonic price function. Consequently, the same set of information is used for the first and second stages—leading to an identification problem unless additional information or structure is included in the second-stage model. Ekeland, Heckman,

TABLE 4

DEFINITIONS AND SUMMARY STATISTICS OF HOMEOWNER CHARACTERISTICS

Variable	Definition	Sample Mean	Sample Std. Dev.	2006 Population Mean[a]	Demand Shifter	2SLS Instrument
AGE	Age	40.76	10.30	37.1	X	X
EDUCATION	Years of schooling	16.75	2.42	14.26	X	X
INCOME	Annual family income	$77,352	$44,086	$76,550	X	X
SITETIME	The sum of the average on-site time spent per trip at five natural parks	194.41	148.56		X	X
AGE14	Number of family members younger than 14	0.57	0.90			X
AGE1425	Number of family members between 14 and 25	0.16	0.53			X
AGE2540	Number of family members between 25 and 40	1.06	0.89			X
AGE4060	Number of family members between 40 and 60	0.55	0.79			X
AGE60	Number of family members older than 60	0.08	0.35			X
PRKVIEW	Importance of view of park in housing choice	3.97	2.49			X
PRKTC	Importance of tree canopy at park	6.35	2.06			X
PRKHT	Importance of hiking trails at park	6.03	2.21			X
FRSTTIME	Average on-site time spent per trip at Forest Park	69.69	63.37			X
TBRTIME	Average on-site time spent per trip at Mount Tabor	52.37	49.76			X
PBTIME	Average on-site time spent per trip at Powell Butte Park	23.43	46.64			X
TCKTIME	Average on-site time spent per trip at Tryon Creek Park	26.92	46.80			X

[a] The total population of Portland, Oregon, in 2006 was 539,950. Population summary statistics are from the U.S. Census Bureau's American Community Survey, 2006 (U.S. Census Bureau 2008).

and Nesheim (2004) provide an interesting theoretical discussion of the identification issue, suggesting that the nonlinearities of the hedonic model be used to nonparametrically identify the structural parameters. Endogeneity arises because the marginal price of an attribute, and its level, are simultaneously determined. Under these conditions ordinary least squares (OLS) leads to inconsistent estimation of the second-stage parameters, but two-stage least squares (2SLS) will produce efficient estimates if the instruments used are correlated with the observed levels of the attribute but uncorrelated with the unobserved homeowner's tastes.

As in previous studies (Chattopadhyay 1999), we identify the second-stage parameters using functional-form restrictions, specifically, a quadratic model for the first-stage hedonic price function, and linear and double-log models for the second-stage inverse demand functions. To overcome endogeneity bias we use individual-level survey responses and socioeconomic characteristics of a randomly selected group of property owners who purchased their homes in 2001. While the first-stage hedonic price function uses all 30,015 transactions, the estimation of the inverse demand function involves combining the information derived from the first-stage results with survey responses from a relatively small subset of property owners: 440 observations for the linear model and 377 for the double-log model. We expect that this aspect of the estimation will provide additional structure to the second-stage estimation and a strong set of instruments for efficient 2SLS estimation of the inverse demand parameters.

V. RESULTS

First-Stage Hedonic Price Model

Our a priori expectation is that tree canopy will have either a positive but diminishing effect on a property's sale price, or will increase a property's sale price to a maximum point past which increases in tree canopy will cause a property's sale price to decline. Two models were developed to explore these expectations; the natural log of a property's real sale price was used as the dependent variable in both models.

In the first model, the percentage of tree canopy on a property, and within 1/4 mile of a property, is represented by a quadratic function, while the natural logs of these variables are used in Model 2. To preserve observations, the minimum amount of tree canopy on each property, and within 1/4 mile of each property, was set at 0.1% for Model 2, that is, observations with zero tree canopy for either (or both) categories were recoded to 0.1%—an approach justified by Smith and Cicchetti (1974) and Johnson and Rausser (1971). Of the 30,015 observations in the data set, there are 9,353 observations with no tree canopy within 1/4 mile of the property and 27,583 properties with no tree canopy on the property.

The results from both models are presented in Table 5. The estimated coefficients for the structural, amenity, and location variables are consistent with those of other studies (Netusil 2005a, 2005b). The estimated coefficients on home characteristics (lot square footage, building square footage, etc.), house style (one story, one story with finished basement, etc.), base zoning (low residential, medium residential, etc.), distance to the central business district, and nearest commercial and industrial districts are not included in Table 5. Full results are available from the authors. In Model 1, 40 of the 52 explanatory variables are significant at the 5% level, while in Model 2, 36 of the 46 explanatory variables are significant at the 5% level. In Model 1, the percentage of tree canopy that is estimated to have the largest impact on a property's sale price is approximately 18%.[4] The estimated coefficient on Model 2 is significant and negative, implying that the optimal tree canopy coverage on a property is zero, on average.

[4] This estimate is derived by solving the quadratic equation for a maximum.

TABLE 5

First-Stage Model Estimated Coefficients and Robust Standard Errors

	Model 1 Quadratic	Model 2 Natural Log
Percentage of tree canopy on the property	0.00046 (0.00035)	
Percentage of tree canopy on the property squared	−1.28e−05*** (4.42e−06)	
Percentage of tree canopy within 1/4 mile of the property: N	0.00767*** (0.0018)	
Percentage of tree canopy within 1/4 mile of the property: NW	−0.0140*** (0.00234)	
Percentage of tree canopy within 1/4 mile of the property: NE	−0.0049** (0.0021)	
Percentage of tree canopy within 1/4 mile of the property: SW	−0.0080*** (0.0019)	
Percentage of tree canopy within 1/4 mile of the property: SE	−0.00082 (0.00187)	
Percentage of tree canopy within 1/4 mile of the property squared: N	−0.00024** (0.000104)	
Percentage of tree canopy within 1/4 mile of the property squared: NW	0.000269*** (0.000105)	
Percentage of tree canopy within 1/4 mile of the property squared: NE	0.000132 (0.000111)	
Percentage of tree canopy within 1/4 mile of the property squared: SW	0.000248** (0.000104)	
Percentage of tree canopy within 1/4 mile of the property squared: SE	0.000134 (0.000104)	
Percentage of area within 1/4 mile of property with wetlands	−0.0008864 (0.0013852)	−0.0009005 (0.0013853)
Percentage of area within 1/4 mile of property with rivers	0.0072869 (0.0006611)***	0.0073019 (0.0006615)***
Percentage of area within 1/4 mile of property with streams	−0.0278367 (0.0076645)***	−0.018638 (0.00738)**
Natural log of percentage of lot with tree canopy		−0.004977*** (0.001786)
Natural log of percentage of area within 1/4 mile of property with tree canopy		0.018990*** (0.003931)
Natural log of percentage of area within 1/4 mile of property with tree canopy: NW		−0.083126*** (0.012220)
Natural log of percentage of area within 1/4 mile of property with tree canopy: NE		−0.008506* (0.004943)
Natural log of percentage of area within 1/4 mile of property with tree canopy: SW		−0.022236*** (0.006473)
Natural log of percentage of area within 1/4 mile of property with tree canopy: SE		0.005410 (0.004411)
Observations	30,015	30,015
R^2	0.7554	0.7546

* Significant at 10%; ** significant at 5%; *** significant at 1%.

To test for the presence of spatial error autocorrelation in the first-stage hedonic regression model, we carry out Moran's *I*-test, separately, for the data from 1999, 2000, and 2001. The results of the tests are as follows:

- 1999 data: Moran's *I*-statistic = 0.3956, *p*-value = 0.01 (n = 9,913)
- 2000 data: Moran's *I*-statistic = 0.4131, *p*-value = 0.01 (n = 9,537)
- 2001 data: Moran's *I*-statistic = 0.3716, *p*-value = 0.01 (n = 10,474)

The tests indicate the presence of statistically significant spatial error autocorrelation for each year of the data. However, it remains unclear whether the spatial error process is due to spatial dependence or spatial heterogeneity. An appropriate spatial lag model can correct for spatial dependence, but spatial heterogeneity can

TABLE 6
IMPLICIT PRICES FOR TREE CANOPY WITHIN 1/4 MILE OF PROPERTIES

	Number of Observations	Observations with Negative Implicit Prices Model 1: Quadratic	Maximum or Minimum of Quadratic Function	Observations with Negative Implicit Price Model 2: Natural Log
NW	767	767	97.36 (min)	767
SW	3,879	1,219	16.80 (min)	3,879
SE	11,980	176	33.32 (max)	0
NE	9,597	219	13.31 (max)	0
N	3,792	45	16.22 (max)	0
Total	30,015	2,426		4,646

be the result of error heteroskedasticity (Anselin and Bera 1998).

Correcting for spatial dependence involves specification of an appropriate spatial lag model (Anselin et al. 1996; Anselin and Bera 1998). Addressing spatial dependence requires at least two years of cross-sectional data that are temporally separated. This enables testing of the stability and asymptotic validity of the spatial lag parameters to determine the appropriate spatial lag specification to correct for spatial dependence (Anselin 2000). Unfortunately, our home sale data are for three consecutive years and, as such, do not enable us to specify a statistically accurate spatial lag model. A recent study that compares implicit prices of a hedonic price model with and without spatial dependence finds that spatially corrected estimates of implicit prices are found to be nearly the same as those obtained by OLS (Mueller and Loomis 2008). We address error heteroskedasticity, which could be the result of spatial heterogeneity, by estimating the regressions with robust standard errors (White 1980). In large samples, like the present case, heteroskedasticity-robust estimation can take care of the spatial clustering effect that is often encountered when using housing data (Anselin and Bera 1998).

Marginal implicit prices were derived using the results presented in Table 5. The estimated coefficients are consistent with the a priori expected relationship between the percentage of tree canopy within 1/4 mile of a property and its sale price in Model 1 for properties in SE, NE, and N Portland. However, increases in tree canopy up to 16.80% in SW Portland, and 97.36% in NW Portland, are estimated to decrease the sale price of properties located in those areas (Table 6).

The estimated coefficients in Model 2 are consistent with a priori expectations for properties in SE, NE, and N Portland, but properties in NW and SW Portland are estimated to experience a decline in sale price from increases in tree canopy. Negative marginal implicit prices in NW and in SW Portland make intuitive sense since further increases from already large amounts of dense tree canopy within 1/4 mile of properties may block highly desirable views of mountains, city lights, and the Willamette River.

Inverse Demand Function (Second-Stage Hedonic Price Model)

The marginal implicit prices estimated in the first stage are used as the dependent variable in the estimation of the inverse demand function. Since the marginal implicit price of tree canopy and the percentage of tree canopy are simultaneously determined, instruments need to be used that are correlated with the observed levels of the attribute, but uncorrelated with the unobserved homeowner's tastes to avoid endogeneity bias.

Perception variables of park attributes such as view, tree canopy, and hiking, and on-site time variables for visits to natural parks, such as SITETIME, reflect respondents' preferences for parks. The demand for tree canopy near a property is likely related to these preferences because parks are a logical substitute for tree canopy near

TABLE 7

ESTIMATED COEFFICIENTS: QUADRATIC FIRST STAGE, LINEAR SECOND STAGE (STANDARD ERRORS IN PARENTHESES)

%TREE_CANOPY	−20.35*** (4.58)
INCOME	0.0001071 (0.00047)
AGE	2.49 (2.05)
EDUCATION	−192.55** (81.47)
EDUCATION_SQUARED	5.85** (2.41)
SITETIME	−0.1229 (0.143)
Constant	2,150.48*** (695.58)
R^2	0.2719
Observations	440

** Significant at 5%; *** significant at 1%.

TABLE 8

ESTIMATED COEFFICIENTS: QUADRATIC FIRST STAGE, DOUBLE-LOG SECOND STAGE (ROBUST STANDARD ERRORS IN PARENTHESES)

LN_%TREE_CANOPY	−0.1682*** (0.0423)
LN_INCOME	0.1720* (0.0972)
LN_AGE	0.1927 (0.1825)
LN_EDUCATION	−0.5539 (0.3455)
LN_SITETIME	−0.0937** (0.0455)
Constant	5.409*** (1.569)
R^2	0.2161
Observations	377

* Significant at 10%; ** significant at 5%; *** significant at 1%.

a home, that is, homeowners who have little or no tree canopy on or near their property may make greater use of these parks.

Socioeconomic variables such as age, education, income, and the number of young children in a household are also related to the demand for tree canopy. Individuals who are older may have a preference for more tree canopy near their homes because they have more time available for passive recreation activities such as bird-watching; those with more education may desire neighborhoods with more tree canopy because there is a greater understanding and appreciation of the ecosystem services of tree canopy. Income may increase the demand for tree canopy near a home because of a greater ability to spend on amenities, while the number of family members in a household of different age groups influences household activities.

There was no a priori expectation about the functional form for the second-stage model, so two models were estimated: linear and double-log. We retained the negative marginal implicit prices estimated in the first-stage models in the linear model since these appear to be valid estimates for the study area. Other authors have taken a similar approach, although some authors have set these prices equal to zero or dropped these observations entirely (Zabel and Kiel 2000).

Results from the second-stage linear model are presented in Table 7. The estimated coefficient on the percentage of tree canopy is negative and significant. Income and age are positive, as expected, but not significant. Education, which is modeled as a quadratic, reaches a minimum at 16.46 years, which is close to the average education level in the survey data set, but much higher than the average education level in Portland. The availability of a substitute for tree canopy within 1/4 mile of a property is measured by SITETIME, the sum of the average on-site time spent per trip at five natural parks in the Portland-area. The estimated coefficient on this variable is negative, as expected, but is not significant.

Table 8 contains the results from the double-log model. For this model it is assumed that the minimum tree canopy within 1/4 mile of each observation is 0.1%; observations with a first-stage negative marginal implicit price are dropped, which decreases the number of observations to 377. The estimated coefficient on tree canopy is negative and significant: a 1% increase in tree canopy within 1/4 mile of a property is estimated to decrease the implicit marginal willingness-to-pay for tree canopy by 0.1682%. The coefficient on income is positive and significant, providing evidence that tree canopy is a normal good.

The coefficient on SITETIME, a variable that measures a substitute for tree canopy within 1/4 mile of a property, is negative and significant. Increasing the amount of tree canopy within 1/4 mile of a property by 1% is estimated to decrease the amount of time spent at the five natural parks in the Portland area by 0.0937%. Age is again positive but not significant. The negative sign on education is counterintuitive and is

TABLE 9
INSTRUMENT TESTS

	Underidentification	Weak Identification	Overidentification
Linear second stage	Anderson *LR*-statistic: 53.779 χ^2_{12}(*p*-value)=0.0000	Craig-Donald Wald *F*-statistic: 4.897 $f_{0.05}$ = 11.51	Sargan statistic: 8.597 χ^2_{11}(*p*-value)=0.6591
Double-log second stage	Kleibergen-Paap rk-LR-statistic: 26.811 χ^2_{12}(*p*-value)=0.0132	Kleibergen-Paap rk Wald *F*-statistic: 3.170 $f_{0.05}$ = 11.51	Hansen *J*-statistic: 15.235 χ^2_{12}(*p*-value)=0.2288

possibly the result of the double-log model's inability to represent the nonlinear relationship between the demand for tree canopy and education observed in the linear model.

Endogeneity

To examine the effectiveness of the 2SLS results we conducted tests for underidentification, weak identification, and overidentification of the instruments. As shown in Table 9, Anderson's likelihood ratio test (Kleibergen-Paap rk-LR-statistic) indicates the model is identified for both specifications; however, the Craig-Donald statistic (Kleibergen-Paap rk Wald *F*-statistic) suggests that both specifications of the model are only weakly identified. Sargan's statistic (Hansen's *J*-statistic) indicates that the instruments are valid, that is, not correlated with the error term and also correctly excluded from the estimated equation.

Per-Property Benefit Estimates

Per-property benefit estimates for a range of tree canopy levels are calculated using the second-stage results (Table 10). The estimated demand curve is integrated from zero canopy coverage to different tree canopy levels for each observation; the observation-level benefits are then averaged over the entire sample. Figure 2 is a graphical representation of the estimated demand curves.

The tree canopy levels evaluated include (1) the lowest average tree canopy coverage (2.53%), (2) the mean coverage (7.21%) for the study area, (3) a coverage level (15%) reflecting roughly a doubling of the average tree canopy within the study area, and (4) the level of tree canopy where we see a decline in benefit estimates in the quadratic model (40%). The average benefit estimates for the mean canopy cover (7.21%) within 1/4 mile of properties in the study area represent between 0.75% and 2.52% of the mean sale price of $175,160 under the two different specifications. A test of significance of the population mean benefits is performed for each estimated benefit reported in Table 10. The *t*-ratios for these tests against the alternative that the population mean benefit is different from zero are all greater than 100, signifying that the benefits are significantly different from zero. A 95% confidence interval for the population mean benefit is reported for each benefit estimate in Table 10.

The results also allow us to compute the change in the per-property benefits from a change in the level of tree canopy coverage. For example, for each observation in our data set we compute the difference between the per-property benefits obtained by integrating the second-stage benefit function from 0% to 7.21% and the per-property benefits obtained by integrating the second-

TABLE 10
PER PROPERTY BENEFIT ESTIMATES FOR ALTERNATIVE CANOPY COVER AND 95% CONFIDENCE INTERVALS

Percentage of Tree Canopy	Quadratic First Stage, Linear Second Stage	Quadratic First Stage, Log Second Stage
2.53	$1,671 ± $15	$548 ± $2
7.21	$4,416 ± $42	$1,310 ± $5
8.21	$4,944 ± $47	$1,459 ± $5
15	$7,988 ± $87	$2,409 ± $8
25	$10,747 ± $144	$3,684 ± $14
35	$11,453 ± $202	$4,874 ± $18
40	$11,037 ± $231	$5,447 ± $20

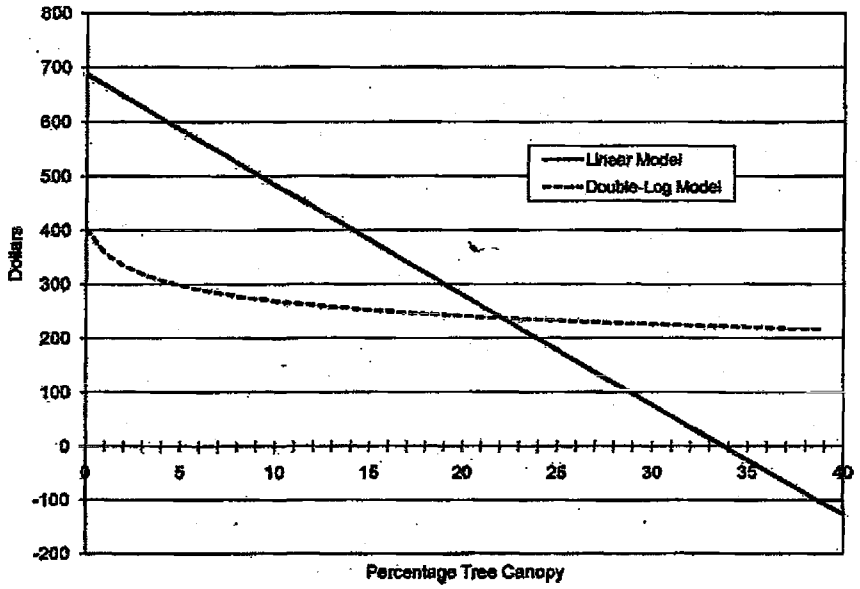


FIGURE 2
SECOND-STAGE DEMAND CURVES

stage benefit function from 0% to 2.53%. This difference, when averaged over the sample, produces a Marshallian surplus of $2,745 for a change in tree canopy coverage from 2.53% to 7.21% (Table 11). In Table 11 we report the results of increasing tree canopy from (1) 2.53% to the study average of 7.21%, (2) 7.21% to 8.21%, that is, a 1 percentage point increase in tree canopy cover, and (3) a doubling of tree canopy coverage from 7.21% to 15%.

An increase in tree canopy cover from 7.21% to 8.21% is estimated to increase per-property benefits from $149 to $528. This 1 percentage point change represents an additional 1.35 acres of tree canopy within 1/4 mile of a property, which corresponds to a per-acre benefit ranging from $111 to $391. The null hypothesis that the mean per-property benefit associated with the change from one level to another is zero is rejected with *t*-ratios all greater than 100. This suggests that the per-property benefit associated with each of the estimates in Table 11 is statistically different from zero.

The linear second-stage specification produces substantially higher benefit estimates than the logarithmic second-stage specification. One plausible explanation is that the perceived benefits of tree canopy decrease with increases in the quantity of tree canopy, but at an increasing rate. A linear demand function would not capture this nonlinearity and would produce benefit estimates that are too large. Thus, one should be careful in deciding which set of estimates to use for policy analysis.

VI. CONCLUSIONS

Portland, Oregon, is described as a "particularly green and well-treed city"

TABLE 11
PER-PROPERTY AND PER-ACRE BENEFIT ESTIMATES FROM PERCENTAGE CHANGES IN CANOPY COVERAGE AND 95% CONFIDENCE INTERVALS

Change in Percentage of Tree Canopy	Quadratic First Stage, Linear Second Stage	Quadratic First Stage, Log Second Stage
2.53 to 7.21	$2,745 ± $27	$762 ± $3
7.21 to 8.21	$528 ± $6	$149 ± $ 1
7.21 to 15	$3,572 ± $45	$1,099 ± $4
Per acre benefit from 7.21 to 8.21 increase	$391	$111

(Poracsky and Lackner 2004, 1). The mean percentage of tree canopy within 1/4 mile of properties in the data set is 7.21% with 5.55% on privately owned land and 1.66% on publicly owned land. This average, however, masks large differences in the distribution of tree canopy across the study area.

The estimated coefficients from the first-stage hedonic price model indicate that an increase in tree canopy in parts of the study area with small amounts of tree canopy (N, NE, SE Portland) is expected to increase the sale price of properties. However, in the heavily treed areas of SW and NW Portland, increases in tree canopy are estimated to decrease sale prices. This effect is attributed to the already large percentage of tree canopy in these areas and the potential that highly desirable views will be blocked.

The coefficients on the percentage of tree canopy within 1/4 mile of a property are consistently negative and statistically significant across specifications for the second-stage model; the signs on other explanatory variables are consistent with a priori expectations. Per-property benefit estimates for the mean canopy cover within 1/4 mile of properties in the study area range from 0.75% to 2.52% of the mean sale price of $175,160.

The hedonic price method is only able to capture benefits that are capitalized into the sale price of properties. The attribute that was the focus of this study—tree canopy that provides between 76% and 100% coverage and encompasses at least one continuous acre—generates many public benefits such as wildlife habitat, improved air quality, reduced runoff and flooding, lower noise levels, and climate moderation. Future research can use the results of this study to analyze the benefits and costs of Portland's urban forest (McPherson et al. 2002).

The small average lot size for residential properties in the study area points to the need for a coordinated effort to maintain and enhance tree canopy. Current regulations in the study area prohibit cutting healthy trees on large lots if doing so would create a "significant negative impact" on the "erosion, soil stability, soil structure, flow of surface waters, water quality, health of adjacent trees and understory plants, or existing windbreaks" and "the character, aesthetics, property values, or property uses of a neighborhood" (City of Portland, Oregon 2005). Our empirical results suggest that these regulations, tree planting programs sponsored by nonprofit associations, and efforts by the regional government to educate property owners about the benefits of wildlife habitat in their neighborhood will maintain, or perhaps enhance, the sale price of single-family residential properties in Portland, Oregon.

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Comments and Concerns Regarding Tree Project – 6/8/10

John Gibbon – 9822 SW Quail Post road

The recent Tribune article regarding this process showed a picture of several trees in newer subdivision project at SW 58th and Capitol Highway in Far Southwest Portland. That stretch of Capital Highway was where, if time had allowed, I had hoped to take the Planning Commission on it's Southwest tour a few years ago, as it is a stretch of road that in a short distance illustrates a number of the tree issues that the city faces in the West Hills, I was present when the picture was taken since I used the area to illustrate that point to a reporter from Tribune family of paper. Unfortunately what the published pictures lacks is the detail to show that of the three major Doug firs included in the picture, clearly intended to be preserved in this common wall and single family project's common area, one is dead and one is most likely dying.

The issues beyond that illustrated by the picture on this stretch of Capitol Highway include - 1) the removal of a significant (30 inch ?) Doug fir from the parent parcel of a property after it was land divided into three parcels and developed with houses, mostly it appears because the new owners of the original home needed additional front yard parking space for their 3 vehicles and a trailered boat; 2) The removal of an estimated 90% to 95% of the tree cover from a property that Jeff Fishe has developed into a fine townhome project (I'm actually glad the Planning Commission didn't see that site on the tour, Jeff was in the clearing and grubbing stage then and I doubt that his ability to make needed creditable contributions to this process would have survived that particularly ugly stage of the development process) and 3) the successful retention of a number of trees clusters on a single family site redeveloped into a senior assisted living project at the corner of Capital Highway and Lesser Road.

This situation illustrates by the photo demonstrates two problems that need that the Planning Commission needs to consider in the work being done today.

First the problem of how failed tree plans are to be handled. In Southwest Portland this is a consistent problem that I hope the tree project will, by rationalizing the permit process will improve. Right now in many of the land divisions subject to tree preservation requirements preserved large trees simply do not survive more than a few years leaving new home owners or groups of new home owners responsible for the trees with a removal problem. The question that arises from this scenario is whether the sunsetting provisions, that I strongly support, will cause dead and dying trees to be retained too long especially in the group owned common area. I would urge you to make clear that in such situations, where the best laid development plans fail in the course of events, that individual lot owners or small groups of homeowners be given incentives to quickly replace the removed trees under the 1 for 1 replacement standards applicable generally to dead and dying trees rather than on the basis of attempting to replay the conditions of the development plan. Even in cases of owners wanting to remove healthy preserved trees that they judge just don't work with a developed site I personally support implementing some form of replacement ratio approach rather complicated and expensive preservation plan reviews, I believe it has better chance of getting the City trees and compliant property owners.

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Second I would point out to the Commission that this photo absolutely illustrates the importance of developing some sort of system that supports the stewardship of trees on commonly owned areas through a special type of programmatic permits or some method tailored to these areas. Because the City doesn't and probably now can't legally regulate the exact form the common ownership takes this will be a challenging task but it is one that must be undertaken. This because any astute observer must clearly recognize that the use of common areas permitting clustering offers the best opportunity to protect trees as well as other environmental features in many private ownership situations. I believe that in many ways they are very much like and on the same scale as many institutional operations such as churches or the assisted living facility I referenced earlier and that the community would benefit from approach that supports these types of uses and ownerships making good tree decisions.

Written Testimony Submitted for PC / UFC hearing on Citywide Tree Project

Submitted after 6/08/10

	Name	Organization	Date
72	Jim Wilson		6/11/10

Beckman, Stephanie

From: Hamilton, Joan on behalf of Planning Commission
Sent: Friday, June 11, 2010 1:10 PM
To: Jortner, Roberta (Planning); Tracy, Morgan (Planning); Beckman, Stephanie; Kroma, Anne (Parks)
Subject: FW: Proposed Title 11

All,
Here's a letter of testimony for UFC and "received after record closed" for Planning Commission. I will forward any testimony that dribbles in to the PC for their information at some point, but will stamp it"received after record closed."

Joan Hamilton
Planning Commission / PTE Contracts Coordinator
Bureau of Planning and Sustainability
1900 SW 4th Avenue, Room 7100
Portland OR 97201
Interoffice: B299/7100
Telephone: 503-823-5772
email: joan.hamilton@portlandoregon.gov
Please note the City's new web domain www.portlandoregon.gov and my new email address joan.hamilton@portlandoregon.gov

---

From: Jim Wilson [mailto:jwilson@srgpartnership.com]
Sent: Friday, June 11, 2010 8:40 AM
To: Planning Commission
Subject: Proposed Title 11

The idea that I would have to get a permit to trim trees in the sidewalk strip of my property is repugnant. There are no trees in the strip at present and it has been my desire to plant some trees here. I like the general objectives of the initiative, particularly increasing the canopy cover, but no way am I going to plant trees where I will be subject to City oversight of when and how I prune them and the attendant fees and inspections. The proposed regulations take the model of building and zoning codes into an area where there is no compelling public good to secure – worthy objectives yes but threat to life safety, not really.

The concepts and development of this Code is obviously the product of a bureaucracy not the citizenry. It appears very likely to be costly, burdensome and ineffective at securing some the primary objectives, particularly increasing the canopy on private land (including sidewalk strips). I urge the adoption of a far lighter hand, more like the friends of trees program and less like the Portland tree police less you compel us away from an arboreous prospect.

Thank you,
Jim Wilson
SE Portland

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Appendix C

Public Comments and Staff Response Report (June 21, 2010)



PUBLIC AND AGENCY COMMENT AND STAFF RESPONSE TABLE

JUNE 21, 2010

REFLECTING TESTIMONY TO THE

PORTLAND PLANNING COMMISSION AND URBAN FORESTRY COMMISSION

PUBLIC HEARING AND WORK SESSIONS

MARCH 23 THROUGH JUNE 8, 2010

INTRODUCTION

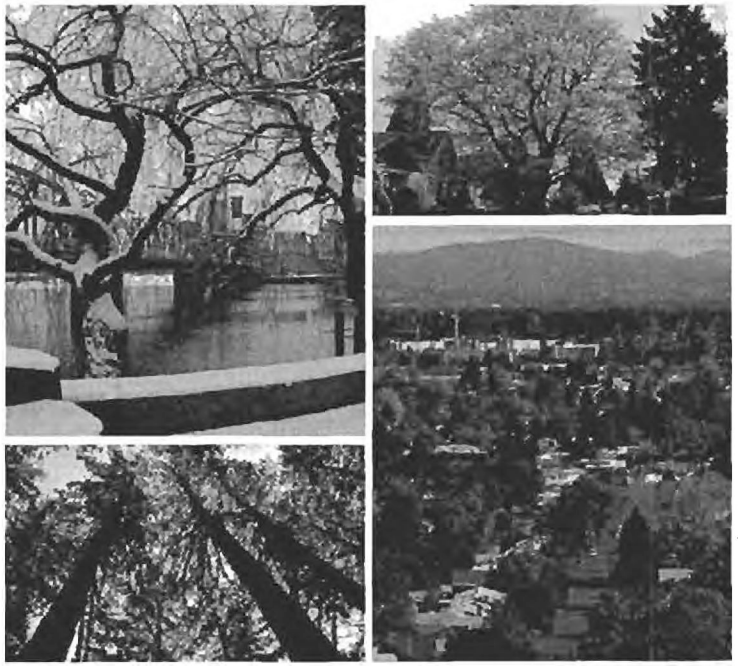
The following table summarizes comments submitted to the Planning Commission and Urban Forestry Commission during the public hearing and work sessions related to the Citywide Tree Project Review and Regulatory Improvement Project – Proposed Draft (February 2010).

The table presents excerpts from written testimony, including letters and emails. The table also includes a summary of verbal comments as summarized from the Planning/Urban Forestry Commission meeting minutes for individuals who did not submit written comments. This testimony was received over the course of six separate meetings held on March 23, April 13, April 27, May 11 and June 8. The Planning Commission closed the public hearing record on June 8. This document will be updated to include additional testimony received by the Urban Forestry Commission as the public record becomes available.

The table is organized by general categories relating to the Discussion Guides used by the commissions during their work sessions. Copies of the Discussion Guides are available on the project website. Under each of the general categories, comments are grouped by similar topics (e.g. "emphasis on native trees"). This is intended to assist the reader in understanding the array of views on the various topics, including areas of general agreement or disagreement on a given topic.

The excerpted comments from the written testimony are presented verbatim. To organize the comments by category, the testimony from an individual may be split by topic and placed in multiple areas of the table. Portions of the testimony and supporting documents or articles are not included in the table. This approach was taken to keep the length of the table more manageable, and recognizes that some portions of the testimony were non-substantive, provided for information only, or otherwise do not call for a response. Copies of the complete written testimony and meeting minutes from the commission meetings are available on the project website.

Staff has prepared responses to the comments presented in the table. The responses are intended to address questions and concerns, explaining or clarifying how the proposed draft addresses particular concerns expressed, or describing why the proposal does not address particular concerns. The staff responses also discuss modifications to the proposal that will likely be reflected in the next draft, based on the input and direction received from the commissions to date. The revised draft will be released for public review prior to consideration at a hearing before the City Council.



PROJECT COMMENTS AND RESPONSES
June 21, 2010

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I. TREES IN DEVELOPMENT SITUATIONS – Meeting urban forest and development goals

I.A. Land Use Reviews (outside natural resource areas) – Tree Preservation, Mitigation, Administration, Tracking

Emphasis on native trees

"Retention of the Significant Tree List for Land use Reviews. The current land division code has a list of 18 very slow growing native trees (e.g., Pacific yew, Oregon white oak, and Pacific madrone) that need protection at small sizes. These trees are a priority for preservation. . For ease of implementation, BPS and BDS have modified the proposal to cover only 6 inch Madrone and Oregon Oak. The full list should be maintained in review situations to create an expectation of preservation of those trees when the City negotiates with developers about which trees the City wants to see retained. Retention of these 18 or more trees needs to stay a priority, and that this issue needs further work by the full staff working group to evaluate what trees are on the list and how it's used." --- *Dean Marriott, Director Bureau of Environmental Services (3/22/10)*

"We believe that the proposed standards for tree preservation in development situations take a step backwards from the current standards by eliminating the existing "significant tree list" and replacing it with a new "priority tree list" which only includes trees greater than 20" except Oaks and Madrones which are regulated at greater than 6". We would suggest that the Commissions consider defining "priority trees" as any tree greater than 12" and expanding the 6" inch threshold beyond Oaks and Madrone to include several other native species that are either slower growing or which never reach large size. This list would include Bitter Cherry, Black Hawthorn, Cascara, Grand Fir, Pacific Yew, Oregon Ash, Ponderosa Pine, Scouler Willow, Western Flowering Dogwood, Western Hemlock and Western Red Cedar." --- *Bob Sallinger, Conservation Director Audubon Society of Portland; Jim Labbe, Urban Conservationist, Audubon Society of Portland; Mike Houck, Executive Director, Urban Greenspaces Institute; Ron Carley, Co-director, Coalition for a Livable Future; Jill Fuglister, Co-director, Coalition for a Livable Future (3/23/10)*

"**Limited priority tree list** - The currently proposed priority tree list used to determine which trees due to their slow growing nature should be protected down to 6 inches in diameter only contains oaks and madrones. A broader list is needed to reflect the diversity of smaller, native trees." *BES Tree Code Option, Bureau of Environmental Services (4/27/10)*

Response: *The proposal replaces the current list of 18 native tree species of various sizes (ranging from 2 to 18 inches) with qualitative criteria that require consideration of native trees generally in the land division process. These criteria provide a stronger tool to require attention to whichever native trees are on the site than the current "caliper-inch" quantity-based preservation standards which generally do not result in any special attention to native trees.*

Project staff believe it would be challenging for applicants and the City to apply the existing Significant Tree list in the context of thousands of development permits, and the introduction of qualitative criteria in these situations is not feasible. Instead, staff are evaluating options to encourage retention of smaller sized native trees through additional preservation incentives rather than mandates which could add complexity and cost to the reviews. Additionally, the Portland Plant List could be amended with accompanying educational information about the specific native trees species, their growth habits, and why they are important at smaller diameter sizes.

	We strongly support components of the new policy, including… Stronger tree preservation requirements in land use reviews." *Nancy Seton, SWHRL Neighborhood Assn. Land Use Chair, Board Member (3/23/10)*
	"As stewards and advocates of watershed health and restoration, the West Multnomah Soil &Water Conservation District (WMSWCD) spends significant staff and volunteer time, as well as financial resources on projects designed to protect existing tree canopy and plant native trees. We are encouraged by the proposed Citywide Tree Project objectives and new regulatory framework and offer the following comments...We believe the emphasis during the development process on preserving high-quality, large, and healthy trees over simply the number of trees...will help ensure that we protect the urban forest canopy… On behalf of the Board, I thank you for your hard work on developing the proposal." *Brian Lightcap, Chair West Multnomah Soil and Water Conservation District (3/18/10)*
	Response: *Support for stronger tree preservation requirements in land use review and other development situations is duly noted.*
	Follow through on Tree Preservation plans
	"I have included a small example of our current "system" described in code as tree protection. A Tree Preservation Plan was a condition required by the decision permitting a land division. The new owners of the houses that were built cut down those remaining "protected" trees and are currently being cited for a violation. They state they knew nothing of the Tree preservation Plan nor that the trees were to be protected…the solutions provided by various involved bureaus are where the real problem discloses itself. Our East Portland Neighborhood Coalition Land Use Committee responded to the violation notice suggesting a less expensive way for assisting the home owners to return tree canopy to the neighborhood area in which it was lost [use of non-profit to plant trees in same watershed]. Here is part of the staff comment to that suggestion: "*…I would recommend contacting the Park Bureau about using the new tree fund money they receive from this violation to use for new trees for Parks in the area the violation occurred.*'" Note: There are no parks in the area, the Parks Bureau is not required to plant trees in areas in which they are lost, and Tree Fund decisions are made internally by the bureau." *Bonny McKnight (4/12/10)*
	Response: *The proposal addresses the issues raised in the following ways: 1) Tree preservation requirements would be required to be recorded on the deed of newly created lots, which would help ensure that new owners are notified about the requirements that apply; 2) The proposal would add flexibility in methods of mitigation for tree violations. Adding payment to a non-profit organization that plants trees as a possible mitigation method has been noted for possible inclusion in the next code draft (see 5/20/10 tracking table, Section 33.853); 3) The proposed uniform permit system would reduce the risk of inadvertent violations since all property owners would be subject to calling for verification of any exemptions prior to removing trees greater than 12" diameter on private property. This process would include a check to confirm the trees are not supposed to be protected per development-related requirements or conditions of approval.*
	"First the problem of how failed tree plans are to be handled. In Southwest Portland this is a consistent problem that I hope the tree project will, by rationalizing the permit process will improve. Right now in many of the land divisions subject to tree preservation requirements preserved large trees simply do not survive more than a few years leaving new home owners or groups of new home owners responsible for the trees with a removal problem. The question that arises from this scenario is whether the sunsetting provisions, that I strongly support, will cause dead and dying trees to be retained too long especially in the group owned common area. I would urge you to make clear that in such situations…that individual lot owners or small groups of homeowners be given incentives to quickly replace the removed trees under the 1 for 1 replacement standards…rather than …attempting to replay the conditions of the development plan. Even in cases of owners wanting to remove healthy preserved trees that they judge just don't work with a developed site I personally support implementing some form of replacement ratio approach rather [than] complicated and expensive preservation plan reviews, I believe it has better chance of getting the City trees and compliant property owners." *John Gibbon (6/8/10)*

Response: *The proposal includes provisions that allow for removal of dead, diseased and dangerous trees that are subject to approved tree preservation plans without a land use review, provided the condition of the tree is not the result of a violation. Where there is no documented violation of tree protection requirements, such a tree could be removed and replaced under a Title 11 permit. The proposal would continue to require a land use review to amend approved tree preservation plans for other reasons, so there would be opportunity for public review and comment if changes are requested. The intent of the proposed sunset is to place a limit on the timeframe for which this process would be necessary, after which property owners would be subject to the City's general tree permit requirements.*

Concerns of Tree Preservation criteria in other Land Use Reviews

"In past discussions on the Citywide Tree Project, we had indicated we were strongly opposed to adding tree related approval criteria to Adjustment Reviews, Design Reviews, and Conditional Use Reviews, but were in agreement with adding tree-related approval criteria to Conditional Use Master Plans, due to their typically large site size. We are still strongly opposed to adding approval criteria to Adjustment Reviews. However, we have found a solution with BPS that is workable for Design Reviews and Conditional Use Reviews, where it is not a separate criterion, but trees are taken on balance with other factors being considered in the review. This gives us the tools we need for the appropriate situations to save trees without adding more time and cost to every one of these reviews. Regarding Conditional Use Master Plans, although previously we were in agreement with adding tree-related approval criteria, due to the most recent phase of more layoffs, we are now changing our position on adding tree-related approval criteria and strongly recommend just using the same solution that was developed for Conditional Uses. Furthermore, it is not our experience that Conditional Use Master Plans are the source of unnecessary tree loss. These sites are large, and people have options in the layout of the master plan, and generally are not choosing to unnecessarily remove trees. Adding new criteria is a solution in search of a problem, and adds more unnecessary time and cost to the administration of these reviews for no clear benefit." *Rebecca Esau, Manager, Land Use Services, Bureau of Development Services (5/11/10)*

Response: *Code revisions have been identified to address the issues noted above. Specifically, staff intends, with the Planning Commission and Urban Forestry Commission's endorsement, to drop the specific tree preservation approval criteria proposed for Adjustments, Design Reviews and Conditional Use Reviews from the proposal. However, the next draft will add Tree Preservation to the list of consideration factors for Design Reviews, and to certain Conditional Use approval criteria. Conditional Use Master Plans will be addressed in the same manner as other conditional uses.*

Specific Code Language Comments

Proposed Code: Chapter 33.630 Trees

Comment: As a general comment, it appears this chapter is written for residential-type land divisions, but clearly applies to C, E, and I zones which is a concern. There does not appear to be any flexibility for undeveloped sites in C, E, and I zones. For example, Section 33.630.300 (Modifications that Will Better Meet Tree Preservation Requirements) provides modifications to site-related development standards as part of the land division review. However, the only standard listed applies to allowing reduction in minimum density, which does not apply to C, E, and I zone development. We recommend this section be modified to more closely address the conditions that exist with employment and industrial zones specifically, or allow more flexible options for compliance with tree requirements during a land division. *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*

Response: *This chapter currently applies to all zones, including C, E and I zones, and is proposed to continue to apply to all zones. The modifications allowed to better meet tree preservation (33.630.300) include two categories: A. Site-related development standards and B. Minimum Density. While the allowed reduction in minimum density is only applicable to residential uses, any site is eligible to propose modifications to other site-related development standards (setbacks, height, etc) in order to preserve trees. The proposed approval criteria (33.630.200.D) are also intended to provide additional flexibility for all sites by considering the expected uses and intensity of development when evaluating tree preservation. Staff is open to additional suggestions to provide flexible standards that will encourage tree preservation in non-residential land divisions.*

Proposed Code: 33.630.200 Tree Preservation Requirements for Trees Located on the Site (TREES): *"2. Proposals to divide sites in C, E, or I zones where all of the proposed lots are currently developed with commercial, employment or industrial development have the option to defer tree preservation review to the time of any subsequent redevelopment of the site. If this option is used, the preliminary plan approval must be subject to a condition of approval that subsequent development permits are subject to the tree preservation standards of Title 11, Chapter 11.600; and"*
Comment: We support this requirement, but we are not clear why there is an option to defer the tree preservation plan for undeveloped sites. Frequently, sites move through the land division process and the actual development (which would establish the trees that can be preserved and those that must be removed). Also, for existing developed lots, the proposed code indicates, "...where all of the proposed lots." It is not clear what the outcome would be if all but one lot in a subdivision is developed, and it is unclear if this means the deferral option is not available. *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*

Response: *The intent of this exception is to allow commercial, industrial and employment sites that are fully developed to go through a land division without addressing tree preservation requirements. In situations where no additional development is anticipated, the requirement to survey and inventory trees and develop a preservation plan adds limited value to the review and can represent a significant cost to the applicant. This exemption is not proposed for sites that are partially developed so that tree preservation would be evaluated along with the lot configuration, provision of services, and other factors considered in the review of additional future development on those sites. The deferral option would not be available for sites where all of the proposed lots, except one, are developed. Staff will seek to make this more clear in the next code draft.*

Proposed Code: Chapter 33.730 (F-1) Quasi-Judicial Procedures: *"33.730.050 Pre-Application Conference 1. Preliminary tree assessment. A preliminary tree assessment involves a site visit by City staff to evaluate trees on the site and help set priorities for tree preservation. A preliminary tree assessment is required for Type III land division and planned development applications that have trees present on the site. The Director of BDS may require a preliminary tree assessment on a case-by-case basis for other review types if relevant to the approval criteria for the review. Preliminary tree assessments should generally occur in conjunction with the pre-application conference. Required assessments must occur prior to submittal of the land use application. A separate fee may be charged."* **Comment:** This step appears to be an unnecessary and costly requirement for a Type III land division. First, it is not clear from this requirement which staff will be involved, and if City staff have the qualifications to assess tree conditions and priorities, particularly if a separate fee is charged. We feel trees should not be treated any differently than other elements of development (traffic, wetlands, etc.), whereby an applicant's consultant can provide a tree assessment for review by City staff. Further, it is often premature to require this at the time of the pre-application conference, since the purpose of the conference is to review preliminary ideas and strategies prior to specific studies by consultants. *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*

Response: *This requirement will be removed from the code in the next code draft. Staff will look for other means to provide early input from City tree professional on a case by case basis.*

I.B. Building Permits – Tree Preservation, Mitigation

Incentives vs. Regulations

Reliance on incentives or regulations, or some blending of the two. Is it possible to rely on incentives more than regulations to achieve the goal of increased canopy? In situations where a developer might be able to preserve a tree, but would be inclined to cut it down, what are effective incentives that the City could offer to preserve the tree? The proposal offers some flexible development standards to facilitate tree preservation, and this is good. What else could be offered to incent or remove obstacles to tree preservation?--- *Rebecca Esau, Manager, Land Use Services, Bureau of Development Services (3/22/10)*

Response: *We appreciate the support for the proposed flexible development standards and also agree that incentives are important tools to help preserve tree canopy. Staff is exploring additional incentives to help encourage tree retention, however regulations are also important to provide baseline safeguards to help preserve and protect and replenish Portland's urban forest.*

Proposed Code: 33.140.240 (B-1-A-1) Pedestrian Standards: *"Where a Priority Tree proposed for preservation, or its root protection zone, is within the straight line path, the path may meander to avoid the tree or root protection zone and may be up to 150percent of the straight line distance."* **Comment:** Although the application of pedestrian standards is limited within Port property, we feel an increase of only 30% to meander around a tree/root zone is not adequate. We recommend at least 50% (i.e., total 200%) to allow adequate flexibility to accommodate trees. *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*

Response: *This change will be included in the next code draft.*

Proposed Code: 33.266.110 (B-4) Minimum Required Parking Spaces: *"Exceptions for sites where Priority Trees are preserved. Minimum parking may be reduced by one parking space for each Priority Tree preserved and protected in accordance with the requirements of Title 11, Section 11.600.080. A maximum of 2 parking spaces or 10 percent of the total required may be reduced, whichever is greater. However, required parking may not be reduced below 4 parking spaces under this provision."* **Comment:** Although we appreciate the ability to reduce minimum code-required parking, it is more common that the amount of parking in commercial/industrial development is based on market need or user requirements that exceed minimum requirements. *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*

Response: *Staff understands that the allowance to reduce parking spaces may get limited use given existing market-driven pressures for parking. It is proposed as one of several flexible standards intended to give applicants options that make it easier to preserve trees. If the market begins to recognize the value of existing trees more explicitly this pressure could shift in the other direction.*

Where to Focus Increasing Tree Canopy - Private and/or Publicly Owned Land

Where to get the increased canopy....the right-of-way or private property? We have 26% tree canopy in Portland which is very good. It is consistent with the national average. As a comparison, Seattle has an 18% tree canopy. Our goal of 33% is in reach. Is it possible to achieve the goal of increased tree canopy by focusing our efforts first on getting more street trees or trees on City-owned land, and secondly on regulating trees on private property? Is it possible to achieve the goal of 33% tree canopy by solely focusing on street trees, and keeping the tree regulations on private property to a very simple minimum? --- *Rebecca Esau, Manager, Land Use Services Division, Bureau of Development Services (3/22/10)*

"A Parks Bureau document titled "Urban Forest Canopy: Assessment and Public Tree Evaluation" from October 2007 states that:

- Just under ½ of the City's tree canopy is on publicly owned land;
- An inventory was included of the 1.2 million street and park trees. Of these trees, 17% had a "dbh" (diameter at breast height) of 18 inches or greater;
- A little less than ½ of all street tree planting opportunities have been planted.

What these figures show is:

- Nearly half of the City's tree canopy can be protected just by managing or regulating trees on publicly owned property...
- The fact that less than half of the street planting opportunities throughout the city have been planted provides significant opportunities for increased tree canopy before we even start talking about tree requirements for private properties. It would be worthwhile to direct funding to developing this part of the City's green infrastructure, and getting more street trees planted, given the extensive opportunities there.
- Not only is a significant amount of the City's tree canopy on publicly owned property, but nearly 20% of that canopy consists of "priority" trees (trees 18 inches and greater). Having the ability to regulate and preserve this amount of mature canopy on publicly owned land, in combination with the sizable percentage of private residential properties (16-24% from our sample) that are already preserving trees should point to less of a need for a hard, regulatory approach to preserving trees on private property, and allow for more of an incentive approach to preservation, possibly through BES credits related to the stormwater benefits they provide."

Rebecca Esau, Manager, Land Use Services, Bureau of Development Services (5/11/10)

Response: *It is appropriate to focus part of the City's tree preservation and planting efforts on City property, as street tree and city trees comprise nearly half (47%) of the current canopy in Portland. However, it would be difficult and undesirable from a neighborhood livability and equity perspective to concentrate the urban forest preservation and enhancement efforts solely on City property. There are 3,175 miles of streets. If medium canopy sized trees were planted every 25 feet on both sides (unlikely considering the lack of planter strips, presence of power lines and other utilities, plus conflicts with driveways etc.), these trees would provide canopy over roughly 19% of the city. If the City's 10,000 acres of parks and natural areas were 100% canopy [Forest Park is @79% for comparison], this, along with the full street tree canopy, would provide 29% citywide. This approach would also be unlikely given that these areas include developed active parks and sports fields, open meadow areas, etc. Adding 8,000 acres of environmental zone at 100% canopy would provide a total of 38% canopy. Many of Portland's neighborhoods do not have parks or environmental zones and need extensive additional tree canopy in order to meet the Urban Forestry Management Plan Goals for equitable distribution of tree-related benefits. Therefore, it seems both necessary and equitable to focus a part of the City's tree preservation and planting attention on private property in Portland.*

Development vs. Non-development considerations

Should trees on lots that are already developed be regulated in the same way, and to the same extent, as trees on sites that are being developed? For example, should a vacant single-family residential lot be given some allowance to remove trees at the time of development because the City expects and wants a house to be developed there? Or should they have to mitigate for all of the trees that they remove, even though it would be impossible to develop the lot with all of the trees preserved? If you opt for treating development situations and non-development situations the same and requiring replacement of trees even if they are in a reasonable building footprint, does it: a) unduly penalize property owners who have a lot of trees on their vacant lot; and b) become like a tree tax, since there is usually no feasible way to plant that many mitigation trees on a lot that is being developed, so the property owner would end up paying into the Tree Fund, in lieu of planting. We are struggling with what is fair and equitable." *Rebecca Esau, Manager, Land Use Services, Bureau of Development Services (3/22/10)*

"Fairness and equitability – Tree removal mitigation standards should be equivalent for both development and non-development situations e.g. a level playing field." *David McAllister, City Forester and City Nature Manager, Portland Parks and Recreation (3/23/10)*

Response: *The project proposal is designed to balance and integrate the City's urban forest management and development goals. The proposed regulations that would apply to trees in development situations intentionally provide an allowance for some tree removal without requiring mitigation for every tree removed. This allowance is meant to recognize that new development does have a footprint, and that the regulations should not create a penalty for properties with trees or create standards that could never be met. That said, the proposal does call for and provides incentives to preserve a percentage of the larger trees on the site if practical. If it is not practical to preserve on the development site, the proposal requires mitigation for these trees through payment of an in lieu fee into the Tree Fund. In non development situations, the site is usually already developed to some extent. The remaining trees are not being displaced by structures, but may need to be removed for other reasons such as for reasons of health or safety, access to sunlight, or personal preference. The proposal acknowledges this through a straightforward tree replacement requirement for most removal requests when development is not occurring.*

	Preservation vs. Planting
	"Does the City want an urban forest that is constantly being regenerated through re-planting with trees of all sizes valued, or should greater value be placed on the preservation of large trees? The project goal is to increase tree canopy and to promote a healthy urban forest. Greater canopy can be achieved by planting more trees, or it can be achieved by preserving more of the large trees on sites where it is practical to do so, or some combination of these approaches. What is the simplest way to achieve greater canopy, while accommodating the development and infill envisioned for the City, as well as the other sustainable things people want to do with their property, such as growing their own fruits and vegetables, installing solar panels and maximizing use of natural light, building attached and detached accessory dwelling units, etc.?" *Rebecca Esau, Manager, Land Use Services, Bureau of Development Services (3/22/10)*
	"Tree Preservation and mitigation - Both tree mitigation and tree preservation are necessary. Tree preservation maintains the current trees and benefits while mitigation provides future trees and future benefits. Each of these regulatory approaches should be designed to achieve its outcome rather than trading one for the other." *David McAllister, City Forester and City Nature Manager, Portland Parks and Recreation (3/23/10)*
	"...Would we like even stronger regulations to protect many of our existing, mature native trees within the City of Portland? Yes... But, it is our view that the current package before you has been carefully crafted to meet the performance standards and goals of the City of Portland, building in flexibility and performance standards to meet the diverse parts of the City and the specifics of its unique places." *Jim Thayer, Southwest Hills Residential League, President (3/23/10)*
	"Dramatic increases in tree planting efforts over the past decade are undermined by lack of protection and mitigation requirements for trees on much of our landscape, confusing and sometimes contradictory regulations, lack of educational outreach resources and insufficient enforcement capabilities. As older and larger trees are being lost, we are increasingly replacing them with smaller and more columnar trees which provide far fewer ecosystem services. An Urban Forestry Assessment recently completed by Audubon, Metro and PSU shows that Portland is increasingly lagging behind many neighboring communities in its efforts to protect its urban tree canopy... we believe that in order to achieve the goals of the city we cannot just plant thousands of trees as we are currently doing, we must also have in place stronger regulations for the preservation of trees. FOT believes that if we are going to shoot for a 33% canopy cover as outlined in the urban forest implementation plan, planting trees alone will not achieve that goal. Not only should we plant trees but also we must preserve and protect, to a reasonable level, and to the best of our ability, all those big, old trees that make up a great percentage of our current cover." *Scott Fogarty, Executive Director, Friends of Trees (4/13/10)*
	"Like Audubon, UGI and CLF, we believe that recent dramatic increases in tree planting will only be truly effective when coupled with concurrent protection and mitigation of older and larger trees across the entire landscape. This proposal will do that." *Matt Clark, Executive Director, Johnson Creek Watershed Council (4/12/10)*
	"Our understanding is that the policies as currently proposed would require the City to spend between $1.5-$2.0 million annually to administer... The City could likely achieve far greater success in enhancing tree canopies in existing neighborhoods if it just took one-third of the proposed budget and put that towards the purchase of trees for neighborhoods to use as part of these efforts. This would be much simpler, require less money, and would achieve a far greater benefit than simply adding to the administration layers within City departments." *David Nielsen, Chief Executive Officer, Home Builders Association of Metro Portland (4/27/10)*

	Response: *As pointed out in the comments, both tree preservation and tree planting are necessary to sustain and enhance the urban forest, and to meet goals for development and other uses of property.* *Leveraging the development process to promote tree preservation when practicable ensures an immediate and sustained benefit over playing continual "catch-up" through planting efforts alone. To the extent it is practical to replant on sites where tree loss occurs, the tree functions will be maintained and dispersed more equitably throughout the city (vs. being concentrated primarily in public areas).* *Application of the proposed tree preservation and density standards to development scenarios are conservatively estimated to generate ten times the increase in tree canopy over time, compared to applying the implementation costs to tree planting alone.* *Project staff have been working with the other City bureaus to identify cost saving strategies. At this point revisions to the initial draft proposal are estimated to reduce ongoing costs by 50%, while maintaining most of the projected tree canopy benefits.*
	Complexity/Clarity of the proposal
	"...complexity has made it difficult for many in the public to read and comprehend the entirety of the regulations. This leads some to rely on assumptions with regard to what this proposal does or doesn't do. For example, some people think that the proposal will ensure the preservation of large trees. While the proposal provides a preservation standard, preservation is not required, and trees may be replaced, or a payment in lieu can be made if the tree can't be saved." *Rebecca Esau, Manager, Land Use Services, Bureau of Development Services (3/22/10)*
	"Although the preservation standards might appear to be complex, they equitably address tree protection on every developing property. By providing tree density standards for all property uses, the City is again reinforcing that every tree is part of our collective green infrastructure and that equity across properties is important." *Dean Marriott, Director, Bureau of Environmental Services (3/22/10)*
	"Although we support tree protection/preservation, we believe the proposed code language has the potential for significant impact to not only existing and future users, but also to BDS staff when they attempt to implement the proposed regulations. Since a new code title and amendments to several other titles are proposed (over 500 pages not including appendices), it is imperative that code language is closely examined by the reviewers and the users to ensure it is properly interfaced and does not result in unanticipated regulatory constraints/conflicts." *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*
	Response: *Staff appreciates that some believe the proposed tree preservation standards are overly complex or are unclear. One objective of this project was to provide options, based on lot sizes, and escalating mitigation requirements to provide credit for partially meeting the standards. However, these components of the proposal added complexity to the code. Staff has since developed, and discussed with the Planning Commission and Urban Forestry Commission, recommendations to further simplify and clarify the proposal in the revised draft, including sections relating to proposed tree preservation standards. As noted above, the current proposal does not ensure that large trees will be preserved, but rather is intended to provide an incentive-based standard to encourage preservation where practical. The proposal is intended to apply equitably across developing properties to reinforce that trees are part of the City's infrastructure. See additional discussion about code complexity under III. Code Consolidation.*
	"It is unclear why emergency tree pruning is listed under exemptions in the Trees in Development Situations section...It is also unclear why protection and preservation standards apply to every permit type, regardless of whether the requested permit was for interior alterations or zoning permits, for example, that do not result in site disturbance." *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*
	Response: *Since the development chapter also applies to public works and capital projects, there may be city or street trees that require pruning to alleviate an emergency situation. These trees normally require permits to be pruned. We will attempt to better clarify the distinction in the revised code. Clarification will also be added that the preservation standards apply only when site disturbance activities are proposed (and trees are present).*

	Proposed Code: Chapter 11.600.050 Tree Plan Submittal Requirements **Comment:** The detail required for a tree plan submittal, which is required for all development permits, seems excessive considering some permits may not include exterior work. It is likely the level of detail requested for a tree plan could not be prepared accurately unless a topographic survey is accomplished, which may not be warranted. Once again, there should be a reasonable approach to requiring tree plans and review for projects that may not include work that impacts trees. *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*
	***Response:** We will clarify that a tree plan is only required when the tree preservation standards are triggered (site disturbance and proposed tree removal) or when tree density requirements apply. In addition, please note that applicant's may define a "development impact area" to limit the extent of information required on a tree plan.*
	Extent of the Problem with the City's Existing Tree Policies and Regulatory system
	"HBA is also unsure of what the problem the City is trying to solve that requires such a major overhaul of its Tree Policy… All in all, it seems to be a reactionary effort to a problem that isn't really there that will cost the City money and hurt the development it desires to achieve." *David Nielsen, Chief Executive Officer, Home Builders Association of Metro Portland (3/23/10)*
	"Tree Canopy Cycles. Some would believe that we are losing massive amounts of tree canopy. Portland over the years has seen tree canopy come and go." *Jeffrey Paul Fish, President, Fish Construction NW, Inc. (3/23/10)*
	"Developers rarely violate tree removal restrictions already in place." *Jeffrey Paul Fish, President, Fish Construction NW, Inc. (3/23/10)*
	"I have also noticed that when developers plan they often want a clean slate. Existing trees are not seen or are viewed as a nuisance to heavy equipment. They are an afterthought. I would like to see the city encourage creative development that includes preserving and integrating existing trees into new developments." *Robert Elan (4/12/10)*
	"Trees are a $5 billion dollar asset of the City and provide drainage and watershed health ecosystem services, often for a fraction of the cost of providing single objective grey infrastructure solutions….Trees clean our air and water, provide wildlife habitat, increase our property values, sequester carbon dioxide, mitigate urban stormwater, reduce urban heat island effects, increase the energy efficiency in our buildings, reduce neighborhood crime and improve our quality of life and the livability of our city. Trees play an integral role in the success of many recently adopted city plans and programs including the Portland Watershed Management Plan, The Urban Forestry Plan, Grey to Green Initiative and the Climate Change Action Plan. Yet today protection for our urban trees is inconsistent at best." *Scott Fogarty, Executive Director, Friends of Trees (4/13/10)*
	"The ecosystem value of larger mature trees is much higher than a younger and or smaller species of tree. The Bureau of Development Services' current data system has not easy way to provide information regarding tree violations, for the public to even know if there is a tree plan that exists for their property and requires certain trees to be protected. The lack of clarity in the current system makes it difficult for property owners and neighbors to know if trees are being cut legally or in violation of code. It also precludes anyone from providing a quantifiable description of violations under the current system. I have observed the impacts of tree cutting both as part of development and non-development situation on erosion of the roadway, and neighbors' properties in my own neighborhood." *Margot Barnett (4/1/10)*
	"Ensuring that a strong tree canopy continues to develop over time is a different goal than simply preserving existing trees. While mature trees have value, our belief is that the policies need to provide more flexibility and focus on the long-term goal-ensuring a healthy tree canopy continues over time. Portland's overall tree canopy has not suffered under the existing tree policies. There are very few examples of violations of tree codes by the development/building community over the years. In fact, there are many examples of neighborhoods whose tree canopy was significantly improved (e.g. Eastmoreland and Laurelhurst) as a result of being developed." *David Nielsen, Chief Executive Officer, Home Builders Association of Metro Portland (4/27/10)*

	"As an arborist in Portland, I've seen many violations by home owners, developers, landscapers, and people calling themselves arborists...There are two types of violators, the ignorant, and the ones taking a calculated risk. We can educate and provide resources for the uninformed to do things properly, but the people betting they won't get caught won't follow improved codes either...It behooves us to enforce preservation now to avoid larger problems later. How? There should be a posted sign for concerned citizens to report illegal behavior near the perimeter of construction sites. That number would get you to a person at the city with the ability to address violations in a timely manner and will reduce repeat offenses." *Jim Wentworth-Plato, BCMA (Board Certified Master Arborist) (3/24/10)*
	Response: *The City Council funded the Citywide Tree Project so that the City could evaluate existing policies and regulations and develop a clear, cohesive regulatory framework that protects and enhances the urban forest. The need for this evaluation and update is identified as a high priority action in the City's Urban Forest Action Plan (adopted by City Council in 2007). There has been considerable effort on the part of community stakeholders and City staff to clearly define problems with the City's regulations pertaining to trees. This information can be found in the Appendices report that accompanies Volumes 1 and 2 of the Citywide Tree Project proposed draft. The Appendices report contains the Southwest Tree Committee report of 2005 which identifies numerous deficiencies in City regulations, as well as a series of Issue Papers developed by project staff. The Issue Papers outline multiple problems with City regulations including complexities, inconsistencies, gaps and conflicts. The Issue Papers highlight the fact that trees are not generally addressed in development situations resulting in lost opportunities to encourage tree preservation where practical and to ensure that the urban forest is replenished as development takes place. The Issue Papers also highlight inequities and disparities in the City's permit system for trees in non-development situations. The Stakeholder Discussion Group spent months discussing these problems and providing feedback on potential solutions.* *Staff agrees that the urban forest is a valuable and dynamic asset, and has attempted to design the project proposal to recognize that trees come and go. In addition, the proposal does not reflect an assumption that developers often violate tree removal restrictions. Rather, the proposal, including proposed revisions discussed during Planning Commission and Urban Forestry Commission work sessions, is designed based on an assumption that most people comply with the rules, and will continue to do so if the rules are reasonable. A reasonable level of inspection and enforcement must be provided to ensure accountability for compliance.*
	Tree Preservation and other City Goals (Housing, Development, Energy, Climate Action Plan)
	"In what situations does it make sense to say a large tree must be preserved, and what are we willing to give up for this goal? Would we tell someone they couldn't have a vegetable garden? Would we tell someone they couldn't have an on-site parking space or garage? Would we tell them they couldn't have two residential units, but could only have one, despite what the site's residential density allowance? Would we tell someone they couldn't have the 2,000 square foot footprint of the house, but would need to re-design for a smaller footprint? Would we allow them an exception to the requirement for on-site stormwater infiltration? Is it possible to preserve large trees in a way that is also practical, given the City's residential infill goals and the fact that the majority of development sites we deal with are small, constrained lots with very little room to avoid impacts to large trees on site?" *Rebecca Esau, Manager, Land Use Services, Bureau of Development Services (3/22/10)*
	"Tree policies must address City's and Metro's plan to increase housing density." *David Nielsen, Chief Executive Officer, Home Builders Association of Metro Portland (3/23/10)*
	"Urban Growth Boundary's and Trade-Off. To preserve farm and forest lands we needed to increase densities inside the UGB. Included in this assumption is that trees will be remove to make infill housing work." *Jeffrey Paul Fish, President, Fish Construction NW, Inc. (3/23/10)*
	"**The City must spend more time reviewing the impacts its proposed tree policies will have on the very development it seeks to achieve**...We urge the Planning Commission to not adopt the policies as proposed and at the very least require staff to conduct a much more thorough analysis of how the proposed regulations would impact the City's plans for infill and redevelopment." *David Nielsen, Chief Executive Officer, Home Builders Association of Metro Portland (3/23/10)*

	"Loss of Housing Density. Reduction of density formulas to preserve trees will lead to some loss of housing units by the city. The loss may be fairly small and counterbalanced by increased density allowances...to reduce lot coverage and add units will be difficult if not nearly impossible. More important is the loss of housing units should the 'fee in lieu' be [used] to purchase conservation easements and or land to preserve trees. This loss if buildable inventory needs to be factored into the Urban and Rural Reserve process so as to be able to provide the housing units of all types as committed by the City of Portland to Metro." *Jeffrey Paul Fish, President, Fish Construction NW, Inc. (3/23/10)*
	"State Land Use Goals...10 (Housing) 13 (Energy Conservation), and 14 (Urbanization) override the decisions made by the Citywide Tree Project" *Jeffrey Paul Fish, President, Fish Construction NW, Inc. (3/23/10)*
	"Preservation areas behind a home on a 25x100' lot results in a preservation area of 375 s.f. while the same 15 foot preservation areas on a 50 x 50' lot doubles the preservation area. Neighbors have asked that the development community develop wider lots so as to blend with the neighborhood. This tree policy counter acts that request by neighbors." *Jeffrey Paul Fish, President, Fish Construction NW, Inc. (3/23/10)*
	"Prioritizing Goals...If the ultimate goal is really to have affordable housing and to have housing choices, then regulations that impede the achievement of that goal need to be given a subservient role in the conditioning of permits." *Jeffrey Paul Fish, President, Fish Construction NW, Inc. (3/23/10)*
	"We have also heard suggestions that protecting trees on the urban landscape will conflict with local and regional density targets. This is simply a specious argument. While the Tree Improvement Project appropriately focuses on preservation of trees as the preferred option, it also clearly gives developers and property owners the opportunity to pay a fee in lieu to mitigate offsite for trees that cannot be preserved onsite. In addition the project calls for significant increases in outreach resources and code modifications to promote innovative site designs that accommodate both development and natural resource protection. Preserving and enhancing neighborhood tree canopy in fact promotes compact urban form by creating livable communities that enjoy access to nature and all of the ecosystem services that trees provide. The City of Portland should consider trees an essential part of the "20 minute neighborhood" that will anchor the Portland Plan that is now under development." *Bob Sallinger, Conservation Director Audubon Society of Portland; Jim Labbe, Urban Conservationist, Audubon Society of Portland; Mike Houck, Executive Director, Urban Greenspaces Institute; Ron Carley, Co-director, Coalition for a Livable Future; Jill Fuglister, Co-director, Coalition for a Livable Future (3/23/10)*
	"The price of doing business in a community includes internalizing externalities both positive and negative and looking at the actual value of those community assets brought forth by that business. The current proposal seems to vastly undervalue the positive community externalities related to trees on private property. The price of retaining and increasing tree density standards is NOT prohibitive or unduly burdensome to infill development or low income development. I wonder what the actual %age of developable lots will even fall under these code changes and if truly there will be a burden to development. It would be nice to see some evidence that it would" *Scott Fogarty, Executive Director, Friends of Trees (4/13/10)*
	"Portland faces many challenges. I firmly supporting a compact urban form, using infill while doing our best to preserve and enhance the green infrastructure of the region both within and outside of the urban growth boundary. Shade, clean air, and greenery are elements of livability that should be distributed equitably across housing types. As we move forward with the Portland Plan we will need to find creative ways to balance the needs for density, other forms of green infrastructure (green streets, swales, etc.) and solar access with the need to support a diverse urban forest across a variety of urban land uses." *Margot Barnett (4/1/10)*
	"Governor Tom McCall and others pushed for Senate Bill 100 and other similar bills in the 1970's to preserve farm and forest lands and to form an Urban Growth Boundary (UGB) with the intent to focus urban development into that those UGB's. Logically, if we preserve farm and forest lands but also allow logging in certain parts of those preserved lands, doesn't it logically mean that if we are forcing development into UGB's that there is the assumption in increased density that we will need to remove some trees to make that density work?...To allow tree policy to trump those decisions without taking into consideration the major decisions made on Comprehensive Planning is a mistake and undermines the intent of Comprehensive Planning. Better to take the time to work with BDS and other bureaus to see how these regulations influence residential construction and to develop tree policy as part of the Portland Plan." *Jeff Fish, Fish Construction NW, Inc. (4/13/10)*

	"...believes it is absolutely true that, as the PMHBA has contended that the tree code as purposed will on some level be biased against the type of denser new development which apparently has the most acceptance in the market, particularly townhome style housing...However if the city is willing to accept some reduction in the of this type of housing, along with more expensive and probably smaller single family housing and an increase in new multi-story multi-family structures in residential neighborhoods where significant development occurs it can probably gain the apparent environmental well the arguable aesthetic and "livability" benefits this proposal offers. The proposal...does however offer the home building and remodeling industry the "benefit" of subjecting all its members to the same type of regulation where now it is new land dividers who are bearing the burden of the City's regulation. Supports making this change because it is not only "fair"...but beneficial to the public and the City in the sense that retention of larger trees on more sites will have on both personal and public storm water systems as well as possible energy "benefits". *John Gibbon (4/13/10)*
	"Clean air, natural light and trees/vegetation should be looked at as "materials" that one should consider and integrate into the design, approach and building of every site, no different than sustainability, water, sewer, paved areas, building codes, planning codes and structures...The proposed tree policy does not limit a developer or property's owner right to develop; it only requires that we all must consider trees as an important and additional variable integrated into the design, instead of ignored or clear cut to accommodate a cookie-cutter/template/flat desertland approach to all sites." *Simone Goldfeder, Architect LEED AP (4/4/10)*
	"I believe Planning Bureau staff have made a concerted effort to develop consistent standards for the preservation and planting of trees without unduly increasing the time and cost to development in the city." *Linda Robinson (4/13/10)*
	"Another important feature of tree canopy in a pedestrian district like St. Johns is its role in offering a shaded environment to encourage walking in the summer. Attractive transportation alternatives are important in making shopping and working locally doable. In the summer, I always choose walking routes with trees. By encouraging neighbors to stay local there can be the added benefit of efficiency and savings on auto transportation infrastructure." *Barbara Quinn, Chair, Friends of Cathedral Park Neighborhood Association (3/26/10)*
	"...designers preserved most of the existing trees (more than half of the 430 existing trees and all of the largest ones) while greatly increasing density at New Columbia...They showed that increasing density and tree preservation can go hand in hand. DESIGN MATTERS!" *Mary Vogel, CNU-A, PlanGreen (4/8/10)*
	"The stated goals of the city are to increase canopy cover from 26 to 33 percent. Another goal of the city is infill instead of sprawl. There is a lot of friction in this debate. I support both goals, but I'm witnessing a shrinking and decline of our urban forest and livability. Smaller lot sizes don't leave room for a large canopy tree and a building. In these areas, the city may want to consider additional mini-parks or groves of trees on a single sacrificial property, so the building density can be higher on surrounding properties and still allow enough space for mature trees." *Jim Wentworth-Plato, BCMA (Board Certified Master Arborist) (3/24/10)*
	"We believe almost no consideration has been given to how these proposed policies would impact several other City and Metro regional goals, including the large amount of housing units anticipated through infill and redevelopment over the next 20-30 years in order to grow more densely. However, there are other needs and desires that should be considered and that the policies should provide flexibility to achieve. Solar energy impact, insurance requirements, and personal preferences for shade/sun on a lot are all important considerations." *David Nielsen, Chief Executive Officer, Home Builders Association of Metro Portland (4/27/10)*
	Laurie Butler objected that proposals contradict statewide planning goals by making it harder for builders to build. She contended costs are too high to implement, timing of this project in this economy makes no sense, and proposals treat individuals' property rights and developers' property rights unequally. She objected to lack of sufficient time for public review of new proposals. *Laurie J. Butler Excerpt from (5/11/10)Joint Planning and Urban Forestry Commission Minutes*

Response: *Staff agrees that the Citywide Tree Project proposal should balance goals for residential density and infill development within the city and metro region with goals for the urban forest. The draft project proposal attempts to do just that by creating flexible standards to make it easier for development to preserve trees. Standards that allow limited reductions or increases in residential density should have a negligible effect on the overall density in the city. Further, the project proposal intends to encourage tree preservation without adversely affecting housing density and affordability. The proposal provides a credit for preserving a percentage of the larger trees on site, and allowing mitigation through payment of a "per tree" in lieu fee to the City's Tree Fund. Tree Fund monies can then be used to replant trees elsewhere in the same watershed. As such, the draft proposal reflects an understanding that it may not be feasible to preserve trees on all development sites, but it is also intended to recognize the multiple functions of trees (including air and water quality, energy management, carbon sequestration, property values) and to establish basic site development requirements for trees, similar to stormwater management requirements.*

During work sessions with the Portland Planning Commission and Urban Forestry Commission, staff proposed and received commission support for revisions to the draft proposal. The revisions are intended to further simplify the proposal, while also responding to comments from the development community and other stakeholders. Revisions include exempting lots smaller than 3000 sq. ft. from the proposed tree preservation standard, exempting lots with greater than 90% proposed building coverage, reducing the tree size trigger for the preservation standard from 20" to 12" in diameter, and reducing the preservation target from 50% to 35% of the eligible trees. The commissions also endorsed, preliminarily, the use of a "spot check" approach to inspections, instead of inspecting every site. This approach will significantly reduce implementation costs.

The proposal continues to include clear and objective tree preservation and tree density standards to maintain certainty and avoid time delays in the building permit process. Additional costs to protect or plant trees, or to pay in lieu of planting, are intended to be reasonable so as not to adversely affect housing affordability. Given proposed simplification of the initial draft standards, the commissions agreed with staff's proposal to eliminate the optional review that was included in the draft proposal.

With the design of the revised project proposal staff believes that there should not be adverse effects on City, Metro or state goals for urbanization and other land use goals.

System Development Charges and Trees

"By paying in to a Tree Preservation Fund to purchase trees for parks, environmental services, water bureau property or even off site street trees; the city has now potentially established another SDC or modified an existing SDC outside of state regulations… why shouldn't the very SDC funds new housing pays for parks be used to help address the City's tree canopy protection goals, rather than adding even additional costs onto housing?" *Jeffrey Paul Fish, President, Fish Construction NW, Inc." Jeffrey Paul Fish, President, Fish Construction NW, Inc. (3/23/10)*

"…it would be entirely appropriate for the City to, after quantifying the benefits that trees provide, to adjust portions of the SDCs now charged to the developers and builders to reflect these benefits." *John Gibbon (4/13/10)*

Response: *Staff supports the use of incentives to encourage tree preservation and tree planting. If the capitalization of trees is one day realized and SDC's are instituted for this particular asset, credits against those SDC's for on site planting or preservation would warrant additional consideration.*

System Development Charges (SDC's) are one-time fees assessed on new development to cover a portion of the cost of providing specific types of public infrastructure required as a result of this development. Currently trees are not, except in the context of landscape elements in specific capital projects, managed as a capital asset in Portland.

The City Tree Fund can not be used for purchasing trees in capital projects (such as park development or street improvements) but would be used for planting trees elsewhere in the city in lieu of tree replacement on development and non-development sites. The fund, as proposed, could also be used to support the purchase of conservation easements or tracts to preserve trees. The trees would not necessarily be or be managed in public ownership as is the requirement for public assets funded through SDC's.

Proposed Code: 11.100.090 Tree Planting and Preservation Fund

"B. Calculating the in-lieu fee rate. The fee in lieu of planting or preservation will be calculated to fully cover the cost of planting a new tree. Such cost includes materials and labor necessary to plant and maintain the tree through a two year establishment period. This cost will be reviewed annually based on current market prices per inch for materials, labor, and maintenance, and compared to costs paid for planting trees in the previous year. The required payment will be set forth in the City's adopted fee schedules."

Comment: Since maximum flexibility is needed for projects in industrial/employment zones, this code section is critical since it is likely that payment of an in-lieu fee will be necessary in many instances. Therefore, the amount of fee is a primary factor, and our concern is the fee will be established at a high rate to discourage using a fee in-lieu option. As an example, the rate once utilized by the City for fee in-lieu for trail construction in the Columbia South Shore project was significantly higher than the actual cost if installed by a private party. A process for establishing a fair in-lieu rate is critical to the success of this option, and the success of development in employment/industrial zones where trees are involved. Lastly, a process that establishes public oversight (e.g., by Urban Forestry Commission) for a priority/timeline for spending the funds is critical. *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*

Response: *The mitigation planting or in lieu fee requirements in the proposal are intended to be reasonable in the context of development and non-development situations.*

The Planning Commission and Urban Forestry Commission reviewed and provided initial endorsement of staff's proposal to further simplify the mitigation requirements in the development standards, which would reduce the cost to development. The commissions also endorsed cost recovery as an appropriate basis for setting the fee in lieu of planting As such, the calculated fee for payment in lieu of planting will usually be somewhat higher than the costs for an applicant to simply install a tree, since the fee is based on recovering the costs for the City to purchase, plant, and establish the tree. These costs include materials, labor, transportation, and more significantly maintenance for two years. Most of the maintenance costs for trees planted on applicants' sites are borne by future tenants or owners, including the responsibilities for tree replacement if the tree dies. Staff anticipates this fee to be established initially at $600 per tree (equivalent to the fee currently charged for a 2" tree for T1 in the zoning code). The rate will be reviewed annually, and adjusted as necessary through City Council adoption of revised fee schedules.

We also appreciate the suggestion to establish a priority/timeline for expenditures as established through a public process. The City Forester has stressed the need to maintain flexibility for setting spending priorities, but this can be part of that overall public discussion. Staff agrees that the UFC is a good fit for such a discussion.

Tree Preservation During Development – General Comments

"The Council agrees with the Forestry Commission that emphasis during the development process on preserving high-quality, large, and healthy trees over simply the number of trees, as well as protections for trees on property lines and adjacent sites, will help ensure that we protect the urban forest canopy." *Terri Preeg Riggsby, Chair, Tryon Creek Watershed Council (3/22/10)*

"We strongly support components of the new policy, including…Flexible development standards to encourage preserving large trees and groves, new tree preservation and tree density standards applied through building permits, improved inspections and enforcement." *Nancy Seton, SWHRL Neighborhood Assn. Land Use Chair, Board Member (3/23/10)*

	"I am writing to urge you to move forward on this project. We lost a valued white oak tree this year on our block. The tree was estimated to be between 130-160 years of age. It sat on a property line between two residential lots. This very big tree provided beauty, wildlife habitat, lots and lots of shade, carbon off-sets and brought character to our neighborhood. When one of the lots it bordered was up for sale, twenty-five (25) neighbors signed a petition asking the owners to keep the tree. We asked for a chance to talk to the absent property owner, then the developer, to propose how the lot could be developed with the tree. No one would respond to our letters or phone calls. We lost a valued friend in that tree. I hope this new City Wide Tree Project will help us keep trees in the future. We need the shade, the wildlife habitat and the beauty and character each one brings to our neighborhoods." - *Ginger Edwards (3/22/10)*
	"I support the Revised Tree Code and Policy...Please support stronger protections for our urban tree canopy: Trees clean our air and water, provide wildlife habitat, increase our property values, sequester carbon dioxide, mitigate urban stormwater, reduce urban heat island effects and improve our quality of life and livability of our city. It is critical that we protect our existing tree canopy as well as planting new trees. It takes years for a tree to grow and reach its full potential and newly planted trees are highly vulnerable. To be effective, any tree strategy must focus first and foremost on protecting our existing tree canopy." *Veronica Kelly (3/23/10)*
	"...FOT believes regulation and enforcement are necessary to protect the assets of the greater Portland community and that as a LAST resort, mitigation in the general proximity of tree removal is necessary. Mitigation requirements must be structured that the value of the tree removed is taken into consideration and that mitigation funds be directed to a specific, discreet fund to be used to plant trees or to help enforce regulation." *Scott Fogarty, Executive Director, Friends of Trees (4/13/10)*
	"...FOT would support regulation of trees down to 12 inches and does not support a trigger of 20" for regulation on development sites. We feel this would create an inequity in balance of new and old trees and would further encourage the cutting of trees both on private non-development lots as well as on developable lots. This is an inherent conflict that needs to be resolved." *Scott Fogarty, Executive Director, Friends of Trees (4/13/10)*
	"In looking at the proposed code for development situations, I feel that the 20-inch diameter threshold is too large. For example, very few of the many trees in the subdivision where I live (developed in the 1960's) are 20-inches in diameter. Actually, there aren't that many that are even 12-inches in diameter, which is the trigger for a tree removal permit. I recommend lowering the threshold sizes for both." *Linda Robinson (4/13/10)*
	"We believe the diameter of trees to be protected is too large. For development it is 20 inches and for private property it is 12 inches. We would like to see a substantially lower diameter of protections especially for development. A 20 inch tree is very large. We feel this diameter should be reduced to 14-16 inches at the largest. 12 inches across the board would be preferable." *Jean Fike, Executive Director, East Multnomah Soil and Water Conservation District (5/10/10)*
	"The proposal provides clear and objective standards that will allow for development that makes the best use of the building sites, encouraging preservation, but not creating excessive new costs or delays. I particularly appreciate efforts to recognize the value of healthy large trees and groves of trees...The current proposal provides a great deal of flexibility to address trees during the development process." *Margot Barnett (4/1/10)*
	"I have also noticed that when developers plan they often want a clean slate. Existing trees are not seen or are viewed as a nuisance to heavy equipment. They are an afterthought. I would like to see the city encourage creative development that includes preserving and integrating existing trees into new developments." *Robert Elan (4/12/10)*
	"...People as a whole do not like change...Constantly some in the public assumes that if there is a vacant lot in a neighborhood, maybe even the buildable side yard of a neighbor's home is always going to remain a beautiful groomed side yard or garden spot. Again, being naive of the fact the neighbor owns more than the lot his home sets on does not automatically 'grandfather' it in as the neighbor's personal park or view corridor. Trees in many...neighborhoods enhance the homes probably to greater and better extent than if there had been existing tress on the sites when the homes were originally built." *Jeff Fish, Fish Construction NW, Inc. (4/13/10)*

	"As a residential developer, there are many considerations in building a home on a property, not the least of them are trees...trees do have an economic value on a properties value. But it is not the only value that has to come into a decision. First, the average full grown tree like a maple or Douglas fir is going to cost $1,000 to $1,500 to remove, minimum. Most builders will avoid that cost and position their home around the tree if it is functionally possible. They have just saved at least $1,000 in expense and have preserved some intricate value to their betterment in the sale of the home...Many trees may not be best preserved for the site...Saving a tree that needs to be trimmed to the extent that it is off balance because you need to work a home around it creates a dangerous situation. Likewise, trying to save a Douglas fir, a tree with limited root structure, next to a home may well be a dangerous situation also." *Jeff Fish, Fish Construction NW, Inc. (4/13/10)*
	"The Bureau of Environmental Services does favor the drafted tree policy to enhance the control and cleansing of storm water. However, nearly all new construction on the east side of Portland takes the water from the roof of the structure and deposits that runoff water directly into a soakage trench or drywell. For the most part new construction greatly reduces the water runoff from the site without the use of trees over the previously undeveloped site, especially if there were a limited number of trees on the site. Maybe tree policy should be classified by the soils under the trees; essentially the eastside of Portland where most of our housing density is developed being less restricted, and the west side where we have hill sides, more clay type soils, landslide potential, and other risk factors having some greater restrictions." *Jeff Fish, Fish Construction NW, Inc. (4/13/10)*
	"Encouraging tree preservation and requiring tree mitigation for tree cutting in development situations is a significant and noteworthy addition to achieving City tree canopy goals. Development and especially in-fill development is its own important City goal but is contributing to loss in mature tree canopy. City tree inspectors find that most of the mature tree cutting they investigate is associated with development actions. Any manner that the City can find to encourage more tree preservation during development and to require mitigation for canopy loss is positive. Contrary to what is oftentimes expressed, tree preservation is not a lose-lose proposition for developers since scientific study after study indicates that mature trees enhance property values and increase salability. Builders may well see higher profits if they retain trees during development, thus reducing building costs, and pricing accordingly since the development can now be sold with mature plantings already established." *David McAllister, City Forester, Portland Parks and Recreation (4/12/10)*
	"The proposed tree policy guidelines have been carefully developed, with ongoing dialogue and outreach to all stakeholders. The proposal is carefully balanced to integrate development with the preservation and planting of trees. The proposal allows many options and possibilities for how one can plan and approach a site using a more flexible performance based approach vs. a prescriptive approach. If the goal to is to balance development with a healthy tree canopy, then this can be shown to be done through allowing flexibility in setback, height, and lot coverage requirements." *Simone Goldfeder, Architect LEED AP (4/4/10)*
	"It is not possible to anticipate every potential design variation for every type of site, as there will always be different and unique situations. It is important that the City analyze as many potential options as possible and if the new guidelines are implemented, carefully track and review the implementation over time. This could be done through a performance verification and revisions considered similar to recent reports like the Land Division Study and Infill Report that were issued by the City." *Simone Goldfeder, Architect LEED AP (4/4/10)*
	"I would like to express my support for the adoption of measures within the proposed Title 11 Tree Code to preserve existing tree canopy within the Portland metropolitan area on both public and private land, especially in those cases when the land is subject to "development." In my own NE Portland neighborhood I have personally witnessed the unnecessary removal of majestic, mature conifers to make way for the construction of perfectly monstrous and hideous houses that neither respect the neighborhood architecture nor display any sensitivity to harmonize with the surrounding environment...The developers have no vested interest in beauty, wildlife habitat or the long term livability of our neighborhoods. I particularly urge you to: ...Require that all new construction incorporate, whenever possible, existing trees on the site into the plan. Priority should be given to the preservation of healthy trees, not to the construction of the largest possible structure." *Richard Weber (3/28/10)*

	"Need for a tree hierarchy as part of preservation standard. The public draft is written in a way that it could be interpreted as a hierarchy, but is actually a menu of options (i.e. preserve, plant, or pay) reliant on incentives to create the preservation preference. BES advocates a code or administrative rule specifying a hierarchy of preservation first to the degree possible, requiring movement of structure footprints around the site (as allowed by current codes) to avoid tree root protection zones. The next option would be mitigation on-site, on street frontages, or off-site. Last would be payment in lieu of preservation or mitigation." *BES Tree Code Option, Bureau of Environmental Services (4/27/10)*
	"The policies need to provide clear and objective standards. For example, having a hierarchy (e.g. first option preserve, second option plant, third option pay) means an applicant would have to first show that it was not practicable to preserve a tree, before they could move on to the next step of planting new trees, and then the applicant would have to show it was not practicable to plant the new trees before they could go to the payment option. Land Use law draws a sharp line between standards that are clear and objective, and standards that involve discretion. To require that a tree be preserved if it is "practicable", is discretionary. The reason this is important is that if discretion is used, than a Land Use Review is required. It makes no sense to send every Building Permit application through a Land Use Review to consider if tree preservation was practicable or not. It is critical to keep the standards clear and objective, and not introduce discretion at the Building Permit stage." *David Nielsen, Chief Executive Officer, Home Builders Association of Metro Portland (4/27/10)*
	Tom Skaar, reported that the Urban Growth Boundary and Metro's policies direct development on infill lots. He stated that the goal to increase tree canopy from 26% to 33% is arbitrary, and neighborhoods such as Laurelhurst and Eastmoreland achieved tree canopies without regulations. He questioned the timing of the project in a down economy when BDS has cut staff. He questioned comparisons to permit regulations in other cities such as Atlanta that have deciduous trees and considerable sprawl. He said trees have life cycles and can be replenished, the City can acquire land to reforest, and he supported a letter from Bureau of Development Services questioning proposals. Mr. Skaar said the suggested in-lieu fees of $600/tree seem higher than what it really costs to plant or preserve a tree, and it all relates to affordability. Mr. Skaar acknowledged that a local improvement district would be the fairest revenue approach if people are willing to pay for it. – ***Tom Skaar,*** *Home Builders Association, Pacific Western Homes, Excerpt from (3/23/10)Joint Planning and Urban Forestry Commission Minutes*
	"Offsite mitigation "in-lieu of" fees appropriate to development types. Development proposals and those absent development, and homeowners and commercial business applicants must be sized to instigate appropriate mitigation. A two-or three-tiered in-lieu of mitigation fee system, providing credit for meeting part of the 35% preservation standard, is needed to reflect the economics of the various scenarios." *BES Tree Code Option, Bureau of Environmental Services (4/27/10)*
	"Ensuring that a strong tree canopy continues to develop over time is a different goal than simply preserving existing trees. While mature trees have value, our belief is that the policies need to provide more flexibility and focus on the long-term goal-ensuring a healthy tree canopy continues over time. Portland's overall tree canopy has not suffered under the existing tree policies. There are very few examples of violations of tree codes by the development/building community over the years. In fact, there are many examples of neighborhoods whose tree canopy was significantly improved (e.g. Eastmoreland and Laurelhurst) as a result of being developed." *David Nielsen, Chief Executive Officer, Home Builders Association of Metro Portland (4/27/10)*
	"Contrary to what developer Jeff Fish believes (Fish Flies at Trees - *SE* Updates, May, *2010),* there is nothing emotional about the fact that cutting down a tree on one piece of property effects the ecology of surrounding properties, and when this action is multiplied, the entire city's ecosystem is compromised...Most people know that healthy, plentiful trees are beneficial to the city environment...They're also good for property values... The preservation of trees is important for both the city's environment and budget and essential if Portland is to remain on the list of Tree Cities USA...Portland must insure the preservation of the urban tree canopy and make it a priority before it's too late. Simply allowing developers to mitigate by planting trees is not acceptable. Stricter regulations must be applied and fines levied for non-compliance. Preservation should always be the least expensive option. In San Francisco, mature trees are treated like historic buildings. We can have this model for Portland, too. Increased regulations and a greater focus on preservation, instead of just planting, will insure the livability of our city, environmentally, aesthetically and economically, for generations to come." *Lisa Gorlin (5/6/10)*

	"I was moved to tears seeing many trees clear cut in my Kenton neighborhood. This act of destruction motivated me to contact Urban Forestry. From there I gathered that lots that are that are segregated vs. divided lack any protection or preservation for trees. I then investigated further hoping to find that the loop hole would be closed inside the New Portland Tree Plan. I found that the original plan it had, but now it isn't again. It seems the development community in its quest for quick profit have convinced your committee away from this protection. I'm here to say they are wrong. The segregated lots, that housed much wildlife, now will contain two row houses. These houses are undesirable (as many are not selling in my neighborhood) and unaffordable (medium income in Portland couldn't support buying one.) This kind of development does not support Portland's long term planning around substantial, affordable, high density housing. In the same space could have been built a multiple unit dwelling. The heritage worthy tree and many others could have been saved. The finished units would house more people and be more affordable. I understand that lots under 3000sf have no mitigation for removing trees. That all you'll need is a building permit. There will no Tree Preservation Plan. No contributing to planting or protecting other trees in the watershed. These lots may only represent 4% of Portland's lots. But isn't it's Portland's Plan to maintain the urban forest?..." *Nicole Leggett (5/10/10)*
	Response: *Staff recognizes the different perspectives held by stakeholders in considering how trees should be addressed during development. While some support stronger requirements to preserve existing trees, especially high-quality large and healthy trees, and trees on property lines and adjacent sites, others point out that preserving specific trees on specific sites is not always feasible or desirable, and that tree canopy can also be achieved in the future by planting trees. The proposal will be revised to reflect direction provided during the PC/UFC work sessions. The revisions should respond to a number of the issues raised.* *First, staff was directed to reduce the tree size threshold for application of the preservation standard from 20 to 12" in diameter as suggested by a number of stakeholders. This will provide greater consistency with trees in non development situations, and increase the pool of trees from which developers can choose to preserve. Preserving smaller trees may provide greater flexibility in site layout since required root protection zones are typically smaller.* *Second, to offset increasing the pool of trees to be addressed the preservation target will be lowered from 50% (of 20"+ trees) to 35% (of 12"+ trees) in the next code draft.* *Third, the commissions endorsed retaining a standard that establishes a target for preservation on development sites. The next draft will continue to propose "clear and objective standards" for trees in development situations, rather than shifting to a hierarchy approach that would have introduced additional discretion resulting in increased cost, time and uncertainty in the building permit process. The preservation standard provides an important policy message about the priority of preserving existing mature trees. In addition, the mitigation required if the preservation target is not met, will compensate for the loss of trees and provide an added incentive to preserve. This mitigation and additional preservation incentive would not exist if only a tree density or T1 approach was taken (see I.C, Building Permits-Tree Density, below).* *Fourth, the revised draft will exempt sites less than 3,000 square feet in size and sites where a development is proposed with 90% building coverage from the preservation standard. This acknowledges that development constraints in these situations make it impractical to retain trees. However, while additional tree mitigation would not be required for these sites, tree density standards would continue to apply to all development sites. This would ensure a baseline amount of trees are maintained over time through a "preserve, plant or pay to plant elsewhere in the watershed" approach.* *Finally, the original multiple tiered mitigation standard was replaced by a single mitigation requirement (2:1) for the sake of simplifying the standards.* *The revised draft will also continue to contain flexible development standards to encourage tree preservation; however the commissions did not direct staff to add standards allowing modification of height, setback or building coverage standards without an Adjustment.*

	Self-Certification System for Inspections
	BDS strongly recommends against a self-certification approach to ensuring trees are preserved or planted as required. On the surface it sounds simple and like it wouldn't cost very much to administer it. However, in our experience in trying a similar approach with landscaping, the administrative work associated with self-certification was very time-consuming. First, it would require new programming in TRACS to be able to track these projects...It would also require staff time each week to figure out which certifications should have come in each week, and follow up... In our experience with the landscape self-certification program we tried, it was not a success. Inspections are far more effective and worthwhile. If there is any funding available to help the tree project succeed, it would best be used to get inspectors in the field, particularly those with arborist expertise. Currently BDS does not have sufficient inspections staff for even the most basic building, structural, electrical, and plumbing inspections. We have no arborists on staff, and have no funding to pay for time and expertise from the Urban Forestry staff at the Parks Bureau. Arborist expertise available to BDS from early customer assistance, during the review process, and during the construction process, is a critical need and essential to making any tree regulations successful." *Rebecca Esau, Manager, Land Use Services, Bureau of Development Services (5/11/10)*
	Response: *The initial draft proposal includes required inspections at the beginning and end of the construction process, and authorized an optional inspection during construction. This level of inspection was identified as a significant program cost that can not be absorbed at this time. In order to reduce costs, staff recommended to the Planning Commission and Urban Forestry Commission a spot check inspection system until there is funding available for a more robust inspection system. A limited amount of consultation time by Urban Forestry staff arborists for building permit and land use reviews is included in the cost estimates. A self-certification system is not proposed.*
	Equity
	"If one looks at an existing plan of the City or Portland and the current canopy cover, it is clear that much of the canopy is located in the more affluent areas of the cities. Much of the canopy loss in the last 5, 10, 20 years from development within the City of Portland has occurred in East Portland, North Portland and other poorer areas of the City. These parts of the City, in particular, have few if no regulations protecting trees. For example, many of the existing environmental zones are currently located and mapped in areas of Portland with steep slopes and streams. These are primarily areas in the southwest, northwest and some portions of the southeast. ...In most of other areas of the City, there are no protections, especially in economically less affluent areas of the City." *Simone Goldfeder, Architect LEED AP (4/4/10)*
	Response: *The proposal goes a long way in integrating tree preservation or replacement to those areas where the impact of tree loss is greatest. Through the universal permit and tree preservation and density standards, those areas where tree canopy has been lost will eventually see gains over time. In addition to these regulatory programs to ensure tree replacement, programs for proactive planting will continue to be vital to ensure increases in the urban canopy and to backfill already tree deficient areas.*
	Insufficient penalties for violations
	"I suggest requiring fees--& enforcing them immediately-. that will cover the cost of replacing any trees of 6" diameter or greater. That should be applied to all trees harmed by vehicle weight, etc. man-caused root damage (to their inevitable death) or felled without permit. Focusing only on really large diameter trees or allowing trees to be replaced with twigs puts us years behind in recovering from the harm someone caused just to ease development or prioritize his or her own view over that of everyone else." - *M'Lou Christ (3/21/10)*
	"I've seen commercial developments in NE where a mix of trees was required. But after a few months the conifers were all removed, presumably to increase visibility of signage? Whatever the reason, there is no reason to go through all the planning if the developer is going to undermine the requirements with no consequences." *Robert Elan (4/12/10)*

Response: *For development permits subject to a menu option of preserve, plant, or pay in lieu of planting, the enforcement system needs to be judicious in assessing fines. If an applicant perceives he/she bears a greater cost risk for preserving trees (through potential fines) than costs for simply removing and replacing the tree, tree preservation will become less appealing.*

In cases where the city exercises discretion in evaluating whether a tree should be removed or retained, and where there is far more communication with applicants about City requirements and options, fines for violations can and should be more punitive. This could apply to large trees where no development is occurring or for trees preserved as a condition of land use approval.

In any regard, the enforcement provisions in Title 11 focus primarily on replanting trees quickly, keeping process to a minimum for cases where the responsible party cooperates, and provides for additional fines and remedies depending on the severity of the violation.

I.C. Building Permits – Tree Density

Tree Density Standards – Concept and Levels

"BES supports the proposals related to property development, both during the land use and building permit stages…By providing tree density standards for all property uses, the City is again reinforcing that every tree is part of our collective green infrastructure and that equity across properties is important." *Dean Marriott, Director, Bureau of Environmental Services (3/22/10)*

"We strongly encourage the Commissions to request that staff take a further look at Tree Density Standards (Page 135 of Volume 2). We believe that the tree density standards were set too low. We believe that in each of the categories listed could easily absorb increased density. For example under the proposed regulations an average 5000 square foot city lot would be required to have a density of only a single tree unit. We would request that staff reconsider whether higher tree densities should be required." *Bob Sallinger, Conservation Director Audubon Society of Portland; Jim Labbe, Urban Conservationist, Audubon Society of Portland; Mike Houck, Executive Director, Urban Greenspaces Institute; Ron Carley, Co-director, Coalition for a Livable Future; Jill Fuglister, Co-director, Coalition for a Livable Future (3/23/10)*

"…FOT feels the tree density zone %ages as outlined on pg 135 Title 11 fall far short of what is necessary to accomplish the stated canopy coverage goal. They seem very low when looked at in the face of the value trees bring. These numbers seem to overwhelmingly undervalue the community benefits trees provide specifically with regard to lot size. For example, 1 tree per 3,000 - 5,999sq ft on residential lots seems far below stated goals and seems to vastly undervalue trees not just to the residential owner, but the greater community at large." *Scott Fogarty, Executive Director, Friends of Trees (4/13/10)*

"Requiring a 15% tree density standard on industrial sites would further diminish the already inadequate industrial land supply in the City of Portland. IG2 zones and IH zones currently require no minimum landscaped area. Over time, a lack of industrial land will force businesses to locate outside of Portland, likely increasing greenhouse gas emissions and further reducing the City's fragile economic base." *Tom Bouillion, Planning Manager, Marine & Industrial Development, Port of Portland (4/13/10)*

	"As an alternative to the proposed tree regulations, HBA would like to suggest that the City review its current "T1 standard"...and consider the following: 1. Currently the T1standard only applies to new single-dwelling development...There has been no evidence provided to show that this standard is ineffective, and it can be assumed that the standard has resulted in some increase in tree preservation and tree planting (either on site or through the Tree Fund). 2. Propose that the T1 standard be expanded to apply not just to single-dwelling development but to all "New Development" in Single-dwelling, Multi-Dwelling, and Commercial Zones...There needs to be on exemption for lots that are in zones that allow 100% building coverage...3. Modify the T1 standard to allow any tree planted for code/regulatory reasons on a lot (e.g., street trees, trees for storm water mitigation) to count towards the T1 requirement...4. If there is some desire to preserve existing mature trees as an added value to our overall tree canopy, than provide incentives to accomplish this. One suggestion would be to provide a credit towards a stormwater SDC or fees for any trees beyond a certain diameter that are preserved on an existing lot. The advantages of modifying/adapting the "T1 standard" are several. The standard is simple to explain, and easy to understand, and contains clear and objective standards. It provides certainty to property owners about what their options are, while at the same time provides the flexibility needed for different situations, while keeping the costs of administration down." *David Nielsen, Chief Executive Officer, Home Builders Association of Metro Portland (4/27/10)*
	"The Bureau of Development Services proposes the following regulatory solution for trees in development situations. This is a solution that will be clear, and simple, and cost-neutral. It will also achieve: An increase in the number of trees preserved; An increase in the number of trees planted; and An increase in money paid into the Tree Fund, which will in turn result in more trees planted...Simply modify and expand the "T1 standard" that is currently in the Zoning Code (Section **33.248.020.H)**...The T1 standard has been a success in increasing tree preservation and tree planting in the City, and we recommend building on that success. We propose that the TI standard be expanded to applv not just to Single-Dwelling Development, but to all projects that increase building coverage on a lot in Single dwelling Zones, Multi-dwelling Zones, and Commercial Zones (except on lots in the CX, CM, and CS zones, where the zoning is trying to achieve a more built-up urban form and greater building coverage of the lots.)...Also, it is our strong recommendation that the existing T1 standard for tree planting be modified slightly from 2 inches of tree diameter per 1,000 square feet of site area to one inch of tree diameter per 1,000 square feet of site area. The current requirement...results in overplanting to a level that does not make sense, especially when the property owner is required to keep these trees alive to maturity and required to replace the ones that might die. The following is some data on how the T1 standard has performed. We used a sampling of 100 permits for new single-family residential development from 2006, in a variety of geographic areas across the City...Our findings are as follows: # of permits with tree preservation: 24 out of 100 (24%)...If we look at the lots in the sample that were 10,000 sf or less: 14 of the 87 (16%) preserved existing trees on the site...[see letter for additional data results]...This data demonstrates that the existing T1 standard is quite successful in promoting a healthy forest, consisting of a percentage of older existing trees preserved and a percentage of new trees that will each year continue to add to the City's tree canopy... In summary, our proposal to expand and modify the TI standard is a solution that will achieve the goals of preserving and planting more trees in the City, keeping the regulations simple for the public, and keeping the administrative costs low. We believe it is the best solution for the following reasons: • It is simple and builds on a system already in place and familiar to the public; • It offers certainty (preserve, plant or pay into the Tree Fund); • Administration is simple and requires minimal staff time both in explaining the regulations and options, as well as in the plan review phase. (As stated before, if funding is available, it would best be directed at providing arborist expertise and inspections.); • It provides flexibility for different site and development situations; and • With the changes we propose to the planting density portion of the T1 standard, it is practical and reasonable." *Rebecca Esau, Manager, Land Use Services, Bureau of Development Services (5/11/10)*

	John Fiocchi asked for further review of the feasibility of requirements and impact of proposals on builders. He stressed that most builders want to make lots look presentable, the City already is ranked as a green city, and proposed costs are excessive for someone who already pays taxes to support schools. He said it's necessary to address site-specific issues related to tree removal on each different lot, which general regulations can't do. *John Fiocchi, WE-BE Homes, Inc., Excerpt from (3/23/10)Joint Planning and Urban Forestry Commission Minutes*
	Response: *Support for and concerns about the proposed Tree Density Standards are duly noted. Staff is reviewing the proposed Tree Density Standards to ensure that they are not overly complicated, and that the quantity of trees is appropriate for the development type and lot size. The intention is to set a standard that is practical for all uses. Staff intends to refine the proposed tree density requirements so that they follow a more familiar standard akin to the existing T1 and other landscaping requirements, to further simplify and streamline the requirement. For instance, the" tree unit" terminology will, in the next draft proposal, be replaced with the existing "small, medium, and large" tree terms that already exist in the Zoning Code. This will make it easier to apply credits for trees planted to meet other landscape requirements, while continuing to encourage larger canopy trees. The revised draft would continue to apply this standard to all types of development, with varying levels of required tree density that acknowledge differences between development types (e.g. single family house vs. industrial). Staff is considering modifying the proposed density standards for industrial and employment uses to recognize both the anticipated level of development and the freight movement and circulation required on these sites.*
	Proposed Code: 11.600.060 (A-3) Tree Preservation Standards, and Table 600-6 Tree Density Standards for site and street trees **Comment:** We are very concerned with the Replacement Tree Specifications, and particularly, the standards of Table 600-6. This table requires one site tree unit per 1,000 SF of "development impact area" or 15% of site area. Typically, industrial development (which we assume also includes employment uses) would result in disturbance of 85% or more of the site, depending on how much grading is required to provide a suitable building pad. We do not understand the relationship of this tree replacement requirement to the number of trees that are impacted. For example, it appears if one tree or 50 trees are being removed, that the one per 1,000 SF standard applies based on 15% of site area, or the amount of development impact area. Therefore, regardless of the number of trees removed, for a five-acre site, it is likely 33 tree units could be required to be provided, which appears to be in addition to trees already required for parking lots and perimeter landscaping. Using the City's figure of $300 per 1/3 tree unit, this would result in $29,700 replacement cost for removal of only one tree on the site. As a general comment, this chapter appears to include code that is difficult to understand and does not appear to have a clear relationship between tree removal and replacement. The commentary is not clear on how these limitations (i.e., 15%, one unit per 1,000 SF, etc.) were established. Lastly, the reference to 11.600.060.A.2.c in the footnotes of Table 600-6 appears to be an error. *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*

	Response: *The concern above seems confuse the tree preservation standards with the tree density requirements. The proposed Tree Preservation standard, and associated mitigation requirements, relate to the number of existing trees of certain size or larger on the site. The proposed Tree Density standards are intended to ensure that a baseline minimum amount of tree canopy will result after development regardless of how many trees are present on a site prior to development.* *The tree density requirements for industrial sites would be calculated by subtracting 85% of the site size and dividing by 1,000 square feet to determine the number of tree units required. From the total number of tree units, applicants are credited for any trees planted to meet parking lot, perimeter, and other landscape requirements, stormwater facility requirements, and for any other trees planted. Additional credit is awarded for trees preserved on the site, including those preserved to meet the preservation standard. In cases where an applicant retains no trees and plants no trees, then the payment in lieu of planting would assessed to plant trees elsewhere in the watershed.* *The proposed Tree Preservation standards, as revised per direction from the Planning and Urban Forestry Commissions, would require that 35% of the existing trees 12" and larger on the site be retained. Again, any trees preserved would count and receive extra credit toward meeting the Tree Density standards. Removal of more than 65% of the eligible trees would trigger mitigation for each extra tree removed. Mitigation payment would be required in addition to trees required to be planted to meet the tree density standard. Note: In the initial draft proposal mitigation could be achieved through planting or payment in lieu. In the next draft proposal staff will be recommending that mitigation be achieved through payment in lieu only, since the density standards will ensure adequate canopy over time and to prevent overplanting of trees on development sites.* *Finally, the referencing error has been noted, and will be corrected.*
	Tree Size at Planting and Maturity
	"You will hear phrases like, *"Portland is becoming a city of small trees."* Please ask the question, do they mean "young" trees, which are small <u>because</u> they are young, or do they mean "small" trees, trees that will be small even at maturity, like Japanese Maples? We've heard complaints about the "sticks" people have planted. The "sticks" will eventually become large trees. We need to think long-term. Healthy forests need to be re-generated continually over the long-term, and this happens through the planting of new, "small" trees that at maturity will contribute to the city's tree canopy... Also, it is important to plant **the right tree for the right place**. With a significant amount of our infill development being on lots 5,000 square feet and smaller, it may be both impossible to preserve a large tree, and appropriate to plant a tree that will, at maturity, be smaller than what was there previously." *Rebecca Esau, Manager, Land Use Services Division, Bureau of Development Services (3/22/10)*
	Response: *One concern expressed by stakeholders relates to the gradual conversion of the urban forest from large native and non-native canopy type trees to smaller, primarily non-native trees. The proposal is intended to address these concerns to some extent through the design of the proposed flexible development standards, preservation standards, tree density standards, and new qualitative criteria in land divisions.* *These standards and criteria place a priority on large healthy trees and native trees. The new land division criteria call out these trees explicitly, while the tree density standards encourage planting of larger canopy trees by requiring fewer of them to meet the standard. This provides the flexibility necessary to ensure the right tree can be planted in the right place.*
	Tree canopy goals, canopy strategy, space for trees
	"The decision that tree canopy needs to be increased form 26 to 33% seems somewhat arbitrary and has little consideration of the impact this would have on other city goals and needs." --- *David Nielsen, Chief Executive Officer, Home Builders Association of Metro Portland (3/23/10)*

	"Comparisons of tree canopy to other cities selectively… That is just comparing apples to oranges….when you have larger lots it is quite easy to maintain or plant tree canopy. Measuring tree canopy without looking at how much land is preserved through our UGB system isn't making a fair analysis… Portland's tree canopy report was conducted using a few selected random plots of governmental sites. This is far too narrow a site selection to compare Portland's tree canopy to that of other cities…random samples were not taken from private sites- the sites that will be most effected by tree policy." *Jeffrey Paul Fish, President, Fish Construction NW, Inc. (3/23/10)*
	"Why if so many neighbors are clamoring for added tree canopy, are they not adding tree canopy in their personal yards? …Why not assist neighbors by purchasing trees and allowing them to increase canopy in their existing yards first? Not everyone wants additional tree canopy in their yards. Many people enjoy the benefits of additional sunlight in their homes." *Jeffrey Paul Fish, President, Fish Construction NW, Inc. (3/23/10)*
	"Between 1972-2002, Portland's urban canopy increased by a total of 1.2%. At this rate it would take another 169 years to add the additional 6.7% necessary to achieve Portland's canopy target of 33% coverage. This proposal set's Portland on a much more ambitious trajectory, one that city policies have repeatedly recognized is necessary to maintain a sustainable and livable urban landscape." *Bob Sallinger, Conservation Director Audubon Society of Portland; Jim Labbe, Urban Conservationist, Audubon Society of Portland; Mike Houck, Executive Director, Urban Greenspaces Institute; Ron Carley, Co-director, Coalition for a Livable Future; Jill Fuglister, Co-director, Coalition for a Livable Future (3/23/10)*
	"Trees need more space to grow. The concrete structures surrounding tree trunks and roots, hinder their growth. within 25 - 100 year they are pushing up sidewalks, and house foundations. Since the life expectancy of many of our native and ornamental trees can be several hundred years, this should be considered. If left unresolved this leads to health and safety issues." --- *Jo Carney (3/16/10)*
	"Please do what is right and support the maintenance and the growth of our urban tree canopy in Portland. The benefits of protecting our current canopy and planting new trees to increase the canopy for the future are priceless!! Please help to protect what makes Portland the best place to live: Our Trees." - *Cheyne Cumming (3/20/10)*
	Response: *The 2004 Urban Forestry Management Plan establishes tree canopy targets by general land use category. The targets are intended to be both aspirational and reasonable for the given land uses. Staff agrees that the City ought to develop a comprehensive strategy for establishing and maintaining adequate tree canopy into the future, taking into account anticipated future growth and the broad array of City goals. Staff also agrees it would be helpful to have better information on the composition of Portland's tree canopy on private property and City owned and managed property, and that comparison of Portland's canopy to that of other cities should be done mindfully and with appropriate caveats. The targets could also be revisited and adjusted at some point in the future to reflect more information or changing conditions or priorities. In the meantime the targets call for increasing and improving Portland's tree canopy to help meet the City's urban forest management goals.* *In addition to increasing canopy, the 2004 UFMP also calls for equitable distribution of the benefits of the urban forest to all Portland residents. The proposal will address canopy quantity and distribution by more effectively and consistently addressing trees in development and non development situations across the city.* *The proposal does not go so far as to address typical development form allowed by the City, planter strip widths etc. These types of urban form/design issues should be addressed through projects such as the Portland Plan.*

	Proposed Code: 33.248.030 (D-1) Plant Materials: *"Existing vegetation. Existing vegetation except those plants on the Nuisance Plants List may be used to meet the standards, if protected and maintained during the construction phase of the development, as specified in Section 33.248.065. If existing trees are counted as follows: a. Each tree between1.5 inches and 6 inches in diameter counts as ½ tree unit; b. Each tree greater than 6 inches up to 12 inches diameter counts as 1 tree unit; c. Each tree greater than 12 inches up to 20 inches counts as 2 tree units; and d. Each tree greater than 20 inches diameter counts as 3 tree units."* **Comment:** It is unclear how existing trees required by City code for previously developed parking lots, etc. will be counted for non-conforming upgrade requirements (or if partial redevelopment is proposed). For example, if the perimeter landscape requirement is one tree unit per 30 LF, but an existing landscape area currently includes trees that are less than 6" in diameter (but met code at time of planting), it is unclear if it is necessary to plant additional trees since the applicant would only receive credit for ½ tree unit. It is unclear what the case would be if the current density and spacing do not allow additional trees to be planted. *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*
	Response: *The proposed change in this code section was intended to convert existing terminology (small, medium, large trees) to tree units consistent with the Title 11 proposal. Based on comments received about the need to simplify the code proposal, staff have evaluated other options to measure the number and size of trees required, and will be revising the proposal to use the existing small, medium and large tree terminology. Therefore, the current landscaping standards in 33.248 will not change and as such landscaping upgrades would not be triggered on sites that were developed under the current landscaping regulations. However, non-conforming upgrades to meet Title 11 tree density standards may be triggered (see response under 33.258 below).*
	Proposed Code: 33.248.060 Landscape and Tree Plans: *"For the purposes of meeting Chapter 11.600, Trees in Development Situations, a Tree Plan must be submitted showing the trees on site to be retained and methods for their protection, trees to be planted to meet Tree Density requirements and street trees to be protected and planted. Applicants may submit a combined Landscape and Tree Plan, when all of the information can be shown in a clear and legible manner. Tree Plan requirements that apply at the time of land use review are specified in Section 33.730.060."* **Comment:** We are concerned that the extent of area that a tree plan must include is not clear. For example, if only a portion of a large site is being developed or redeveloped, then it is unclear what assurance would be provided in the code that an unnecessary survey/inventory of existing trees on the entire site would not be required. *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*
	Response: *Applicants for large sites (greater than 1 acre) may show a "development impact area" essentially limiting the extent of required tree inventory (see sections 11.600.050.3.a and 11.600.070.2.c. in the initial draft proposal)*
	Proposed Code: 33.258.070 D-1 and D-2) Nonconforming Development: *"a. Landscaping required for the following areas:" "Tree density standards of Chapter 11.600".* **Comment:** As noted above, it is not clear if this means that anytime the non-conforming upgrade threshold is met, that the number of tree units must be recalculated and complied with each time a permit is requested. *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*
	Response: *The intent is that the tree density standards would be handled like other development standards when non-conforming upgrades are triggered. Applicants would continue to have the option to decide which improvements to make to fulfill their non-conforming upgrade requirement. Tree density is complicated somewhat by the option to pay a fee in lieu of planting. There will need to be a method of tracking these payments so that applicants aren't required to pay or plant additional trees when subsequent development is proposed. This is similar to how bicycle parking is administered.*
	Proposed Code: Chapter 11.600 (Table 600-1) Applicability of Tree Standards in Development **Comment:** The threshold of $25,000 for additions and alterations is not realistic (i.e., too low). It is quite possible the requirement to plant trees could approach the cost of the minimum threshold in the code (i.e., $25,000), depending on the amount of street frontage, need for tree wells, etc...for example, we will use a $25,000 interior alteration on a five-acre site with a 450 LF street frontage (assuming no corner lot). This example could result in planting of 18 street trees. Assuming $500 per tree, this could result in a $9,000 street tree requirement for a $25,000 project (in addition to other permit costs)." *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*
	Response: *Staff agrees with the concern for potential disproportionate costs associated with adding street trees. The revised draft will include a 10% of project value cap on street tree improvements, similar to the non-conforming upgrades for on-site improvements. Also, when the required number of street trees are present, no street tree upgrades would be required.*

I.D. Protecting Trees on Property Lines and Adjacent Sites during Construction
"The Council agrees with the Forestry Commission that emphasis during the development process on preserving high-quality, large, and healthy trees over simply the number of trees, as well as protections for trees on property lines and adjacent sites, will help ensure that we protect the urban forest canopy." *Terri Preeg Riggsby, Chair, Tryon Creek Watershed Council (3/22/10)*
"As stewards and advocates of watershed health and restoration, the West Multnomah Soil &Water Conservation District (WMSWCD) spends significant staff and volunteer time, as well as financial resources on projects designed to protect existing tree canopy and plant native trees. We ...believe the...protections for trees on property lines and adjacent sites will help ensure that we protect the urban forest canopy..." *Brian Lightcap, Chair West Multnomah Soil and Water Conservation District (3/18/10)*
"Many of the sights we build on are 2,500 square feet or less. If the site is 25' x 100', that gives the builder a very narrow footprint of 15 feet to build within, with no options to move the home. Tree preservation reaching over the property line, up to 15 feet on to the property, will greatly influence that footprint. The situation is made even worse on a 50' x 50' or less lot...Tree preservation in such a case is nearly impossible." *Jeff Fish, Fish Construction NW, Inc. (4/13/10)*
Harry Schumacher provided anecdotes from his experience as a developer, including contradictory advice from arborists and City staff (about tree condition and protection methods), as well as efforts to plant trees when he builds homes, works with Friends of Trees and plants at his own home. He suggested that trees planted by Friends of Trees are growing and have increased the City's canopy, so that it might not take much more planting to reach 33 percent. - *Harry Schumacher Excerpt from (3/23/10)Joint Planning and Urban Forestry Commission Minutes*
Response: *Support and concern for proposed protection of trees on property lines and adjacent sites is duly noted. The Planning Commission and Urban Forestry Commission have expressed preliminary support for revisions to the initial draft proposal – revisions that would hone and somewhat scale back requirements for protecting trees on property lines and adjacent sites. Trees on property lines could be counted toward meeting tree preservation and density standards, but only if protected. Protection for off-site trees in building permits would be voluntary. Protection for trees on adjacent sites would be considered during land divisions and public projects. The initial draft proposal and revisions are both intended to improve protection for these trees while also ensuring that the regulations to not make allowed development impractical or unduly costly.*
I.E. Trees in the Environmental Overlay Zone (e-zone) and other resource areas (overlay and plan districts)
"The Johnson Creek Watershed Council concurs with the comments submitted by Audubon Society of Portland, Coalition for a Livable Future and Urban Greenspaces Institute regarding the Portland Tree Policy Review and Regulatory Improvement Project. In addition, we wish to express our support for several proposed amendments...Proposal to delete the allowance in Zoning Code chapter 33.537, Johnson Creek Plan District for removing trees within Johnson Creek below the ordinary high water level...Proposal to apply tree removal and replacement standards to the outer 25 feet of environmental zones citywide (what are known as transition areas)...Proposal to change the definition of "Identified Wetlands, Identified Streams, Identified Waterbodies" to include resources identified on the resource inventory map, **or** in the resource inventory text. Every year, the Council and its volunteers plant thousands of trees along Johnson Creek and its tributaries to provide shade, erosion control and future large woody debris recruitment. The proposed amendments are necessary to protect our investment in the long-term health of the creek." *Matt Clark, Executive Director, Johnson Creek Watershed Council (4/12/10)*
"I appreciate the requirement for replacement trees when the removal of nuisance trees results in an environmental zone that is vulnerable to erosion and degradation." *Margot Barnett (4/1/10)*

	"There are two elements of concern for managing the natural areas that we would like to raise for your consideration. The first involves the city's lack of a master planning process that would allow Metro to seek a 10-20 year approval for management activities that currently require individual reviews. The second involves the existing Natural Resource Management Plan (NRMP) process and how out-of-date and burdensome it has become. The city does have a master plan land use review process, but it is applied only to institutional campuses such as hospitals and colleges...There is no similar process for natural resource areas, yet the management of large land areas for habitat and people require levels of analysis and review similar to those applied to campuses...From the title, one would think the NRMP provides a solution to the issue of master planning for an area. This is not so - since the NRMP is a legislative process, it must be approved by both the Planning Commission and City Council and because of this is almost impossible to update. Long-term management of natural areas requires some flexibility to allow for changes along the way - our understanding of ecosystems is constantly evolving and we need to be limber in order to provide the best practices to these important systems." *Jim Desmond, Director, Sustainability Center, Metro (4/12/10)*
	"I'm especially pleased to see the proposed changes that require replacement of trees removed from the transition zone (within the environmental zone). This is critical for riparian areas, which tend to be long and narrow with a considerable portion of the environmental zone falling within the transitional area. Will these new tree codes apply within Plan Districts like the Columbia South Shore Plan District? Because some of these plan districts have their own environmental requirements, citywide code changes don't always apply within the plan district area. Is there some way to make sure that the new code sets a minimum standard that applies to all plan districts, while still allowing them to have more stringent codes as appropriate?" *Linda Robinson (4/13/10)*
	"One proposed change of special interest to the Council is the one that would require mitigation for trees removed from the transition zone within the E-Zone. It is especially important to provide and protect vegetated buffers along sloughs and wetlands with narrow riparian areas. We support this change." *Jane A. Van Dyke, Executive Director, Columbia Slough Watershed Council (4/9/10)*
	Response: *Staff recognizes this support for addressing trees more consistently in existing environmental overlay zone transition areas and riparian corridors, and for replacing the watershed functions provided by nuisance tree species when they are removed.* *The current environmental zone regulations that apply in the Columbia South Shore Plan District restrict removal of trees and other vegetation within both the transition area and resource area (with the exception of vegetation on the Nuisance Plants List). Therefore, no amendment to that chapter is necessary to address that issue.* *The proposal establishes a basic minimum requirement that non-development related tree removal in plan districts and overlay zones must obtain a tree removal permit. Replacement with at least one tree would be required. All trees planted in the environmental and other resource overlay zones must be native species identified in the Portland Plant List.* *Staff also acknowledges the interest in establishing a less cumbersome process for managing large land areas as an alternative to the existing NRMP process. Addressing this issue through development of an Environmental Master Plan process may be beyond the scope of the Citywide Tree Project, however, staff will determine whether this is possible to accomplish for inclusion in the revised draft for City Council consideration.*
	Proposed Code: 33.430.080 (7-b) Items Exempt From These Regulations: *"Dead, diseased, or dangerous trees or portions of trees when they pose an immediate danger, as determined by the City Forester or an arborist."* **Comment:** It needs to be determined what type of approval is needed for removal of these trees, or if only having an arborist report available, if needed, is sufficient. *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*
	Response: *This code section lists activities that are exempt from the* ***environmental zone*** *regulations. Removal of trees that are dead, diseased or dangerous continues to be exempt from environmental zone regulations under the proposal. Title 11 would, however, require a tree removal permit and tree-for-tree replacement of all trees 6" diameter and larger in environmental zones and other resource areas (scenic, greenway, etc). This would include removal of dead, diseased and dangerous trees. The permit review would include confirmation of tree condition prior to issuance of a permit to remove the tree. A provision for emergency removals and retroactive permits is also included in Title 11.*

	Proposed Code: 33.430.130 (B-5) Permit Application Requirements: *"A Tree Plan, meeting the requirements of Title 11, Section 11.600.050, must be provided. The plan must indicate trees proposed to be retained, trees to be removed, location and methods of tree protection, and quantity of small, medium and large size trees to be planted; and.."* **Comment:** As indicated in II-3 above, the extent of a tree plan requirement is not established. *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*
	Response: *The reference to the Title 11 Tree Plan requirement is provided here primarily for convenience of the applicant. It is intended to highlight that one plan can be provided to comply with both Title 11 and e-zone tree requirements. The information currently required to show that e-zone standards are met will, in most cases, be more extensive than what would be required to meet Title 11 requirements.*
	Proposed Code: 33.430.150 (E) Standards for Utility Lines and 33.430.180 (B) Standards for Stormwater Outfalls: *"Native trees more than 10 inches in diameter may not be removed.;"* **Comment:** Since the tree replacement code has been refined, we feel the limit on tree size should be increased (to at least 18") if the replacement requirement is met. The ability to relocate/replace utility lines is not always possible due to grade and other issues, and sometimes there are situations where removal of one larger tree could result in preserving a larger grove of smaller (i.e., under 10") trees. *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*
	Response: *The standards for utility lines and outfalls provide a limited allowance for tree removal and replacement without triggering environmental review. In the situation where larger native trees are removed, an environmental review would be required to evaluate alternatives and determine the option with the least detrimental impact. In that case, the decision to remove a larger tree to save a grove of smaller trees could be made. There is no discretion to review alternatives and associated impacts when standards are met. Staff feels that the recommended 18" tree size threshold is too large, but will recommend an increase from 10" to 12". This will provide more flexibility for the applicant and will be more consistent with other tree size thresholds that apply in various situations.*
	Proposed Code: 33.430.175 Standards for Right-of-Way Improvements*: "Trees within the right of way may be removed within the improvement area and within 10 feet of the edge of the right-of-way improvement. In no case may the combined total diameter of all the 6-inch and larger greater native trees cut exceed 225 inches."* **Comment:** The threshold of 225" is arbitrary, and has no relationship to the size of the site. In addition, most frequently, the requirement for right-of-way improvements is established by the City, placing the applicant in a difficult position. *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*
	Response: *The standards for right-of-way improvements were established in the 2005 Environmental Code Improvement Project. They were intended to allow small right-of-way improvements to occur without triggering environmental review. The 225 inch threshold for rights of way was established at that time and is consistent with the previously existing development standard for tree removal in environmental zones. It was intended that larger right-of-way improvements with significant tree removal should go through environmental review in order to evaluate alternatives and associated impacts.*
	Proposed Code: 33.430.240 (1-b) Supplemental Application Requirements: *"The existing conditions site plan must show the following for the entire site: b. Tree crown cover outline and generalized species composition, or trees 6-inches and larger identified by species."* **Comment:** Tree crown is very difficult and costly to identify, particularly on large sites with a large number of trees and no limit on which portion of the site must be inventoried. *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*
	Response: *The requirement to show tree crown cover in areas that will remain undisturbed is an existing requirement. Since existing trees are part of the existing conditions, this information is proposed to be required on the "existing conditions" site plan, instead of the "proposed development" site plan. Showing tree crown should usually be much less costly than a tree by tree survey for large sites with many trees, since only the outline of the canopy needs to be shown (typically identified from an aerial photo).*
	Proposed Code: Chapter 33.440-Greenway Overlay Zones. **Comment:** We are not clear what the relationship is between proposed code changes in Greenway Overlay Zone and regulatory measures proposed with the River Plan project. It is unclear if the proposed code language for these two code projects has been reviewed to ensure the codes do not conflict. *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*
	Response: *The new regulations proposed under the River Plan will apply within the North Reach, replacing the current greenway overlay zone regulations (33.440) in those areas. Therefore, conflicts are not anticipated. Staff will review the River Plan/North Reach code against the Citywide Tree Project proposal and may propose additional revisions to one or both code sets if needed to address conflicts or undue inconsistencies.*

I.F. Public and Capital Improvement Projects

Street Related Removal Mitigation Reduction Options

"City bureaus have discussed minimizing mitigation for trees removed when the City requires a builder to make a street improvement. BES is supportive of an option to require tree-for-tree mitigation only in situations where trees are removed at City Engineer direction. Such a level of mitigation balances the costs and process burdens on a builder who is already providing an expensive public improvement for the City's infrastructure needs. BES would not be supportive of a full exemption from tree mitigation for these projects." *Dean Marriott, Bureau of Environmental Services (3/22/10)*

Response: *Staff agrees that this approach would be more equitable and consistent with mitigation requirements proposed to apply in other situations. The Planning Commission and Urban Forestry Commission expressed preliminary support to revise the initial draft proposal to require tree-for-tree mitigation in conjunction with City-required street improvements.*

Flexibility for Capital and Public Works Projects.

"BES appreciates BPS' work to provide enhanced flexibility for City projects and programs that allows City agencies to work with the Urban Forester to address trees in a meaningful way. The flexibility of programmatic permits, alternative root protection methods, and flexibility in locations of mitigation plantings will allow BES to maximize the effectiveness of existing tree protection, mitigation and planting efforts." *Dean Marriott, Bureau of Environmental Services (3/22/10)*

Response: *Support for flexibility through programmatic permits, root protection methods, and location of mitigation plantings is duly noted.*

II. TREES IN NON-DEVELOPMENT SITUATIONS – Planting, Pruning, Removal, Replacement, Permits

II.A. City, Street, and Private Trees

Responsibility to apply for permits on City managed property

"The draft Title 11 contains a requirement that "Only the City staff assigned to manage or care for trees on City lands may submit an application to plant, prune or remove a City Tree" (11.300.030 B. 1. a.) The Water Bureau is concerned that there is no requirement for the owner of the land to provide permission for the care taker to apply...We think 11.300.030 B. 1. a. should be changed to state that the City Bureau responsible for the site may submit an application." --- *Michael Stuhr, Chief Engineer, Portland Water Bureau (3/23/10)*

Response: *Agreed – Staff will include this modification in the revised draft proposal.*

	Special provisions in the Wellhead Protection Area
	"The Water Bureau's Columbia South Shore Wellfield Wellhead Protection Area has restrictions on tree planting that are not reflected in the draft Title 11. These restrictions are outlined in the 2008 Stormwater Manual; "Planting trees or deep rooted shrubs over the top of required polyethylene geomembrane liners is prohibited in the wellhead protection area to protect the liners from root damage. Water Bureau review is required to determine which requirements apply. In some instances, infiltration may be allowed." The purpose of this is to protect the groundwater and prevent the migration of contaminants. The Water Bureau requests that exemptions to tree planting (and replacement) requirements be written into the code for these lined facilities within the Wellhead Protection Area. This Area is currently not outlined in the Zoning Code, but is defined in the Water Code (Chapter 21.35 Wellhead Protection)." --- *Michael Stuhr, Chief Engineer, Portland Water Bureau (3/23/10)*
	***Response:** Agreed – Staff will include these modifications in the revised draft proposal.*
	Level of mitigation
	"if there is awareness, understanding, and 'buy-in' from property owners, then that goes even further toward helping the city achieve our tree canopy goals. For example, if we force someone to plant six trees on the back of their lot, and they only wanted one, they perceive the government as being unreasonable, and heavy-handed, AND it is likely that they will let most of the trees die to eventually get to what they wanted in the first place. People are much more likely to care for a tree they wanted on their property. We need to work with that positive motivation and encourage it through reasonable requirements and options." --- *Rebecca Esau, Manager, Land Use Services, Bureau of Development Services (3/22/10)*
	"The requirements for tree replacement of non-street trees, when removal is not associated with development does not have any mechanism for crediting property owners for trees planted prior to tree removal. Property owners may have already planted trees in anticipation of a more mature tree reaching the end of its lifespan, leaving them without sufficient area to plant additional replacement trees. The $600 fee in lieu of planting needs to be looked at carefully to make sure it is accurate justified and appropriate to both development and non-development situations. I suggest that the payment might be reduced in non-development situations since removal in these situations is not linked with an increase in impervious surface. In these economic times additional costs need to be well documented. The proposed system does allow for waivers and it is hoped that a system will be developed that prevents the permitting\replacement requirements from being overly burdensome to lower income residents." *Margot Barnett (4/1/10)*
	***Response:** Agreed – mitigation and planting requirements should be reasonable. Staff will propose clearer criteria for the City Forester to consider in reducing or waiving required tree replacement, and will explicitly include reference to the amount of trees existing on the site. Staff will also explore options for the City Forester to consider financial hardship in determining whether required mitigation should be adjusted.*
	Need for a Tree Removal Permit System
	"People like trees, and that's good. We want them to continue to like trees, and not be hesitant to plant them or preserve them because of the dread of dealing with a complex system of rules and reviews and the cost of permits. Also, it is very expensive to remove a large tree, so people generally do not remove them without a good reason." -- *Rebecca Esau, Manager, Land Use Services, Bureau of Development Services (3/22/10)*
	"People suspect other property owners of cutting down trees needlessly, and have the perception that the city is losing a lot of large trees. You will hear a lot of passion and emotion about the perceived loss of large trees in the city, but there is an absence of data on how much we have actually lost, where, and why. Large trees may have been cut down for very good reasons, such as disease, or root damage to building foundations, or to build a new home, etc. The perceived problem may be larger than the actual problem." *Rebecca Esau, Manager, Land Use Services, Bureau of Development Services (3/22/10)*
	"Currently, when someone purchases a home and a large, healthy tree on the lot is perceived as "a danger" or "a mess" they may cut it down. It is true that sometimes a tree in decline is a danger but sometimes the fear is irrational and the decision impacts many others in the neighborhood. That a tree sheds leaves should not be reason enough to eliminate it…Often homeowners are not the ones that cut down trees and they assume that professionals know the rules. Perhaps service providers should be required to ask homeowners if they have permits before removing trees." *Robert Elan (4/12/10)*

	Response: *The proposed tree removal permit system is intended to be clearer and more consistent than the current system. It is not intended to be onerous, punitive, or to discourage people from planting trees. The system should not be time consuming or costly, but should provide a better system to encourage retention of healthy trees, ensure trees are replaced and allow tracking of tree removal and planting in Portland's watersheds. Staff is working to further simplify the proposal, ensure that the proposed permit system is as streamlined and cost-effective as possible, and provide opportunities to educate and engage with property owners.*
	Uniform Tree Removal Permit; Tree Size Threshold
	"BES agrees with the removal of the current single family exemption from tree cutting regulations. This reinforces that all properties are important in sustaining Portland ecosystems and the tree infrastructure asset." *Dean Marriott, Director, Bureau of Environmental Services (3/22/10)*
	"BES has long advocated regulation down to a 6 inch size, but will support the 12 inch trigger size in the proposal. BES staff will continue to support the smaller tree size in the future since smaller trees are critical ecosystem assets. BES is not supportive of increasing in the trigger size to 20 inches or more. A large amount of the City's tree canopy would be unprotected by moving to the 20 inch from the 12 inch trigger. Many of the trees we plant today are smaller varieties and may never reach [maturity] without reasonable protection." *Dean Marriott, Director, Bureau of Environmental Services (3/22/10)*
	"Please support stronger protections for trees on single, non-dividable, residential lots in non-development situations: The proposed new code calls requires a permit and mitigation (either planting of new trees or payment of a fee that goes toward planting trees elsewhere) for cutting trees over twelve inches in diameter on single family, non dividable lots in non-development situations. These parcels cover more than 25% of our urban landscape. Please support this provision and urge the commissioners to consider lowering the threshold to six inch diameter trees. It is critical that we all take responsibility for trees: Tree protections should be comprehensive across all land use types and for both development and non development related activities." --- *Michelle Bussard, Executive Director, Forest Park Conservancy (3/23/10)*
	"We are encouraged by the proposed Citywide Tree Project objectives and new regulatory framework and offer the following comments. We believe that the new permit system, which will be applied to all lend uses and based on tree type, size, and condition, will allow for better protections of existing trees throughout the City." --- *Brian Lightcap, Chair West Multnomah Soil and Water Conservation District (3/18/10)*
	"Trees in non-development situations: We could urge the Commissions to consider lowering the regulatory threshold for permitting tree removal in non-development down to six inches rather than the currently proposed 12 inches. We believe the 12" standard (6" for Madrone and White Oak) will allow for the unregulated and unmitigated loss of too many trees and is contrary to the city's objective of preserving and enhancing the urban tree canopy. 19% of the city's canopy currently falls in the 6"-12" range." --- *Bob Sallinger, Conservation Director Audubon Society of Portland; Jim Labbe, Urban Conservationist, Audubon Society of Portland; Mike Houck, Executive Director, Urban Greenspaces Institute; Ron Carley, Co-director, Coalition for a Livable Future; Jill Fuglister, Co-director, Coalition for a Livable Future (3/23/10)*
	"Planting new trees is great, but trees that have already grown and reached their full potential in cleaning our air, providing habitat, mitigating urban stormwater, and their many other benefits, need special protection....The new code could also be improved if it provided stronger protections for trees on single, non-dividable, residential lots. A permit and mitigation should be required for trees six inches in diameter." --- *Dianne Ensign (3/22/10)*
	"Please support stronger protections for trees on single, non-dividable, residential lots in non development situations: The proposed new code requires a permit and mitigation (either planting of new trees or payment of a fee that goes toward planting trees elsewhere) for cutting trees over twelve inches in diameter on single family, non dividable lots in non-development situations. These parcels cover more than 25% of our urban 1andscape.Please support this provision and urge the commissioners to consider lowering the threshold to six inch diameter trees. It is critical that we all take responsibility for trees: Tree protections should be comprehensive across all land use types and for both development and non development related activities." ---*Veronica Kelly (3/23/10)*

"To be effective, any tree strategy must focus first and foremost on protecting our existing tree canopy. Please support stronger protections for trees on single, non-dividable, residential lots in non-development situations: The proposed new code calls requires a permit and mitigation (either planting of new trees or payment of a fee that goes toward planting trees elsewhere) for cutting trees over twelve inches in diameter on single family, non dividable lots in non-development situations. These parcels cover more than 25% of our urban landscape. Please support this provision and urge the commissioners to consider lowering the threshold to six inch diameter trees." --- *Nana Nash. M.A., Member of Audubon Society of Portland and Friends of Trees (3/23/10)*
"We believe that the new permit system, which will be applied to all land uses and based on tree size and condition, will allow for better protections of existing trees throughout the City." *Terri Preeg Riggsby, Chair, Tryon Creek Watershed Council (3/22/10)*
"We strongly support components of the new policy, including... -Standardized tree removal permit system; require a permit to remove trees 12 inches in diameter or larger on all lots; eliminate existing single family lot exemption [and] clarified use of City tree funds." *Nancy Seton, SWHRL Neighborhood Assn. Land Use Chair, Board Member (3/23/10)*
"Overall, we do believe that a uniform application of regulations is needed to address multiple issues with regard to trees and overall support the Citywide Tree Project." *Scott Fogarty, Executive Director, Friends of Trees (4/13/10)*
"The proposed standardized tree permit system will help provide an opportunity for public education regarding the value of urban trees, simplifies current code, and removes the inequities between how trees are regulated on residential properties. Streamlining of the appeals process in the new permitting system is a definite improvement...There might be some cost savings available if the simplest permits have an option for online processing, allowing submittal of pictures by the applicant...I am conflicted regarding the trigger size of 12 inches. Slower growing long-lived trees take many years to reach that size. I certainly would not support a 20-inch trigger." *Margot Barnett (4/1/10)*
"Portland is becoming a more mature city with most building being redevelopment and infill. As such it is important that we be forward thinking and find ways to encourage the stewardship and growth of our urban forest on properties that are already developed in addition to preserving trees during the development processes." *Margot Barnett (4/1/10)*
"I strongly suggest that the proposed regulation to require permits to remove healthy 12-inch or larger diameter trees on private property be changed to 6-inch diameter. Here's why: Depending on the species, 11 or even 7-inch diameter trees are substantial and may be well on their way to providing the mature, wide canopies essential to a healthy urban ecosystem...And as the older, huge trees (that would be protected under this regulation) die out, we would be left with very few large trees to take their place." *Eileen Stark, Biologist and landscape designer, Second Nature Garden Design (3/25/10)*
"Please support stronger protections for trees on single, non-dividable, residential lots in non-development situations:... These parcels cover more than 25% of our urban landscape. Please support this provision and urge the commissioners to consider lowering the threshold to six inch diameter trees." *Judy Todd (4/1/10)*
"I particularly urge you to: Require a permit with a neighborhood comment and review phase for the removal of any tree greater than 6" in diameter on public or private property. The current proposal of 12" is not adequate, as many existing trees may never survive the axe and get the chance to become large trees in this scenario." *Richard Weber (3/28/10)*
"While I applaud the work done to refine, clarify, and consolidate the tree codes, I have a few specific concerns. Removal permits for trees over 12" is too large. I understand the problem of staffing site visits, but many trees; particularly the trees that mature to a smaller height, may take 10 years to get to that size. I recommend 8-10" because many seeded trees grow quickly to 4" and many ornamental trees take quite a while to get to large diameters. Nuisance trees should be exempt. Removal should have an emergency permit allowed with photos. Replanting should be allowed any time, but encouraged to be done in the wet months, instead of the 30 day timeframe. I encourage you to consider requiring businesses that get licensed for tree work in the city to have certified arborists on every job site. The ISA has a widely accepted program for certification. There are many trees in the city that are under protection of tree preservation but few arborists or homeowners know if the tree they are working on is on a plan. There needs to be an easy way to access this database if you want compliance. Perhaps putting it on Portlandmaps.com?" *Jim Wentworth-Plato, BCMA (Board Certified Master Arborist), Emerald Tree (3/24/10)*

"I strongly support a new, improved, and stronger plan for Portland's trees. I strongly support regulations that would require a permit for removing trees 12 inches or larger in diameter on private property regardless of the lot's location or size. In just the last two years I have witnessed 4-5 large trees removed in my neighborhood alone." *Christine Colasurdo (4/13/10)*
John O'Shea said proposals need improvement and have not received enough public input. He stressed 1) proposals are well-intentioned, but consulting arborists have been left out of the discussion; 2) a 1:1 ratio or fee schedule is punitive and not relevant to the fast growth rate of trees in the Pacific Northwest; and 3) proposals don't take into account arborists' getting paid for securing permits or the number of times arborists need to remove trees for good reasons. In response to questions, he said it is difficult for arborists to bill for time not connected to work on trees. He referred to Lake Oswego's requirement for an arborist to remove hazardous trees as a good model. *John O'Shea Consulting Arborist, LLC, Excerpt from (4/13/10)Joint Planning and Urban Forestry Commission Minutes*
Lisa Tadewaldt stressed the need to streamline the permitting process for removal of hazardous trees. She said it currently can take two weeks to get a permit in Portland because of the requirements for documentation, but most hazards relate to situations that have already occurred such as trees that have fallen on a house or in the street, or are unstable or breaking. In response to questions, she said submitting pictures or using certifications according to an ISA Code of Ethics would work in most cases. She recommended Lake Oswego's permit system that allows reporting after the fact as a model. *Lisa Tadewaldt, Urban Forest Pro, LLC, Excerpt from (4/13/10) Joint Planning and Urban Forestry Commission Minutes*
Jeff Moore questioned how the project could be funded given the volume of permits that would be required. He said his crew cuts down 20-50 trees a week in Portland, and there are 170 tree services in Portland. In response to questions about the condition of trees that he cuts, he described cutting 180 trees on the levee, most of which needed cutting due to their condition. He described bad trees as multi-stem, rotten trees that crowd homes or could potentially fall on them. He said some people cut trees because they are messy or they want more sunlight. *Jeff Moore, Urban Forest Pro, LLC, Excerpt from (4/13/10) Joint Planning and Urban Forestry Commission Minutes*
Response: *Support for uniform tree removal permit and elimination of the existing single family exemption is duly noted, along with concerns from some regarding the reaction of homeowners to expanded permit requirements.* *Staff recognizes that there is an interest in reducing the tree size threshold from 12" to 6" in diameter. Staff believes that it is appropriate to retain the existing 12" diameter tree size threshold for private tree permits as the City shifts to a more standard approach that applies citywide. The 12" diameter tree size is understandable and enforceable. Reducing the size threshold from 12" to 6" would be costly, difficult to enforce, and could be perceived as more intrusive and burdensome by the public.* *The Planning Commission and Urban Forestry Commission expressed preliminary support for retaining the 12" diameter threshold, though some expressed support for a 6" diameter threshold if the permit system could rely more on an "honor system" for compliance. The Planning Commission gave preliminary endorsement to a simplified uniform permit approach, with cautions to make the process simple and non-intrusive for homeowners.* *Members of the Urban Forestry Commission expressed concern regarding the proposal to expand the tree removal permit system to apply to homeowners. Staff is continuing to develop streamlined measures for homeowners, and anticipates proposing homeowner-specific provisions in the next draft proposal. Such provisions could include a "call before you cut" approach for smaller trees and a permit with a simple tree-for-tree replacement requirement for larger trees.*

	Pruning Permits for Street Trees
	"The idea that I would have to get a permit to trim trees in the sidewalk strip of my property is repugnant. There are no trees in the strip at present and it has been my desire to plant some trees here. I like the general objectives of the initiative, particularly increasing the canopy cover, but no way am I going to plant trees where I will be subject to City oversight of when and how I prune them and the attendant fees and inspections. The proposed regulations take the model of building and zoning codes into an area where there is no compelling public good to secure – worthy objectives yes but threat to life safety, not really. The concepts and development of this Code is obviously the product of a bureaucracy not the citizenry. It appears very likely to be costly, burdensome and ineffective at securing some the primary objectives, particularly increasing the canopy on private land (including sidewalk strips). I urge the adoption of a far lighter hand, more like the friends of trees program and less like the Portland tree police less you compel us away from an arboreous prospect." *Jim Wilson (6/11/10, after close of Planning Commission record on 6/8/10)*
	Response: *The requirement to obtain a permit to prune trees in the street rights of way (i.e. Street Trees) is a current requirement that has been in place since the original public tree ordinance was adopted in the early 1970's. The purpose behind these cost-free permits is to ensure that owners have the knowledge (or have hired contractors with the knowledge) of proper pruning methods. The City Forester is concerned with excessive pruning of these trees and topping, which impact the aesthetic beauty of the trees as well as the health, longevity and safety of the street trees. The current proposal carries the existing permit requirement forward, but for the first time provides a legal means to conduct very minor pruning without the need for a permit (i.e. removal of sucker shoots from the base of trees, and pruning branches up to 1/4 inch, the typical size that hand pruners can cut). This acknowledges property owners' need to maintain their street trees for required clearances and better tree health, while responding to the City Forester's concerns about excessive pruning.*
	Minimum tree size threshold for regulating Street Trees and City Trees
	"The Water Bureau requests that the Bureau of Planning and Sustainability be directed to set a minimum regulated tree size of 3" diameter at breast height (dbh) for City and Street Trees. The current draft statement that "The regulations of this chapter apply to all trees in the City of Portland that are on lands owned by the City…" (11.400.020) will be impossible to enforce and very costly for the Water Bureau. By having no size threshold, even the smallest seedling is regulated, making simple acts such as mowing a lawn or pulling weeds from a green roof at a City facility subject to the permitting requirements of this chapter. The costs and potential project delays associated with identification, consultation, protection, public notification, obtaining a permit to maintain/remove, and replacement greatly outweighs the benefits derived from regulating small diameter brushy vegetation that is of limited value and could be expected to grow back quickly without replacement." *Michael Stuhr, Chief Engineer, Portland Water Bureau (3/23/10)*
	Response: *Agreed – The Planning Commission and Urban Forestry Commission have expressed preliminary support for establishing a 3" diameter minimum size threshold for regulation of Street Trees and City Trees in the revised draft. Like landscaping requirements, smaller sized trees that are newly planted would be required to be maintained and replaced as necessary until they reached the size where tree permits are required.*
	Public Appeals and other Tree Permit Cost Factors
	"The Water Bureau has concerns with the public appeal procedure for Type C permits outlined in 11.300.060.D. Removal of a large, healthy tree will only be approved by the Forester in circumstances where absolutely necessary in order to provide essential services. A lengthy appeal process could be initiated by members of the public would only cause delay and increase the cost of providing water to our customers." *Michael Stuhr, Chief Engineer, Portland Water Bureau (3/23/10)*

	"The proposed code offers the public the right to appeal tree cutting of healthy trees greater than 20" in diameter or slow growing natives greater than 6" in diameter in non-development situations. These code provisions are very confusing, increasing code complexity by creating a separate permit and process (Type C), without providing a clear public benefit. There are several issues with this section which should be addressed: The provision applies only to non-development situations. If the intend is to provide the pubic with the right to appeal removal of large trees than it should be equally applied to development situations where most of the healthy large trees are being removed; The criteria for issuing and/or appealing a permit are unclear and thus nearly impossible to adequately implement...; The appeal can be brought by any public, even those outside the City of Portland, without a specific interest or concern with the neighborhood...In non-development situations, the three different permit types, coupled with appeal rights, and different mitigation standards will be a challenge for staff to effectively communicate. Staff fears that a high level of complexity will contribute to higher levels of non-compliance because of a lack of public understanding and acceptance. In reviewing this draft, staff hopes that Commissioners try to keep in mind the goal of this section of the code which is to compensate for tree cutting by requiring mitigation by which our future urban forest can be maintained. Much of these regulations can be removed while still retaining the strength of the intent and its application. Procedural overhead should be kept to a minimum with the focus placed on providing adequate funding for the professionals working in the field....Staff feels that the code can be more tightly written and thus briefer if much of the procedural information is codified through administrative rules. Procedures are subject to change and therefore should be easily amended rather then, as drafted, only through Council action." *David McAllister, City Forester, Portland Parks and Recreation (4/12/10)*
	"While I appreciate the educational value of face-to-face interaction with individuals/businesses seeking tree permits, I am concerned that the volume of such interactions could be overwhelming. Some of these contacts could/should be handled on-line. You might be surprised at how often citizens turn to on-line sources for information." *Linda Robinson (4/13/10)*
	"We also applaud the City's efforts to keep the tree cutting permit process from adding undo time and expense for residents, developers, and those wanting to expand existing businesses. We wish to add that the costs of under the code should be reasonable and affordable for city residents." *Jane A. Van Dyke, Executive Director, Columbia Slough Watershed Council (4/9/10)*
	"Implementation costs for comprehensive City inspections. Urban Forestry (UF) inspection of every tree site is expensive and is likely to duplicate contractor and arborist services already required and available for property owners. UF's expertise should be reserved for the most important and technically complicated cases. The City should establish a program of landscape contractors certifying code compliance on the simplest permits, arborists certify the next tier, and Urban Forestry reviews of the largest/most sensitive trees and all appeals. UF spot checking would guarantee the validity of professional certifications." *BES Tree Code Option, Bureau of Environmental Services (4/27/10)*
	Response: *The initial draft proposal included recommendations to streamline and standardize permit appeals processes by formalizing an appeals board, and limiting public appeals to larger (20"+) trees. The project also sought to bring parity between the public's current ability to appeal private tree removals and the lack of ability for the public to appeal public tree removals.* *In response to direction from the Urban Forestry and Planning Commissions, staff is developing a simpler, two tiered permit system consisting of simple "confirmation" permits, with minimal process, inspections, and appeals, and "review" permits which would require an inspection, evaluation of approval criteria, and an opportunity for public appeals. In general, the review permits are for removal of healthy 20"and greater trees, and requests to remove multiple healthy trees (5 or more per year).*

Proposed Code: Chapter 11.300 Permit Procedures

Comment: We are very concerned about the additional cost and time associated with obtaining permits for the numerous development projects, as well as the on-going maintenance that occurs on Port property. We strongly recommend a streamlined permit process be established for large property owners such as the Port. This streamline permit process could be similar to the City's popular Facilities Permit Program, and could allow those property owners to apply under a separate streamlined review process (and private utility providers, etc.), particularly those who include trained staff and face on-going tree-related issues. Possibly, this streamlined facility-type permit could be addressed through an expanded "programmatic permit" as provided in Section 11.300.070 for public agencies. We are also very concerned that the timeline for a decision for Type A, B, and C permits is not specified. The commentary in this section indicates, "...the implementing Bureaus have expressed concern having these timelines in code," yet appeals of such decisions must be filed within 14 days. It is not sufficient to indicate in the commentary, for example, that "Type A permits are intended to be processed quickly..." As indicated above, it is not clear what measures are in place to ensure the three bureaus involved in tree reviews can actually process simple permits in a timely manner. Lastly, it is also unclear how current agreements with the City regarding special planting standards in/near the airport will be affected by this proposed code." *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*

Response: *Regarding the concern about additional time and cost for separate tree permits through the development process: The proposal does not add a requirement to obtain a separate tree permit for development permit applications. The preservation and tree density standards would be reviewed concurrent with the building permit process.*

Regarding the need to specify timelines for review of tree permits: We heard similar concerns from arborists in regard to processing tree permit applications in a timely fashion. Initially, the code specified timelines, but these were removed due to concerns raised by the implementing bureaus. The bureaus concerns are based on the uncertainty of staffing levels to process permit applications. Codifying the timelines obligates the city to make its decision within a set time period or risk a claim. Staff will recommend that the City Council direct Urban Forestry to develop administrative rules to accompany the code for this sort of procedural guidance. Staff has included provisions to allow for emergency tree removals when imminent hazards are present with a retroactive permit application process. In addition, revisions to the tree permit system noted above are intended to eliminate a number of required inspections by relying on certified professional assessments and documentation from applicants where feasible. This should expedite many of the typical permit requests received.

Regarding comments on the Programmatic Permit: Ongoing maintenance for public agencies may be accomplished through obtaining a programmatic permit. This permit would establish the range of allowed maintenance activities, any required notification procedures (tailored to the type of work being performed), and replacement requirements on a long-term time scale (up to 5 years). Proposed revisions endorsed by the Planning Commission/Urban Forestry Commission process would limit activities allowed through this permit to routine maintenance activities. Removal of healthy non-nuisance species trees more than 6 inches in diameter would not be allowed under this permit. (Note: Planning Commission endorsed a 12"diameter size threshold, however the Urban Forestry Commission recommended the 6" threshold.) Permittees would need to submit an annual activity report to the City Forester for review to ensure compliance. Applicants would have the ability to appeal decisions of the City Forester to the Urban Forestry Appeals Board. The programmatic permit is not intended to address specific development projects, as these would be reviewed like any other development permit application.

We acknowledge the agreements the Port has made regarding the planting requirements for the Zoning Code. Staff intends that the landscaping standards to be adopted as part of the Airport Futures project would apply to PDX, as would the proposed Tree Preservation standards. The proposed Tree Density standards would not apply (the terminal is not within the listed development types for tree density). However, other development within the plan district (such as retail, warehouse, or freight movement) would be subject to both the Tree Preservation and Tree Density standards. If unable to accommodate planting trees on site, then payment in lieu of on-site planting would still be an available option.

	Desired Future Condition
	"There are areas of the City where dense forest is not the ideal future condition. Competing interests of solar access, wellhead protection, maintenance of clear utility corridors, or support of non-forested habitat (meadows, for example) are not considered adequately in the draft Title 11...The Water Bureau requests ... a procedure for establishing an alternative "Desired Future Condition" for specific sites where dense forest is not appropriate. These sites would then need to be exempt from the tree density and replacement requirements in both development and non-development situations." - *Michael Stuhr, Chief Engineer, Portland Water Bureau (3/23/10)*
	Response: *Under the proposal public agencies could establish goals for desired future condition and deviate from normal replanting requirements through the establishment of a Programmatic Permit. Staff is also recommending that the revised draft include a new Tree Management Permit option to address longer term tree management objectives on large sites such as agency property, open space uses, and institutional uses.*
	Street Tree Planting; Fruit and Nut Trees
	"I would like to comment that we'd like to see more trees in Goose Hollow. The flat parts of our neighborhood (E/W is I-405 to SW 18th and N/S is from Burnside to the low slopes of the West Hills) are barren places, where the overwhelming feeling is of a concrete wasteland. Simply adding more street trees would add a warmth and greenness to a neighborhood that really needs it!"- *Tracy Prince (3/17/10)*
	"I would like to see the city of Portland designate certain areas to plant fruit trees between the street & the sidewalk. I realize there would be some mess to clean up after people helped themselves to the ripe fruit and some rotten fruit would be left. Perhaps this project could be undertaken in connection with neighborhood groups who would "adopt" a street to take care of." - *Judith Bentley (3/16/10)*
	Response: *An interest in more street trees in Goose Hollow, and in the designation of priority areas for fruit and nut street trees, are duly noted. The draft proposal recommends that the City establish policies to promote the planting of fruit and nut trees through the Portland Plan project. Staff will also forward this comment to the City's Food Policy Coordinator.*
	Extend Federal Exemption
	"Title 11 exempts State and Federal authorities who manage property. Since the levee system is a federal levee system being managed for public safety, and any trees being removed are required to be removed by a federal agency, why wouldn't the District fall into the same category? We recommend inserting the language being offered in the Port of Portland ESEE into [Title] 11." --- *Dick Shafer, President of the Peninsula Drainage District #2 (3/23/10)*
	"While the proposed code language acknowledges federal requirements related to trees growing near and on flood control levees, it does not acknowledge federal and state requirements related to trees growing into the flight path (airport surfaces) around Portland International Airport (PDX). Specifically, the Federal Aviation Administration (FAA) regulates trees around airports under its Part 77 (protected surfaces) and Part 139 (wildlife hazard) requirements. In addition, the State Airport Planning Rule (OAR 660-013-0010) directs cities to prohibit trees from growing into airport surfaces. As a result, the proposed code language should be amended to reflect these federal and state requirements." *Tom Bouillion, Planning Manager, Marine & Industrial Development, Port of Portland (4/13/10)*
	Response: *Title 11 makes it explicit that the rules do not apply to state or federal authorities, since in most cases the city does not have the authority to regulate these properties. Special districts, counties, and other agencies are not subject to the same rules of preemption. However, the code does recognize federal and state mandates as applied to these agencies: when subject to a specific order, the requirements of Title 11 do not apply. Recognizing the FAA mandates, we will be amending the description of prohibited topping to exclude height reduction performed to meet FAA mandated clear air space limits.*

"Grandfathered" activities; parties responsible for preventing violations

"Proposed code language suggests that the property owner as well as a party cutting or pruning trees without a permit would be in violation and subject to City penalties. This situation may be a problem for the Port and other property owners…when the easement specifically allows the utility to clear vegetation, including trees. These easement holders, including the Bonneville Power Administration (BPA), a federal agency, may not feel compelled to obtain a programmatic tree cutting permit from the City, since it may be considered a nonconforming or "grandfathered" activity. In other words, the Port does not want to be held responsible for actions taken by easement holders on Port property, since the Port must legally respect the rights of the easement holder." *Tom Bouillion, Planning Manager, Marine & Industrial Development, Port of Portland (4/13/10)*

Response: *The enforcement provisions are intended give flexibility to pursue the party or parties responsible for the violation. In some cases, the contractor or person conducting the work may be acting on the presumption that the property owner has obtained proper authorization, in which case the property owner is ultimately responsible. In other cases, the contractor may represent that they have obtained or do not require authorization to conduct particular work. In these cases, the city is more inclined to pursue the contractor. Each case would be investigated and acted on accordingly.*

Trees and Solar; Trees and Views

"Solar and Trees…nothing has been addressed as to what the policy's impact may have on solar as solar continues to make greater strides in the market place." *--- Jeffrey Paul Fish, President, Fish Construction NW, Inc. (3/23/10)*

"View Easements. There is nothing addressing view easements…Most view easements require trees to be topped or removed, not just 'thinned'. How are these easements…going to interact with the new policy regulations?" *--- Jeffrey Paul Fish, President, Fish Construction NW, Inc. (3/23/10)*

Response: *The proposal is intended to provide sufficient flexibility to address the installation of current and future solar system, while also encouraging the retention of healthy trees where practical. This flexibility is provided both in the proposed tree preservation and tree density standards that would apply in development situations, and when considering applications for permits to remove trees in non-development situations. Where trees would block a solar system on the same property, the City could approve removal of the tree with mitigation. For larger healthy trees, the proposal provides an opportunity for the City to consult with property owners to see if it is practical to meet both objectives without removing the tree. In addition the proposal would establish a new permit to allow limited pruning in environmental overlay zones without a land use review. This permit could help a property owner increase light and solar access on his/her property. The Planning Commission and Urban Forestry Commission have expressed preliminary support for establishing this new permit option. The City does not enforce private easements (or other private deed restrictions). Any tree removal or pruning needed to comply with private view easements would need to be carried out in a manner that complies with City regulations, meaning appropriate permits (and mitigation) would need to be obtained. The fact that a pre-existing view easement is in place could be a factor considered in the tree permit review.*

II.B. Pruning Permit in Environmental Zones

Proposed Code: 33.430.080 (8) Items Exempt From These Regulations: *"Pruning trees, when conducted under an approved tree pruning permit as required by Title 11, Trees…"***Comment:** We are concerned about the cost, delays, and unnecessary review required for a tree pruning permit for any pruning. *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*
(same comment regarding E-zone regulations in CS/PIC Plan District and Columbia South Shore Plan District)

	"The current draft of Title 11 allows for much more pruning on trees in preservation zones than Title 33. Looking at the issue through a fire safety lens, this is a good thing; the further a tree is from a burning structure, the less likely the fire will spread from the structure, to the tree, and to surrounding trees. Requiring that the pruning be done under permit provides the necessary balance between tree preservation and competing interests that could provide rationalizations to denude the City. What Title 33 has, but this draft of Title 11 does not, is any allowance for permit exempt fire safety measures...33.430.080 contains fire safety provisions; it allows pruning of trees and shrubs within 10 feet of structures, and removing of branches on conifers within 30 feet of structures to a level of 6 feet from the ground when within the City's wildfire hazard zone; all without a permit. These wildfire mitigation measures are but a fraction of what national standards call for, but it is something. If the current Title 11 draft comes into effect, the Title 33 language goes away and all pruning will have to be by permit. This sets fire safety back to where it was prior to 2006, when the current fire safety exemptions where approved. It puts the citizen in the odd position of having to go through a regulatory process to garner permission to even minimally protect their home. Further, it puts the City worker in the odd position of having to explain why this is appropriate. It's a tough position to defend. Therefore, Fire requests that the pruning allowance in 33.430.080 be carried forward into Title 11." *Richard Haney, Assistant Fire Marshal, Portland Fire & Rescue (5/25/10)*
	Response: *This provision would provide additional flexibility for property owners within environmental zones -- flexibility that does not exist under the current regulations. Today, except for very limited exemptions, pruning native trees within environmental resource areas requires environmental review. The proposal would allow pruning to occur under the oversight of an arborist, subject to issuance of a Title 11 permit. Establishing this option would greatly reduce cost and review time for the applicant. Current exemptions that allow pruning for trees located close to buildings and removal of low-hanging branches are intended to be exempt from the Title 11 permit requirements. Staff acknowledges that not all of those exemptions were included in Title 11 and intends to correct that error in the next code draft.*
II.C. Programmatic Permit	
	"The Programmatic Permit contains a requirement to notify the public prior to performing permitted activities. The Water Bureau requests that 11.300.070 C. 6. be changed to state that the outreach and notification program include a description of measures to inform the public of specified types of upcoming permitted activities. For all routine activities associated with maintenance work, the public notification process for obtaining the Programmatic Permit should suffice. Public notification of each individual action under the Programmatic Permit would be costly and infeasible." --- *Michael Stuhr, Chief Engineer, Portland Water Bureau (3/23/10)*
	"We are concerned about the level of notice and comment allowed for the programmatic permits. We believe that programmatic permits have the potential to have significant impacts on the urban canopy, and that different agencies have demonstrated differing levels of expertise and concern for protecting and preserving trees. We would urge the Commissions to recommend a greater level of public review including an opportunity for appeal and regular reviews of implementation of the permit within the 5-year lifespan." --- *Bob Sallinger, Conservation Director Audubon Society of Portland; Jim Labbe, Urban Conservationist, Audubon Society of Portland; Mike Houck, Executive Director, Urban Greenspaces Institute; Ron Carley, Co-director, Coalition for a Livable Future; Jill Fuglister, Co-director, Coalition for a Livable Future (3/23/10)*

	"Each day of the year, District staff is in the natural resource doing routine maintenance. There have been five-year renewable permits secured to do this federal and state-mandated maintenance work without seeking individual permits. An annual report created by the District explains what has been done during the past year and what is planned for the upcoming year. The regulatory staff may come to look at any project at any time. The process is very transparent and has worked well. The Districts are not in the tree removal business. It would be great if we didn't have to remove trees, allocate funds for tree removal or work with neighborhoods to remove trees. Our mission is personal and property safety through a highly rated flood-control system. However, when the United States Army Corps of Engineers says a tree violates its national levee vegetation standard and must be removed to keep the levee certification, we must remove the tree. That tree is either a dead, dying or diseased tree, or it is a hazard tree by federal definition. The USACE has overlooked some of these trees in years past, but now, because of the new standards brought about by the levee failure experience in New Orleans during Hurricane Katrina, requires they be removed. The majority of these trees were not planted to be part of the levee landscape. They grew from seeds distributed by the winds or buds and should not have been there in the first place. We have asked City staff to note these federal mandates in the language of the new [Title] 11 and help keep the districts from getting caught between a federal mandate and local regulations. The District's support the Programmatic Agreement approach which is identified in [Title] 11. However, because we also perform other activities in the environmental resource areas, [Title] 33 would still apply but does not have provisions for a Programmatic Permit approach. We, therefore, recommend a code amendment to Chapter 33 to allow for the Programmatic Permit approach. We've heard that some object to the Programmatic Approach because there is no appeal process built into it. If this is an issue, we support an appeal process being put into place." --- *Dick Shafer, President of the Peninsula Drainage District #2 (3/23/10)*
	"The programmatic permit system makes sense, as long as a provision for appeal is put in for situations that meet a certain threshold of number of trees to be cut in a particular project. This is of particular concern when looking at the potential large scale cutting of trees by entities such as the Port of Portland, and Drainage Districts and City Bureaus." *Margot Barnett (4/1/10)*
	"While a programmatic permit approach sounds promising, it is unclear what mitigation or other obligations might stem from such an approach. What will the fiscal and operational impacts be to the Port, city bureaus such as Maintenance and Transportation, and public utilities as they undertake routine pruning and removal of trees?" *Tom Bouillion, Planning Manager, Marine & Industrial Development, Port of Portland (4/13/10)*
	"Riverside is comprised of 160 acres and has an estimated 1000 trees. The fundamental use of the course requires that we employ skilled staff to steward these resources for the enjoyment of our customers. We are all proud of the work we do with trees and the many other plants we manage...the draft envisions a Programmatic Permit for governments and utilities in Chapter 11.300.070. We believe such a similar mechanism might be appropriate for our situation. Our initial conversations with staff have conceived of a Tree Management/Maintenance Plan that would be adopted for a multi-year period, subject to periodic reviews and renewals. Such a Plan could incorporate the operating practices and standards of the many facets of golf course operations while ensuring that tree management practices meet the goals of this program. This would streamline the process for a large area and still comply with the intent of the program. It may also be possible to integrate this effort with the Airport Futures Environmental Code updates." *John Loff, Golf Course Superintendent, Riverside Golf and Country Club (4/13/10)*
	"Section 11.300.070 which addresses programmatic permits is currently implemented by Urban Forestry to efficiently and effectively address large tree care and maintenance issues. The narrative states "these programmatic permits are for more routine and customary maintenance practices". If this is the case, staff is not sure why the proposed section of the code adds significant process without any clear affect to the permit or the public. Staff encourages code where it meets the intent helping reach City canopy goals. This whole section could be removed without jeopardizing this objective." *David McAllister, City Forester, Portland Parks and Recreation (4/12/10)*

	"Trees within and surrounding CECC are important to the visual quality and functionality of our property as a golf course. We employ skilled professionals to maintain these trees and many other plant types to ensure that the CECC continues to reflect a high quality environment. With that said, we frequently assess the trees on site as part of our ongoing maintenance and prune, remove, relocate and replant trees that may present safety concerns, are needed to assist with the health of the tree. Temporary and permanent course modifications and the addition of accessory structures (i.e. concessions, restrooms, etc) may also result in the relocation of trees and other vegetation. Based on our initial review of the proposed code language released in February 2010, we were quite surprised and concerned with the significant amount of new and complex code as it could possibly be interpreted to relate to our current operations and maintenance practices. As an example, this code is so ambiguous, extensive and complex, it is possible that we could be required to hire consultants anytime we need to accomplish only the simplest of pruning or work within root/canopy area. In addition, permit review as proposed will result in additional time and cost that could become financially devastating in these difficult economic times, and create potential safety and liability issues. We strongly recommend that this permit process include more exemptions for normal maintenance and operations. If some review is required, the city should include a streamlined permit process for large property owners such as the CECC. We understand the current proposal includes some form of 'programmatic permit' as provided in Section 11.300.070 for large public agencies...we strongly urge you to reconsider adopting these overreaching regulations as currently proposed and encourage the concept of a programmatic permit process for large sites such as CECC." *Brian Leitgeb, Columbia Edgewater Country Club President (5/10/10)*
	"...I would point out to the Commission...the importance of developing some sort of system that supports the stewardship of trees on commonly owned areas through a special type of programmatic permits or some method tailored to these areas...This because any astute observer must clearly recognize that the use of common areas permitting clustering offers the best opportunity to protect trees as well as other environmental features in many private ownership situations. I believe that in many ways they are very much like and on the same scale as many institutional operations such as churches or the assisted living facility I referenced earlier and that the community would benefit from approach that supports these types of uses and ownerships making good tree decisions." *John Gibbon (6/8/10)*
	"Fire has worked closely with Parks over that past few years to adopt future desired vegetation conditions in Oaks Bottom, Powell Nature Park, and Forrest Park that will help reduce the chance of catastrophic fire conditions on those properties. The programmatic permit outlined in 11.300 will be a great help in implementing these plans." *Richard Haney, Assistant Fire Marshal, Portland Fire & Rescue (5/25/10)*

	Response: *Staff recognizes and appreciates the mix of support, interest and concern regarding the proposed Programmatic Permit. The intent is to establish a permitting mechanism that promotes efficient public agency routine operation and maintenance activities that would otherwise require multiple tree permits. Equally important, the Programmatic Permit is intended to encourage stewardship, provide transparency, and ensure a net benefit to the urban forest. The Programmatic Permit also provides a tool to customize tree related activities, including tree replacement, to most reasonably meet these goals. For example, an agency that conducts routine removal of nuisance plant and tree species, along with extensive native plantings in local watersheds, may be authorized to conduct such activities without a strict "tree for tree replacement" at the project sites.* *Taking the mix of comments into consideration, staff is proposing a number of revisions intended to hone the proposal and address public concerns without unduly increasing program costs. Staff is proposing to clarify the types of activities allowed under a Programmatic Permit, such as removal of dead, diseased, dangerous and nuisance tree species, as well as tree pruning and removal activities on City property or public rights of way. In addition, removal of healthy non-nuisance trees 6" diameter or larger would not be allowed (per Forestry Commission direction). The allowed activities could be further restricted under the specific conditions of the permit. The list of potential activities is consistent with activities that are allowed and/or would not be subject to public appeal if permitted to take place on private property. To increase transparency and accountability, staff proposes to add an annual reporting requirement so that the City Forester can track the activities and confirm permit compliance. The City Forester would inform the Urban Forestry Commission of pending Programmatic Permit applications and the submittal of annual reports at monthly Urban Forestry Commission meetings. This would allow the Urban Forestry Commission to provide feedback to the City Forester and to invite public comments to help inform the City's Forester's decision or review of annual compliance reports. Staff is also proposing to clarify that should the terms of a programmatic permit be violated, it would be subject to appropriate penalties, including the permit being revoked.* *Staff has also received direction from the Planning Commission and Urban Forestry Commission to develop a Tree Management/Maintenance Permit proposal to address routine tree related activities on large private properties such as golf courses, cemeteries, and college campuses. This proposal would be developed and presented in the revised draft proposal for the City Council' consideration.*
II.D. Requirements for Dead, Diseased, Dangerous, Nuisance Trees	
	Nuisance Species Removal
	"We believe some of the tree replacement requirements outlined in 11.400.070 F. (Type A permits), 11.400.080 C. 1. (Type B permits), 11.600.060 B. and C. (City and Street Trees in Development Situations) are in conflict with other City goals and policies. The permitting and replacement requirements for nuisance trees…are extremely confusing and create a disincentive to remove invasive trees… The requirement to replace nuisance trees larger than 3" diameter at breast height will discourage removal of the nuisance trees in the first place. As a result, the replacement requirements for nuisance trees are inconsistent with the recently adopted Invasive Plant Policy." *Michael Stuhr, Chief Engineer, Portland Water Bureau (3/23/10)*
	"Nuisance trees, while providing important stormwater management, erosion control and shading benefits, are a detriment to healthy watersheds. This code proposal does a good job balancing the needs for removing invasives, retaining tree canopy, and providing important environmental benefits in support of the City's Clean Water Act compliance efforts." *Dean Marriott, Director Bureau of Environmental Services (3/22/10)*
	"Something must be done about the ivy that is taking over a huge amount of the region's trees. I believe public and private property owners must be held responsible for at least cutting it back at the base or several feet up on tree trunks -- consistently -- to prevent them from being strangled. Eradicating it altogether is, of course, the real solution." - *M'Lou Christ (3/21/10)*

	"The proposed Title 11, which would regulate all trees in the City of Portland, would interfere with the replacement of the historic street trees in Ladd's Addition...The Norway Maple is on the city's Nuisance Plant List. If Norway Maples cannot be planted in the city right of way, then it will become impossible to replace those Norway Maples in Ladd's Addition that succumb to age...The Guidelines [Ladd's Addition Conservation District Guidelines] expressly state that the "Street Tree Plan adopted by the City for Ladd's Addition governs street tree selection and replacement on each street." If a different tree is substituted for the Norway Maple on those streets where Norway Maples are the designated tree, the character of the neighborhood will change. First, the new trees will not preserve the consistency that is so important to the character of the streets. Second, any substitution will not have the scale and quality of the Norway Maple itself. I strongly urge the city to adopt a limited exception to the general prohibition on planting Norway Maples in the city rights of way so that the character of the streets in the Ladd's Addition Historic District can be preserved." *Peter Livingston (5/10/10)*
	"I attach several pages from the National Register of Historic Places application for designation, which was filed in 1988...This discussion and mentions elsewhere in the application show that the existing plantings of Norway Maples are an essential part of the character of the neighborhood. The uniformity of the trees on individual streets was emphasized in the application for National Register designation because these historic plantings are critical to the quality of life and historic character of Ladd's Addition. I attach photographs showing how Norway Maples support the street plan and how efforts (mostly by the City Forester) to introduce other, more modem or trendy species have weakened the visual impact of the street trees on at least one street. In 1987, neighborhood volunteers spent hundreds of hours researching the historic trees, obtaining federal funds for new trees and organizing team of additional neighbors to plant them." *Peter Livingston (5/11/10)*
	"As a past member of the Urban Forestry Commission and Vice President of Save Our Elms, I am concerned about the death warrant for Norway Maples, Portland's most popular street tree, that is hidden in the Proposed Code. The broad nuisance designation of the City's most common tree, which provides a large share of our street canopy, sends a confused message about street trees...Norway Maples and their many cultivars have provided environmental benefits to scores of Portland neighborhoods for a century or more. Oregon nurseries (e.g. JFrank Schmidt) have been national leaders in developing new and healthier cultivars of the Norway Maple. According to the Proposed Code, eradication of Norway Maples as street trees is now the City's policy and replanting of any of the cultivars is forbidden. Ladd's Addition Historic District for example was designated to the National Register in part because of its mature American Elms and Norway Maples...I agree with other testimony you have received that Historic District Norway Maples should be eligible for exceptions to the prohibition on replanting. However, the death warrant for Norway Maples needs more public outreach by Urban Forestry. If this is the direction of the City, there is a lot of public education needed about why this favorite tree is no longer allowed. Urban Forestry should be designated to work with neighborhood groups with large Norway Maple streetscapes to resolve future planting and transitions on those streets, rather than allow a menagerie of new trees to replace the Norway Maple's orderly and iconic streetscape." *Richard N Ross (5/11/10)*
	"According to the **Urban Canopy Report** (2007, p17), Norway Maples are the City's "most important" street tree in numbers, leaf area, and canopy cover. They provide substantial environmental, social and economic benefits for the street system in many neighborhoods...The Tree Code bans these major street trees, without a plan for their orderly replacement or maintaining street system canopy cover. The Tree Code allows and invites removals of healthy younger Norway Maple street trees (less than 12") under Type A permits and prohibits replanting on large sections of Portland's streetscape where they now predominate. Without a mitigation plan, the Tree Code's objective of eradicating Norway Maple street trees could undermine the 2007 **Urban Forestry Action Plan Goal 1, Outcome A, Enhanced Canopy**...We believe the amendments summarized below (See ATTACHMENT) would address citywide and historic district concerns: **I Develop a Citywide Norway Maple Street Tree Replacement Plan...** **II. Recognize the adopted Ladd's Addition Historic District Open Space guidelines and Street Tree Plan as part of the Tree Code..."** *Richard N Ross, Vice President, Save Our Elms (6/8/10)*

	"...we are very concerned about the new prohibitions included in the code on "non-native" trees described as nuisance species. In particular, the new code would prohibit the planting of Norway Maples, which is among the most popular street trees in the city. This policy appears to be in conflict with Metro's "Green Streets" recommendations which list the Norway Maple as a recommended tree for streetscape plantings...We have specific concerns about how this new regulation supersedes and invalidates the landscape guidelines that are in codified by the Landmarks Commission for the Ladd's Addition Historic District...A BES document was developed in November 2005 in response to City Council order 36360 (Appendix A): "Invasive Plant Lists". In the Executive Summary of the document it states ***"This report describes invasive plant management program elements that should be added to existing City programs to maintain existing high quality natural areas and to remove invasive plants in more heavily forested areas."***...It appears that the new City Tree Ordinance has taken the all the trees included in Appendix A of this 2005 document which concerned invasive plant removal from "open" "natural" areas *(>0.5* acres) and applied it to "urban" "controlled" neighborhood areas without review. We ask that the Planning Commission and Forestry Division delay implementation of the city-wide ban on Norway Maples and other "nuisance" trees until a well-defined alternative plan can be developed. We further ask that the street tree provisions of the Ladd's Addition Historic District (as approved by the Landmarks Commission) be preserved in city code with modifications to the original design only implemented in the event that the viability of the designated species is threatened by disease or insects." *Alexander Bassos, Chair, Hosford-Abernethy Neighborhood Development Association (6/7/10)*
	Response: *There has been considerable discussion about whether requiring replacement of nuisance tree species is appropriate. On the whole there has been support from community stakeholders for this proposal during the initial stakeholder involvement process. The draft proposal attempts to balance goals of maintaining watershed functions provided by trees, and encouraging removal and replacement of nuisance trees with non-nuisance tree species over time. The proposal is to prohibit the planting of nuisance tree species in City rights of way and City managed property, consistent with existing limits on planting nuisance trees in City required landscaping and mitigation. Staff is also proposing revisions to the initial draft to simplify the replacement requirements for nuisance trees to a simple "tree for tree" approach when removal is permitted. The Planning Commission and Urban Forestry Commission have expressed preliminary support for requirements to replace nuisance tree species when such trees are removed. As with other replacement requirements, the Forester will retain the discretion to reduce replacement requirements when sufficient trees already exist on the site.* *Staff recognizes that there is strong concern regarding how the proposal would affect Norway Maples which are a featured element of the Ladd's Addition Historic District and elsewhere in the city. Urban Forestry and BPS staff will work with the Ladd's Addition neighborhood to determine a suitable replacement street tree that is consistent with the form and character of the Norway Maple, and therefore consistent with the historic district and other areas where the Norway Maple is a character defining street tree. Staff intends to meet with the neighborhood stakeholders to determine the best method to address the issue, with the goal of having a solution incorporated into the next draft of the proposal.* *Staff acknowledges that Norway Maples make up a significant percentage of the City's street trees. The proposed regulations are not intended to actively encourage removal of healthy mature street trees on the Nuisance Plants List, but rather to ensure that replacement trees are not nuisance species. If a request to remove a street tree is made, the City Forester would have discretion to consider the fact that the tree is a nuisance species along with other relevant factors in making the decision. The intention is that smaller nuisance trees (<12") that have not fully matured could be removed and replaced with non-nuisance species, but that larger healthy nuisance trees would remain until their condition or age requires their removal.*
	Emphasize Snag Retention
	"We recommend the following be considered and added to the proposal: Consideration of snags as important bird and wildlife habitat; encouragement for property owners to keep snags that do not pose a safety concern." *Brian Lightcap, Chair West Multnomah Soil and Water Conservation District (3/18/10)*

"We recommend that the Planning Commission add the following elements to further strengthen the proposal: Consideration of snags as important bird and wildlife habitat; encouragement for property owners to keep snags that do not pose a safety concern." *Terri Preeg Riggsby, Chair, Tryon Creek Watershed Council (3/22/10)*

"...one of the worst things we can do for wildlife is to be to too tidy outdoors. *Snags* (dead, decaying trees) should and can be safely retained, as they provide tremendous value to wildlife with immense amounts of food, as well as nesting and perching sites. People removing trees should be encouraged to leave down wood (logs left on the ground) that also provides shelter and food for many small animals as it slowly returns nutrients to the soil." *Eileen Stark, Biologist and landscape designer, Second Nature Garden Design (3/25/10)*

Response: *Staff agrees that snags provide important bird and wildlife habitat. The proposal to require replacement of snags when removed will hopefully send a message that even dead trees provide important functions. The City can also provide information about the importance of snags in public information including the Community Tree Manual.*

III. REGULATORY STRUCTURE – Code Consolidation

Complexity of Proposed Code

"The proposed draft is over 500 pages. This complexity has made it difficult for many in the public to read and comprehend the entirety of the regulations." *Rebecca Esau, Manager, Land Use Services Division, Bureau of Development Services (3/22/10)*

"In order for tree regulations to be successful:
1. the regulations need to be simple - it should be possible to explain them to someone in 5-10 minutes;
2. the regulations need to be practical and reasonable;
3. the regulations need to be clear, resulting in predictable outcomes for property owners, developers, and neighbors, etc."

Rebecca Esau, Manager, Land Use Services Division, Bureau of Development Services (3/22/10)

"Whatever regulatory solution you choose to pursue:
1. We ask that you test it with several different case scenarios before recommending it to City Council.
2. We ask that you also test it by each of you trying to explain the regulations to someone in 5-10 minutes, and having them understand it.
3. We ask that it not try to solve all of the tree problems that can be conceived of, but that it follow the 80-20 rule, i.e., that it be a good approach for 80% of the situations.
4. We ask that it not be heavy-handed and overly expensive in a way that turns the public against trees, un-doing the good work Urban Forestry staff has done in promoting the planting, care, and preservation of trees in the City.
5. We ask that you think broadly about all of the City goals we are trying to achieve on small infill lots, including many of our sustainability goals, such as dealing with stormwater infiltration on-site, solar panels, vegetable gardens, fruit trees, natural light for windows, etc. and how these goals mesh with tree preservation and tree density standards on small, constrained sites. Natural light and sunshine are valuable commodities as are trees and shade....please strive for balance as well as providing options for people.
6. We ask that you remember that the success or failure of any regulation is largely based on adequate, ongoing funding to support implementation."

Rebecca Esau, Manager, Land Use Services Division, Bureau of Development Services (3/22/10)

"Customer friendly – All tree regulations need the support of the regulated community. They should not be so complicated and confusing that they intimidate and bewilder rather than communicate the desired outcome. Complex code is often a disincentive to the intended outcome." *David McAllister, City Forester and City Nature Manager, Portland Parks and Recreation (3/23/10)*

	"Efficient and cost-effective - Ultimately City staff will have to implement any City Code that is approved. Regulations affecting trees need to provide flexibility for tree professionals to work with the public rather than the code being an impediment to this effort. Trees are living things that code, no matter how prescriptive, can adequately address." *David McAllister, City Forester and City Nature Manager, Portland Parks and Recreation* (3/23/10)
	"The Citywide Tree Policy Review draft under consideration moves the City in a positive direction but Urban Forestry believes that additional consultation between bureaus will improve the code language. Specifically we think that each of the four bulleted outcomes...should be modified and in some cases a different approach taken. (Bulleted items are: fairness and equitability; tree preservation and mitigation; customer friendly; efficient and cost-effective)." *David McAllister, City Forester and City Nature Manager, Portland Parks and Recreation (3/23/10)*
	"As noted by the Bureau of Development Services, at more than 500 pages of text, the February 2010 Draft is overly complex and will be very difficult for users, both City staff and the general public, to understand and implement. As a result, we urge you to direct staff to return with a substantially simplified proposal. in addition, we urge you to hold at least one additional hearing in order to take additional testimony prior to making a recommendation to City Council." *Tom Bouillion, Planning Manager, Marine & Industrial Development, Port of Portland (4/13/10)*
	"The interface between proposed Title 11 and Title 33 is not totally clear. While staff has stated that one or the other, but not both would apply, the draft language does not convey that concept in all cases." *Tom Bouillion, Planning Manager, Marine & Industrial Development, Port of Portland (4/13/10)*
	"The proposed draft represents a more complex and expanded set of regulations that will require additional staff, additional training, and additional outreach. It will certainly add time and may increase confusion for most tree permitting activities. The proposed code should emphasize professional judgment with an explicit set of standards rather than the proposed listing of alternative approaches that may or may not meet the intent." *David McAllister, City Forester, Portland Parks and Recreation (4/12/10)*
	"Our belief is that the challenge before the Portland Planning Commission and the Urban Forestry Commission is to consolidate the existing tree regulations into a cohesive, simple regulatory package and amend the proposed regulations in a way that will result in the ongoing development of a strong tree canopy in Portland while balancing other City goals. As has been pointed out, the proposed regulations need to be radically simplified...so that users of these regulations can understand them and to lower administration/implementation costs for the City and property owners. As currently proposed, the costs would be too great to rely solely on fee revenue (or fees would be too high, and would act as a disincentive for people to get permits). The program as proposed would need to be heavily subsidized by the General Fund, and this is not feasible given the City's financial situation." *David Nielsen, Chief Executive Officer, Home Builders Association of Metro Portland (4/27/10)*
	General Support for a Consolidated Title
	"The proposal that is being brought forward this week will create clear, simple, consistent and comprehensive protections for our urban trees." *Scott Fogarty, Executive Director, Friends of Trees (4/13/10)*
	"Please vote to revise and consolidate the tree code. I have seen big beautiful trees in our neighborhood cut down to extend parking space on private lots and then no one parks there, but the eagles that used to frolic in the tree-tops don't return. Thank you!" *Brian Parks (3/23/10)*
	"Please vote to strengthen and consolidate codes protecting Portland's tree canopy. The loss of large, mature trees is a loss of a very valuable asset and cannot be mitigated by planting smaller trees in their place. If we expect to reach our target of 33% tree canopy, we need stronger codes protecting the existing canopy and encouraging the planting of new trees." *Eileen Schill (3/20/10)*
	"I also support and believe in what the revised Tree Code and Policy will do, including the new policy which is set to do the following future planning items for us all: Consolidate all tree code regulations into a single regulatory title---Previously tree protection regulations were scattered throughout the city code titles and were often confusing and inconsistent." *Nana Nash. M.A., Member of Audubon Society of Portland and Friends of Trees (3/23/10)*

	"As I indicated in my testimony I am pleased to see that the current proposal brings forward many of the changes that were requested years ago by the SWNI Tree Committee including: the consolidation of tree codes in one place....The current proposal is a large document. Staff did an excellent effort of shepherding a diverse group of stakeholders through a lengthy and complex code to flesh out concerns, issues, and practical ways to address concerns. At first glance it hardly seems that the proposal is a simplification of the existing code. However when examined more closely it documents the purpose of the code consolidates code from many areas, and provides more clarity than the existing code... I do have concerns that the proposal needs some fine-tuning. Despite the efforts of staff to create a streamlined and more coherent code, this proposal is still too complex and hard to wade through." *Margot Barnett (4/1/10)*
	"...the Johnson Creek Watershed Council applauds the Bureau of Planning for their work on this effort. The proposal will create clear, consistent and comprehensive protections for our urban trees. We strongly encourage the Planning Commission and Urban Forestry Commission to recommend to Portland City Council to adopt and fund this program." *Matt Clark, Executive Director, Johnson Creek Watershed Council (4/12/10)*
	"The current project came about to bring various code elements together from many different bureaus and combine them into one area of the code. The result is complex and may be overly complex, but it can't be as complex as having the code spread throughout many bureaus for their interpretation, implementation, and disclosure...The Tree Project came about in the absence of a coherent city policy about trees. That, in my opinion, is what you are being asked to recommend to Council for adoption. The process to implement the policy should be subject to more attention and work during FY 2011-2012, with a set timeline for beginning implementation funding in the near future." *Bonny McKnight (4/12/10)*
	"...The Tree Policy would allow for a concise and consistent City repose to issues relating to trees. Currently, there is confusion amongst citizens and staff, between bureaus and within the development community regarding trees. Title 11 will provide a clearer understanding for residents and businesses. East Portland Parks Coalition thanks the City of Portland for supporting Title 11 and funding the project. We strongly encourage adoption of Title 11." *Alesia J. Reese, Chair, East Portland Park Coalition (4/6/10)*
	"Some might say no regulation is good regulation. The goals of these new, updated policies is to streamline existing complicated, conflicting and ineffectual regulations; not to create new ones." *Jim Thayer, Southwest Hills Residential League, President (3/23/10)*
	"The Council reached consensus about the importance of making the tree codes easier to find, more equitable, and easier to understand. We also support the creation of a comprehensive framework for both public and private trees and for development and non-development situations. There is also agreement that inconsistencies, contradictions and gaps in coverage need to be fixed." *Jane A. Van Dyke, Executive Director, Columbia Slough Watershed Council (4/9/10)*
	"We are delighted by the City's decision to elevate the importance of trees by strengthening and combining the various, and sometimes conflicting, tree codes into a single cohesive and consistent source. This revision makes the tree codes more equitable and easier to access and understand. We also support the creation of a comprehensive framework that addresses both public and private trees in both development and non-development situations. This is a huge step forward. The existing code has many inconsistencies, contradictions and gaps in coverage that have needed to be fixed." *Jean Fike, Executive Director, East Multnomah Soil and Water Conservation District (5/10/10)*
	"Fire & Rescue applauds the City Tree Code improvement project, moving tree regulations from the many city titles and rules, and placing as many of those rules as practical into the new Title 11. The code consolidation will make it easier for City staff, the public, and developers to navigate tree rules. While Fire & Rescue is in agreement on the importance of trees to the City--the aesthetics, ecology, and heritage--because of our public safety mission, it is incumbent on us to insert some caution into the process. One truth about trees is that under fire conditions, they are fuel. If the purpose of the Title 11 is to preserve and protect trees, it is not a leap to provide tools to homeowners in the wildland interface areas to protect their homes, and therefore, their trees from fire." *Richard Haney, Assistant Fire Marshal, Portland Fire & Rescue (5/25/10)*
	Response: *Staff appreciates both the support for a consolidated tree code, and concern about code complexity and need to simplify Title 11 and ensure that its relationship to Title 33 is clear. Staff from the Bureaus of Development Services, Environmental Services, Parks, Transportation and Water have been working with Planning and Sustainability staff to simplify proposed procedures in Title 11 and make them more user-friendly and less costly to implement. City staff have developed some simplifications to proposed Title 33 provisions as well. The Planning Commission and Urban Forestry Commission have expressed preliminary support for a number of the proposed simplifications. Staff expects to further hone and simplify the proposal in the recommended draft to City Council.*

	Consolidation of Tree Funds
	"The draft code deals with established and authorities for payment in lieu. This draft code language confuses authorities previously established under the City Urban Forestry Tree Fund and Title 33 private tree fund. The new code should be changed to reflect historic authorities and responsibilities for allocation of these funds." *David McAllister, City Forester, Portland Parks and Recreation (4/12/10)*
	Response: *The proposed draft intentionally defines the uses of the tree funds based on specific discussion from the Stakeholder Discussion Group. Funds collected as payments in lieu of planting or preserving trees must be used to plant trees in the same watershed or preserve trees through conservation easements or land purchase. The Urban Forestry Fund is more general in nature, collected from imposition of fines, fees or other sources. This fund can be used for a broader range of forestry related activities including education and outreach. The proposed draft includes new annual reporting requirements for how the funds were expended to ensure transparency, accountability, and to market the service the City has performed with the monies collected.*
	Specific Code Language Comments
	Proposed Code: Introduction (Table 1): *"Private Trees" and "Development Trees"* **Comment:** Although it appears this is explained in more detail in later sections, the difference between "Private Trees" and "Development Trees" may result in confusion, since most trees involved with development will be on private property. In addition, there is no definition of just "Development" (e.g., "...when specific types of development are proposed") in Title 11." *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*
	Response: *Staff will include a definition for development in the revised draft, and will also clarify "Development Trees" by rewording as "trees in development situations." This will clarify that trees in development situations are not a separate type of tree, but rather a "Private," "City," "Street," or "Resource Area" tree located on a developing site. In Table 1, "trees in development situations" will be accompanied by additional explanation of how the development requirements in Chapter 11.600 would apply.*
	Proposed Code: Introduction (Table 2) **Comment:** This chart is helpful, but the difference between "Other Activity" and "Development" is unclear. Also, "Development" is not defined, and it is not clear how development applies to "Street" and "Resource." It is not clear if this means that in addition to environmental review required for disturbance in an e-zone, for example, that a tree permit review will also be required. A possibility would be to indicate on this chart what type of tree permit (i.e., A, B, or C) is required for each activity/location. *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*
	Response: *The table will be simplified to correspond with other revisions to the project proposal. Staff agrees that the inclusion of "development" in this table implies that a separate tree permit would be required, which is not the intent. Staff envisions removing "development" from this table and changing the title to "Activities that Require Tree Permits". We may also replicate Table 600-1 in the introductory chapter to specifically address trees in development situations.*

	Proposed Code: 11.100.030 Code Administration and Duties Performed *"This Title is primarily implemented by two City officials; the City Forester and the Bureau of Development Services (BDS) Director. The City Forester is responsible for Street Tree development requirements and administering the rules affecting other trees when not associated with a development project. The BDS Director is responsible for ensuring compliance with Title 33 overlay and plan district requirements as part of the tree permitting program, and land use and development approval requirements as part of the development process. In addition to the City Forester and BDS Director, the City Engineer has a role as further described below in the resolution of infrastructure conflicts within the public rights of way and city-owned easements."* **Comment:** This section exemplifies the concern we have regarding the complexity of the code and how (and by whom) the review of tree applications will occur. This section indicates the City Forester and BDS Director will oversee these regulations, which results in oversight by two separate bureaus. In addition, the City Engineer, who is in a separate bureau (PBOT), is also involved when trees are in rights of way and public easements. In addition, the bureau responsible for preparing this code is a separate bureau (BPS), which is not a reviewing agency. *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*
	Response: *The benefit of the consolidated title is that it explicitly describes the respective roles of the bureaus in administering the rules. Specifically, BDS oversees development-related requirements outside the right of way, the City Engineer oversees development related requirements in the right of way, and the City Forester oversees non-development related requirements, whereas these responsibilities were previously spread across multiple city titles. Given the different missions, programs, and expertise contained within each of the bureaus, these roles are appropriate but do create a need for ongoing coordination.* *BPS is proposed as the bureau in charge of "stewarding" Title 11, given its role in citywide policy and code development, consistent with the City Council's direction to lead and coordinate with other bureaus for the Citywide Tree Project.*
	Proposed Code: Hierarchy of Regulations (D. Relationship to Title 33, Planning and Zoning) **Comment:** We are not aware of another situation in City code where two titles (i.e., 11 and 33) are so closely referenced and connected. We are concerned there will be conflicts between the two titles and this will complicate review/implementation. *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*
	Response: *City titles routinely cross reference other city titles. Some titles contain direction on how to resolve conflicts internal to the title, but offer little guidance when there is a conflict between titles. Conflicts can and already do occur between separate titles of City code, which can make particular proposals subject to overlapping and duplicative regulation. One benefit of including the Hierarchy of Regulations section is that it gives the public and City clear guidance on how to resolve such conflicts. Creating a strong, explicit link between these two titles (11 and 33) was intentional.* *The Planning Commission and Urban Forestry Commissions have directed staff to develop a process for monitoring how the new code provisions work out over the first year or two. During this time staff will connect with stakeholders, including the development community, to identify problems and potential improvements.*
	Proposed Code: General Terms **Comment:** We have concerns regarding definitions for "Development Impact Area" as it relates to industrial/employment uses, as frequently an entire site may be disturbed to accommodate a project (except for resource areas). This is due to the need for flat areas for industrial buildings, and the grading and filling that must occur. We question that this definition is necessary as it relates to tree replacement, but may be useful if only a portion of an undeveloped site is proposed for development. We are also concerned with how a "grove" will be determined, since the definition includes terms such as, "...that form a generally continuous canopy over a non-linear area, or where tree spacing is generally characteristic of that species or species assemblage." *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*

Response: *The development impact area is a tool that applicants can choose to use to delineate a distinct portion of their site. These provisions are to address situations where an applicant may be developing only one small area within a large site (e.g. an industrial park is adding a new access driveway). The intent is to limit the amount of information required to be submitted with the application. Where a majority of the site will be disturbed, the development impact area provision may not be an appropriate tool for an applicant to use.*

We will clarify the definition of the development impact area by substituting "the area on a site affected by any and all site improvement..." with "the area on a site affected by proposed development..." so that its more clear that existing buildings and parking lots, etc. do not need to be included in the designated impact area.

Regarding "groves": It is difficult to establish a clear and objective standard for delineating a grove due to the variability in particular tree species growth habits and the complex relationships between grove trees. Too rigid a definition may result in groupings of trees being considered groves, even though they are not functioning as a grove. Too flexible a definition may prevent application of a requirement to critical "edge" trees. Because of the need for professional determinations to establish and evaluate impacts to groves, the term is primarily applicable in discretionary land use reviews and tree removal permits where tree professionals are already involved in the review. The next draft will clarify that tree groves may include smaller trees and understory, and that protection of the smaller trees of the predominant native species of the grove is a priority unless thinning to improve the health of the grove is called for in an arborist report. The next draft will clarify that groves are not a consideration in the development standards associated with building permits.

IV. CUSTOMER SERVICE IMPROVEMENTS

General Comments in Support
"As I indicated in my testimony I am pleased to see that the current proposal brings forward many of the changes that were requested years ago by the SWNI Tree Committee including: the consolidation of tree codes in one place, creating a single point of contact, a hotline number for weekend tree cutting concerns, creating a code that is consistent, implements policy and is more equitable across property types, development of a Tree manual. The Urban Forestry Program has already taken steps to strengthen and reshape the Tree Liaison Program (now renamed Neighborhood Tree Stewards)." *Margot Barnett (4/1/10)*
"The single point of contact and single manual is helpful in offering citizens a better connection to information. I support neighborhood tree plans to reflect the differing needs of individual areas and to engage local citizens in feedback. Because half of Portland's tree canopy is in private hands, the educational outreach will be a crucial element. In fact, it would be very beneficial to do more education than outlined in the policy." *Barbara Quinn, Chair, Friends of Cathedral Park Neighborhood Association (3/26/10)*
"The proposed Tree Manual and single point of contact for citizen inquiries will be a very important part of this program. Both should be developed and implemented as soon as possible." *Linda Robinson (4/13/10)*
"The proposals in the Review and draft amendments are not focused only on increasing canopy cover in our city, but increasing clarity and communication of regulations concerning trees. I strongly support the creation of a tree manual as a resource for home and business owners, developers, and arborists. There are many resources for identification, choosing, planting, and pruning trees on the web, but it's currently difficult for the average Portlander to find rules regarding what they can and can't do to trees. It's unfair to hold people accountable for what they don't know. A contact person at the city to answer questions, handle complaints, and document violations will create goodwill and allow the city to respond to problems in a timely fashion." *Jim Wentworth-Plato, BCMA (Board Certified Master Arborist) (3/24/10)*
"We strongly support components of the new policy, including... 24-hour tree hotline, single point of contact for the public, and Community Tree Manual." *Nancy Seton, SWHRL Neighborhood Assn. Land Use Chair, Board Member (3/23/10)*

	"I also support and believe in what the revised Tree Code and Policy will do, including the new policy which is set to do the following future planning items for us all: Create a 24 hour hotline to allow citizens to get information and report illegal tree cutting; Create a single point of contact within the city for members of the public wanting to get answers for tree related questions; Create a Community Tree Manual to pull together information on the City's tree protection policies, regulations and programs";" *Nana Nash. M.A., Member of Audubon Society of Portland and Friends of Trees (3/23/10)*
	"I have found navigating the current policies, regulations and laws related to 'city trees' to be a very confusing and time consuming process. The recommendation to have a 24 hour information hotline as well as one source to consult for all regulations governing trees would have helpful. Our choice to purchase a home in Portland was due to many reasons; high on the list was the value that Portland places on the Urban Canopy. I found that the infrastructure for supporting the Urban Canopy (consistent easy to find regulations, laws and permitting process) surprisingly lacking when I was faced with this recent conflict. I feel that many of the recommendation made by the City Wide Tree Project would begin to truly support the goal of a healthy Urban Canopy in more than just words." *Jenny Wadman (5/11/10)*
	Patricia Kozak supported the project, explaining that a Douglas Fir tree across the street was a deciding factor in her buying a house near Ladd's Addition 2.5 years ago. She described questioning tree removal at a lot across from her house when someone purchased the lot, but she didn't know who to call, how to determine if the developer had a permit or what Code provisions applied. She suspected it was illegal to cut down a 65-80-ft tree on a Saturday, finally contacted Urban Forestry, but they couldn't inspect until Monday, by which time it was too late. They measured the tree stump, which was about 18 inches and confirmed the developer didn't have a permit. - *Patricia Kozak, Excerpt from (3/23/10)Joint Planning and Urban Forestry Commission Minutes*
	Patti Schnabel added to Patricia Kozak's testimony in support of the project because illegal tree removal happens quickly. She reported that the owner of the property where the tree was cut said it was his understanding he could cut down his own trees without a permit, and the arborist he hired told him he could. She said Urban Forestry has since imposed a fine due to the size and species of tree and because he was required to save a percentage of trees on his property. She challenged the claim that only 14 violations were reported last year, because it's so difficult to find information. - *Patti Schnabel, Excerpt from (3/23/10)Joint Planning and Urban Forestry Commission Minutes*
	Response: *While this project was identified in the Urban Forest Management Plan – Action Strategy (2007) a policy review and regulatory improvement project, the charges was also to address and improve related procedures. Staff recognizes and appreciates that there is strong community support for the customer service improvements that emerged through the stakeholder discussions and subsequent development of the code. Staff agrees that these recommended improvements, while not the core charge of the project, would greatly improve community awareness, understanding, and access to the City's tree policies, rules and programs.*
	Community Tree Manual
	"We view the Tree Manual as a critical component of this program. The Tree Manual will provide the community with a roadmap of what compliance with this program looks like on the ground and a variety of options for implementation. We urge the City to look to BES' outstanding Stormwater Manual as a template for how the Tree Manual should be developed. We are concerned that while funding costs are included in the draft Tree Program, this element of the program will wind up being cut or dramatically reduced in scope and concept. We do not believe that simply patching existing documents together will suffice. A well written, coherent and comprehensive Tree Manual is integral to the success of this effort." *Bob Sallinger, Conservation Director Audubon Society of Portland; Jim Labbe, Urban Conservationist, Audubon Society of Portland; Mike Houck, Executive Director, Urban Greenspaces Institute; Ron Carley, Co-director, Coalition for a Livable Future; Jill Fuglister, Co-director, Coalition for a Livable Future (3/23/10)*
	"...the Tree Project moves us to recognize trees as being a unique type of pubic good – a Green Infrastructure. As we move to that recognition much of the Tree Project work will be done through information, education, and public interaction, not by rule writing and enforcement. The Community Tree Manual is a key element in this educational approach, for school children to developers and builders to homeowners." *-Bonny McKnight (3/23/10)*
	"The Tree Technical Manual will help the City adapt quickly to changing scientific information and best management practices while providing clear and detailed information for property owners and developers." *Margot Barnett (4/1/10)*

	"...With the extent, detail, and complexity of this proposed code language, we question why the tree manual concept was not part of the current program. A tree manual approach, similar to a stormwater manual, would help to provide much more flexibility and best management practices that cannot be accomplished by a rigid zoning code that is subject to strict land use review procedures. If funding is not currently available to implement the tree manual, it seems a possible result is non-user friendly regulations until the funding is in place. Our concern is that the City cannot contemplate enough code to address the numerous situations that arise with trees. With the amount of code changes currently proposed, it seems less code combined with a tree manual and best management practices is a more appropriate approach for tree protection/preservation." *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*
	Response: *Support for the Community Tree Manual is duly noted. Staff agrees that the manual could be a valuable tool to educate the public about the benefits of trees and best management practices. Staff also acknowledges the role the manual could play to further explain the intent of the City's tree regulations, and provide tools, tips and examples for how to best comply. Staff from the various City bureaus have begun to scope the Community Tree Manual project and collect existing information from other jurisdictions in hopes that the project will be funded as an early action item.*
	Education and outreach
	"We recommend the following be considered and added to the proposal: Education and training for the local arborist and landscaping community regarding the new rules. Adequate funding for community outreach and program implementation, most importantly enforcement." *Brian Lightcap, Chair West Multnomah Soil and Water Conservation District*
	"If you polled Portland property owners, the majority of them probably have no idea that the City has any tree regulations and it wouldn't even occur to them to ask if they need a tree cutting permit. They also are not aware of this current proposal. The point is that ongoing outreach and education are key to any regulatory approach to trees, and this requires dedicated funding on an ongoing basis." *Rebecca Esau, Manager, Land Use Services Division, Bureau of Development Services*
	"We recommend that the Planning Commission add the following elements to further strengthen the proposal: Education and training for the local arborist and landscaping community regarding the new rules [and] adequate funding for community outreach" *Terri Preeg Riggsby, Chair, Tryon Creek Watershed Council*
	"Maybe nurseries and growers could be asked to hand out a simple list of things to do and not to do when planting or caring for a tree. I understand that a major reason for tree failure is simply planting trees too deeply or topping them or spraying too much "weed and feed" around them. Sometimes it's just a matter of putting out some basic information." *Robert Elan (4/12/10)*
	Response: *Staff appreciates this strong support for education and outreach, both to facilitate compliance with current and future tree regulations, and to build community awareness and knowledge about trees and how to care for them. The Customer Improvement recommendations in the proposal contain strong educational components and improve community access to information about trees, tree care, and general and site-specific tree requirements. The City has other tree-related education and outreach programs as well. Staff encourages community stakeholders to continue their vocal support for such programs and to reiterate their support when the Citywide Tree Project is considered by the City Council this fall.*

	"In order for tree regulations to be successful: 1) the regulations need to be simple - it should be possible to explain them to someone in 5-10 minutes; 2) the regulations need to be practical and reasonable; 3) the regulations need to be clear, resulting in predictable outcomes for property owners, developers, and neighbors, etc. 4) the regulations need to be sustainable over time from a budget perspective, with adequate funding for all aspects of implementation, including: a robust and ongoing public information, outreach and education component; b. staffing to administer the regulations in non-development situations; c) staffing to administer the regulations in development situations and perform the necessary functions: plan review; inspections prior, during and after construction; responding to complaints and un-permitted tree cutting; and responding to general questions about the regulations from the public." *Rebecca Esau, Manager, Land Use Services Division, Bureau of Development Services (3/22/10)*
	"Overly complex code is also costly to the City and the regulated community. Also, costs need to include implementation, compliance monitoring, and enforcement. Cost efficiency = code efficiency." *David McAllister, City Forester and City Nature Manager, Portland Parks and Recreation (3/23/10)*
	"Trees are a $5 billion dollar asset of the City and provide drainage and watershed health ecosystem services, often for a fraction of the cost of providing single-objective grey infrastructure solutions." *Dean Marriott, Director, Bureau of Environmental Services (3/22/10)*
	"Priority Implementation Actions (summarized – see letter for additional detail): The following activities should be completed before the end of calendar year 2010: • ***A Comprehensive Tree Manual*** **-** develop a Tree Manual scope that recognizes and supports ***all*** the values of trees/ • ***Administrative Rules*** – develop rules to provide details about decision making not included in the code. • ***Funding*** - advocate for a multi-bureau process to look at new sources of funding for this project. • ***Portland Plan Efforts*** – making space for trees needs to be addressed in this process." *Dean Marriott, Director, Bureau of Environmental Services (3/22/10)*
	"Early Implementation Actions: "There are a number of items within this code proposal that are cost neutral or are prerequisites for implementing the proposed code in 2011, and could be implemented in 2010, including but not limited to: • Implementing tree fund usage changes – allowing spending on a broader variety of tasks; • Clarifying tree definitions; • Modifying and clarifying who may apply for permit changes; • Implementing programmatic permits; • Implementing the diseased wood parts of the code; • Activating the allowance for tree master plans for conditional use sites; • Allowing the density, pedestrian path, front set back and other flexibility within the zoning code; and • Initiating BES ex-officio membership in the Urban Forestry Commission" *Dean Marriott, Director, Bureau of Environmental Services (3/22/10)*
	"Any regulations that interfere with our ability to use the right of way for utility purposes or unduly restrict the placement of facilities on Water Bureau own property will have an impact on the rates we must charge for water." *Michael Stuhr, Chief Engineer, Portland Water Bureau (3/23/10)*
	"Portland's Climate Action Plan…Wouldn't the money spent on this proposal be better sued in cleaning up polluting plants where we get a better return on our money than less than 1/3 of one percent? Additionally…much of those emissions come from the current homeowner community. Why burden the building community or the purchaser of a new home? Shouldn't there be a tax on every Portlander to recover the expense of the carbon emissions they create, not just penalizing the few?" *Jeffrey Paul Fish, President, Fish Construction NW, Inc. (3/23/10)*

	"We have heard some people question whether the costs associated with this plan would be better spent simply planting more trees. To that question we offer an emphatic 'no.' Portland has outstanding tree planting efforts conducted by both city bureaus and non-governmental organizations and support for those programs must continue. However, the greatest bang for the buck comes from protecting what we already have in the ground. The estimated replacement value of our urban tree canopy is nearly $5 billion (Karps et al 2007). Many tree species do not reach their full potential for decades and over time the costs of maintaining a tree are dwarfed by the ecosystem services that mature trees provide. We need to protect and maintain trees just as we do other components of our urban infrastructure. In order to reach the city's canopy target of 33% canopy coverage, we must accelerate our tree planting efforts, but the foundation of Portland's tree canopy strategy must be focused on preservation and stewardship of our existing canopy. We are pleased that the city is working towards the ability to capitalize trees. The logistics of such a change may take time to work out, but from a practical perspective it makes sense to protect and maintain trees just as we do other capital assets." *Bob Sallinger, Conservation Director Audubon Society of Portland; Jim Labbe, Urban Conservationist, Audubon Society of Portland; Mike Houck, Executive Director, Urban Greenspaces Institute; Ron Carley, Co-director, Coalition for a Livable Future; Jill Fuglister, Co-director, Coalition for a Livable Future (3/23/10)*
	"My interest in urban forestry stems from my environmental health training which recognizes the vital role urban forests play in providing clean air, shade, water filtration, and other human health benefits in addition to habitat, stormwater and carbon sequestration functions. We are increasingly recognizing the infrastructure value of trees. This proposal does have costs attached but these costs are small compared to the costs of not caring for and sustaining this asset. Bearing in mind that at least half of the urban forest canopy is on private property it is important to ensure that we provide resources to address this vital aspect of Portland's livability." *Margot Barnett (4/1/0)*
	"It will be critical to find a balance to address costs, provide flexibility while addressing many different site situations, and ensure funding and implementation of this plan." *Margot Barnett (4/1/10)*
	"We recommend that the Planning Commission add the following elements to further strengthen the proposal: Adequate funding for program implementation, most importantly enforcement." *Terri Preeg Riggsby, Chair, Tryon Creek Watershed Council (3/22/10)*
	"The proposal is to delay the effective date for at least a year. This will provide time for the City to "gear up" for the change. I'm concerned, however, that little if any funding has been allocated for the 2009-2010 fiscal year to set up the single point of contact, create the Tree Manual, prepare printed information explaining the changes, do the staff training and conduct the public outreach (to both tree care professionals and citizens) - all the things that need to be done before the new code goes into effect." *Linda Robinson (4/13/10)*
	"Even if the City is unable to fund certain pieces of the Tree Project, it is important the overall package, code changes and policies are implemented now. If funding were not initially available, pieces like "Community Tree Manual" could be phased in / developed later, but at least the whole project would be adopted by the City. This is truly an opportunity for the City of Portland to provide real tools and opportunities on the ground to support its goals as a green and sustainable City to address many of the egregious practices in the removal of our urban forest and its negative impacts on our communities." *Jim Thayer, Southwest Hills Residential League, President (3/23/10)*
	"Such extensive changes in tree regulations will require substantial investment in implementation and training (of permit staff, inspectors, arborists and others) - and extensive public outreach before and after the new regulations are implemented. We urge the City to move forward on the proposed Tree Code as soon as possible, as it will be a very useful tool in this education and outreach." *Jane A. Van Dyke, Executive Director, Columbia Slough Watershed Council (4/9/10)*
	"Mayor Adams met with Bureau Directors and the City's Labor leaders on April 15, 2010, and discussed the City's financial situation. The City is in a very challenging time financially and many bureaus will need to cut staff and programs. There will be no General Fund money to fund new tree regulations or the positions necessary to administer them...Adding new regulations without a funding source will only worsen the situation, and is simply unacceptable. Given our financial situation and reduced staffing levels, BDS is not in a position to take on any new regulation or task that will add cost or complexity to the bureau's service delivery...The Bureau of Development Services recommends the following: Focus on a cost-neutral approach now - Find small, incremental code improvements that we can move forward with to achieve project goals, that won't add cost. Then ask BPS to monitor these changes, and return in several years with Phase II to make further improvements." *Paul Scarlett, Director, Bureau of Development Services (4/26/10)*

"Delaying the effective date is not enough without radically simplifying the regulations. The regulations are overly complicated and too expensive to administer, even in the best of financial times." *Paul Scarlett, Director, Bureau of Development Services (4/26/10)*

"It is not realistic to assume that the proposed tree regulations can ever be completely supported by Tree Permit fee revenue alone. If the program were completely funded by fee revenue, the fees would be too high and would act as a disincentive for getting the required Tree Permits...The reality is that the costs to administer tree regulations will require a subsidy from either the General Fund or some other source, on an ongoing basis." *Paul Scarlett, Director, Bureau of Development Services (4/26/10)*

"The Bureau of Development Services is in the process of having to cut an additional 17 positions this month due to our bureau's financial situation...For this reason, my staff and I are no longer able to participate actively in the discussions and development of further iterations of the proposed tree regulations. We believe with this memo, we have conveyed our issues and concerns and our recommendations...On May 6th, the Mayor released his proposed budget for fiscal year 2010-11. BDS had requested additional one-time and ongoing General Fund support for the Neighborhood Inspections and Land Use programs and to allow the bureau to restore service levels by adding staff. Unfortunately, the Mayor did not approve our requests for additional General Fund support...We will be the bureau responsible for administering the tree regulations associated with development situations, including: public information, land use reviews, plan review and building permits, inspections, responses to complaints, and enforcement. Due to our situation, and growing backlog of work, not only can we not dedicate time to the further development of these regulations, we are again emphasizing the point that whatever the regulatory outcome is: a) It needs to be cost-neutral ...b) The regulations need to be very simple...The three essential elements necessary to achieve the greatest compliance with regulations: People are aware of the regulations; People can understand the regulations because they are clear and very simple; and The regulations are reasonable." *Rebecca Esau, Manager, Land Use Services, Bureau of Development Services (5/11/10)*

"There will be significant personnel time required to make these new rules real on the ground. We believe that trees are among this City's greatest treasures - they define our region. We urge the Council to fund the capacity needed to fully implement this "new" code." *Jean Fike, Executive Director, East Multnomah Soil and Water Conservation District (5/10/10)*

Response: *The proposal is intended to promote cost-effective increases in tree-related investments – investments that improve the quantity and quality of Portland's urban forest, while also supporting other City goals. Taking into consideration comments from the public and City bureaus, and current budget constraints, bureau staff have worked collaboratively to develop approaches to simplify and significantly reduce the cost of the proposal, while continuing to meet project goals for a cohesive regulatory framework that protects and enhances the urban forest. Feedback from the Planning Commission and Urban Forestry Commission on the proposed revisions will be reflected in the revised draft proposal.*

Staff appreciates the public recognition of the asset value of trees and the benefits they provide, as well as the need for funding to support the urban forest. Staff agrees that funding is needed to plant trees, as well as to provide an efficient regulatory framework to protect the asset. Staff are working with the implementing bureau directors and the Planning Commission and Urban Forestry Commission to identify priorities for early implementation and a phased implementation and funding strategy.

VI. GENERAL COMMENTS

Compliance with Metro Title 13

"Overall, we believe that the Citywide Tree Policy Review and Regulatory Improvement Project represents a major step forward in the city's efforts to achieve its urban canopy objectives. In addition, adoption is essential for compliance with Metro Title 13." *Bob Sallinger, Conservation Director Audubon Society of Portland; Jim Labbe, Urban Conservationist, Audubon Society of Portland; Mike Houck, Executive Director, Urban Greenspaces Institute; Ron Carley, Co-director, Coalition for a Livable Future; Jill Fuglister, Co-director, Coalition for a Livable Future (3/23/10)*

	Response: *Completion of the Citywide Tree Project is explicitly mentioned as part Portland's compliance strategy in the Bureau of Planning and Sustainability's request for extension of the Title 13 compliance deadline (January 21, 2009).*
	Moving toward Green Infrastructure; Tree Ecosystem Services
	"The Tree Project and its inherent recognition of the multiple canopy, watershed, and personal values of trees will allow us to finally deal with trees as Green Infrastructure, an important public asset providing public good, habitat for other living creatures as well as ourselves, and a core element in the enjoyment of living in Portland." *-Bonny McKnight (3/23/10)*
	"Expansion of our city's green infrastructure to address urban stormwater capacity is essential keep the city's most expensive project, the $1.4 billion Big Pipe, from becoming overwhelmed as additional impervious surface is developed on our urban landscape. We believe that the costs associated with this proposal, including any additional costs associated with our above recommended amendments, represent smart, strategic and proactive investments in the City's green infrastructure. For every dollar currently invested in tree maintenance, Portlanders receive nearly $4 in economic and ecosystem benefits." *Bob Sallinger, Conservation Director Audubon Society of Portland; Jim Labbe, Urban Conservationist, Audubon Society of Portland; Mike Houck, Executive Director, Urban Greenspaces Institute; Ron Carley, Co-director, Coalition for a Livable Future; Jill Fuglister, Co-director, Coalition for a Livable Future (3/23/10)*
	"Trees are a $5 billion dollar asset of the City and provide drainage and watershed health ecosystem services, often for a fraction of the cost of providing single objective grey infrastructure solutions....Trees clean our air and water, provide wildlife habitat, increase our property values, sequester carbon dioxide, mitigate urban stormwater, reduce urban heat island effects, increase the energy efficiency in our buildings, reduce neighborhood crime and improve our quality of life and the livability of our city. Trees play an integral role in the success of many recently adopted city plans and programs including the Portland Watershed Management Plan, The Urban Forestry Plan, Grey to Green Initiative and the Climate Change Action Plan. Yet today protection for our urban trees is inconsistent at best." *Scott Fogarty, Executive Director, Friends of Trees (4/13/10)*
	"The ecosystem value of larger mature trees is much higher than a younger and or smaller species of tree." *Margot Barnett (4/1/10)*
	"I am writing to urge you to support the City Code amendments proposed in Volume 2 of the Citywide Tree Policy Review and Regulatory Improvement Project. Scientific studies have overwhelmingly shown that trees, and more specifically, their canopy, provide environmental services to urban residents that outweigh their planting and maintenance costs by orders of magnitude. The services provided by trees on private property or in public rights of way do not confer their services only upon the property owners that are responsible for them. The City of Portland should ensure through regulation and incentives that trees are protected and that optimal investment is made in the urban forest. I urge you to specifically make recommendation to City Council that would spur investment in and protect trees that grow large canopies or that provide environmental services 12 months out of the year." *-Garrett Phillips (3/23/10)*

	"[The Audubon Society of Portland, Coalition for a Livable Future and the Urban Greenspaces Institute] view a healthy urban tree canopy as a foundational piece of Portland's green infrastructure and an essential element of healthy, livable communities. Audubon has participated in the Citywide tree Project dating back to 2007 when we served on the Bureau of Planning Budget Committee and strongly urged the Planning Bureau and City Council to prioritize funding for this project. Bob Sallinger and Jim Labbe both participated on behalf of Audubon on the Stakeholder Advisory Committee for this project. We commend the Bureau of Planning for their work on this effort and strongly encourage the Planning Commission and Urban Forestry Commission to move forward expeditiously with a recommendation to Portland City Council to adopt and fund this program. Trees clean our air and water, provide wildlife habitat, increase our property values, sequester carbon dioxide, mitigate urban stormwater, reduce urban heat island effects, increase the energy efficiency in our buildings, reduce neighborhood crime and improve our quality of life and the livability of our city. Trees play an integral role in the success of many recently adopted city plans and programs including the Portland Watershed Management Plan, The Urban Forestry Plan, Grey to Green and the Climate Change Action Plan. Yet today protection for our urban trees is inconsistent at best. Dramatic increases in tree planting efforts over the past decade are undermined by lack of protection and mitigation requirements for trees on much of our landscape, confusing and sometimes contradictory regulations, lack of educational outreach resources and insufficient enforcement capabilities. As older and larger trees are being lost, we are increasingly replacing them with smaller and more columnar trees which provide far fewer ecosystem services. An Urban Forestry Assessment recently completed by Audubon, Metro and PSU shows that Portland is increasingly lagging behind many neighboring communities in its efforts to protect its urban tree canopy. The proposal that is being brought forward this week will create clear, simple, consistent and comprehensive protections for our urban trees." *Bob Sallinger, Conservation Director Audubon Society of Portland; Jim Labbe, Urban Conservationist, Audubon Society of Portland; Mike Houck, Executive Director, Urban Greenspaces Institute; Ron Carley, Co-director, Coalition for a Livable Future; Jill Fuglister, Co-director, Coalition for a Livable Future (3/23/10)*
	"I am a volunteer with Friends of Trees and believe that the tree-canopy in Portland is very important...Please support stronger protections for our urban tree canopy: Trees clean our air and water, provide wildlife habitat, increase our property values, sequester carbon dioxide, mitigate urban stormwater, reduce urban heat island effects and improve our quality of life and livability of our city. It is critical that we protect our existing tree canopy as well as planting new trees. It takes years for a tree to grow and reach its full potential and newly planted trees are highly vulnerable... here are some clear facts which support what I just wrote: Portland has a target of 33% canopy coverage citywide. Currently Portland is at 26% canopy coverage. (Portland Urban Forestry Management Plan) For every dollar invested in tree maintenance, Portlanders receive nearly $4 in ecosystem and economic benefits (Karps et al 2007) Replacement value of Portland trees is estimated at nearly $5 billion (Karps et al 2007) Our urban forest currently removes 88,000 metric tons of carbon dioxide from the atmosphere each year. This equals about 1% of all local carbon emissions (Portland Climate Action Plan) Tree canopy cover over homes can reduce air condition costs by 10-15%. (Karps et al 2007) More than 200 bird species pass through Portland each year. More than 25% of those species are experiencing significant long term declines. Our urban tree canopy provides important habitat to allow many species to traverse our urban landscape. This is so important to our community, to beautify; it's good for nature, and for Portland economics!" *Nana Nash. M.A., Member of Audubon Society of Portland and Friends of Trees (3/23/10)*
	"I believe the Citywide Tree Policy Review and Regulatory Improvement Project represents a major step forward in acknowledging the importance of the city's green infrastructure, especially the role it plays in stormwater management. I urge you to move the project forward for adoption." *Linda Robinson (4/13/10)*
	"Because trees have a positive effect on everyone - humans and wildlife, alike - they ought not be regarded as personal possessions. Instead, trees should be fiercely protected and considered green infrastructure that provide essential services. Unlike infrastructure such as sewers and roads, trees offer much more but cannot be repaired or quickly replaced. Therefore, it is imperative that trees on public *and private land* be revered and protected to the greatest extent possible." *Eileen Stark, Biologist and landscape designer, Second Nature Garden Design (3/25/10)*

	"I have reviewed the document "Citywide Tree Project: Frequently Asked Questions" and agree with a statement made in that document that "trees increase property values." This is based on work done by Dr. Geoff Donovan at the USDA Forest Service, PNW Research Station, that focuses on individual trees and on my own work that examines how a property's sale price is influenced by the amount of tree canopy in its surrounding neighborhood, which I define as the area within ¼ mile of a property. In a peer-reviewed article in the May 2010 issue of *Land Economics*, I estimate the per property benefit from having 25% tree canopy coverage, the current average in the Portland area, is between $4,600 and $13,500. My estimates show that the per property benefit from having 35% tree canopy coverage, which is close to the stated goal of 33% tree canopy coverage, is between $6,100 to $14,400…A current project is looking at the combined effect of land cover and walkability using an index developed by the Bureau of Planning and Sustainability for its 20-minute neighborhood project. Results are preliminary, but we are finding an important interaction effect between land cover and access to urban amenities, that is, while property owners value access to urban amenities, and are willing to pay a premium to live in neighborhoods with these amenities, they are willing to pay even more if those neighborhoods also have tree canopy. This provides some insight into the likely effects of increasing tree density, as proposed, from 7 to 16% in areas that include commercial development." *Noelwah R. Netusil, PhD, Stanley H. Cohn Professor of Economics, Reed College (5/28/10)*
	Mr. Donovan supported the tree project based on the fundamental value of trees. He said maintenance can't depend solely on single-family home owners because benefits of trees cross boundaries for community-wide value. He provided statistics that the total value of Portland's street trees is $1.4 billion, increased property tax value if $15 million, and 312 square feet of street tree canopy is worth about $20,000, although only 1/3 of benefits are experienced by adjacent property owners who can be responsible for the costs of street tree maintenance. He cited studies showing benefits ranging from lower cooling costs in summer to reduced chances for low-weight births. *Geoffrey Donovan, Economist, USDA Forest Service, – Excerpt from (3/23/10)Joint Planning and Urban Forestry Commission Minutes*
	Response: *Staff appreciates this interest in and support for trees as part of the City's green infrastructure, and for the valuable ecological, social and economic benefits that trees provide. The draft proposal, particularly the structure and content of Title 11, is intended to establish trees as a facility of sorts, with standards designed to preserve and maintain associated capacity targets. Through this approach staff hopes to help shift the paradigm in Portland from "trees as decoration or constraint" to "trees as infrastructure and a basic site development requirement."*
	Native Trees and Groves
	"I especially support better protection for native trees like Oregon oak and Madrone that dominate the Willamette Bluff which ends in the St. Johns neighborhood. We have very few oak groves left from a once vigorous population on our peninsula and have had difficulty protecting what's left. In fact it's estimated there are only 1-2% of native oak left in the Willamette Valley due to human encroachment…Native oak are one of the highest value trees for wildlife habitat and food…Native plants evolved with wildlife so native trees are particularly important as a natural, lesser expensive aid in helping maintain both plant and local animal biodiversity. It is believed by some scientists that heat-tolerant native oaks will be able to withstand global warming better than other trees. Oregon oak are historically important in the native American culture of north Portland..." *Barbara Quinn, Chair, Friends of Cathedral Park Neighborhood Association (3/26/10)*
	"I'd like to see much more emphasis on native trees, especially conifers. Native species are absolutely crucial for wildlife because they evolved together. Native fauna is highly dependent on native plants that provide food, shelter and breeding habitat. If we claim we want to help dwindling native birds flourish in our city, we must provide for their needs. Conifers are especially important and can be lifesavers after deciduous trees have dropped their leaves. In addition, they are an important source of seeds and insects and serve as excellent nest and roost sites for many birds." *Eileen Stark, Biologist and landscape designer, Second Nature Garden Design (3/25/10)*

	"I strongly recommend that the commission advocate for more **native broadleaf evergreen trees and conifers**, for the following reasons: Persistent leaves. Because their leaves hang on during our rainy months, broadleaf evergreens and conifers are much better than deciduous trees at slowing rainfall, which results in less stormwater runoff...Essential for wildlife. No doubt you are aware of the grave decline of many wild bird species due to habitat loss and other man-made perils... native species, are critical to wildlife which depends on these trees to provide cover, nesting habitat and food. Northwest beauty. Although there are some disadvantages of growing evergreens as street trees..., they are often a beautiful choice for yards and open spaces and are an important part of the region's natural heritage and identity...I urge you to advance a substantial increase in the number of evergreen - primarily native - trees in the Portland area." *Eileen Stark, Biologist and landscape designer, Second Nature Garden Design (4/6/10)*
	"My one new recommendation would be to even more strongly stress the importance of NATIVE TREES in the new Tree Manual and any other educational material. I would also like to more emphasis on natives as street trees." *Mary Vogel, CNU-A, PlanGreen (4/8/10)*
	"Plant native trees and plan that they will be healthy trees (again a space issue and water issue). If you are requiring trees in parking lots, downtown, shopping malls, etc (which you SHOULD), plan for trees that can be REAL TREES. And make sure you have the growing space and the infrastructure to support them (leaf handling, pruning). I'd love to see douglas fir being planted." --- *Jo Carney (3/16/10)*
	"I particularly appreciate efforts to recognize the value of healthy large trees and groves of trees" *Margot Barnett (4/1/10)*
	"Grove / Stand Protection. It is not clear that protection of groves/stands is always a priority (which we believe is the intent of the project). Further, the current proposal offers protection only for the 12 inch or larger trees within the grove, not for any other vegetation in the grove. The small trees and/or shrubs that help provide the continuous cover necessary as part of a grove or a stand are subject to removal, virtually eliminating the values that make groves a priority. This issue should be revisited." --- *Dean Marriott, Director Bureau of Environmental Services (3/22/10)*
	Response: *Staff recognizes the community interest in promoting the protection and planting of native trees in Portland, as well as a particular interest in native oaks and madrones. Preserving native trees is prioritized in the proposed land division tree preservation criteria and staff will be proposing additional incentives to preserve native trees through the building permit process in the next draft proposal. Staff also agrees that particular emphasis on promoting native trees should be a part of the Community Tree Manual and other educational and outreach materials.* *That said, the initial draft contained provisions that would have provided additional protection for smaller oaks and madrones. These provisions are proposed to be removed in the next draft proposal to simplify and reduce the cost of the proposed tree permit system. Requiring permits for native oaks and madrones 6" in diameter or larger would have substantially increased the need for staff to verify the size and species of trees proposed to be removed. Given the proposal to apply the tree permit system citywide, the limited presence of these trees outside environmental zones, and direction to simplify and reduce costs associated with the proposal, special permitting provisions for these trees (outside of resource overlay zones) are proposed to be dropped.* *The next draft will clarify that tree groves may include smaller trees and understory, and that protection of the smaller trees of the predominant native species of the grove is a priority unless thinning is required to improve the health of the grove is called for in an arborist report.*
	General Comments in Support
	"As a property owner in North Portland, I write you to make clear that I support improvement of tree code policy and regulations and the protection of the urban tree canopy. I am also a member of the Audubon Society, and the npGREENWAY and Baltimore Woods coalitions, and I support the proposals of these groups to improve policy and regulations and to protect our urban trees. The cost of trying to replace this natural resource may well be insurmountable. As a property owner and taxpayer it just makes much more sense to protect these resources - and to not have to face the billion dollar cost of replacing them, not to mention the human and environmental devastation." *-April Boutillette Brinkman, Attorney at Law (3/23/10)*

	"As Executive Director of the Forest Park Conservancy, I am urging the Planning Commission to support stronger protections for our urban tree canopy: Trees clean our air and water, provide wildlife habitat, increase our property values, sequester carbon dioxide, mitigate urban stormwater, reduce urban heat island effects and improve our quality of life and livability of our city. It is critical that we protect our existing tree canopy as well as planting new trees. It takes years for a tree to grow and reach its full potential and newly planted trees are highly vulnerable. To be effective, any tree strategy must focus first and foremost on protecting our existing tree canopy." *Michelle Bussard, Executive Director, Forest Park Conservancy (3/23/10)*
	"As one who has canopy-envy of a friend in Atlanta, let me urge you to do all you can to recommend ways to strengthen Portland's tree canopy. It's good & it's very valuable, but it's not sufficient and it is vulnerable. What I've read of the current plan seems a good start..." *M'Lou Christ (3/21/10)*
	"It is critical that we all take responsibility for trees: Tree protections should be comprehensive across all land use types and for both development and non development related activities." *Nana Nash. M.A. Member of Audubon Society of Portland and Friends of Trees (3/23/10)*
	"I am very excited to hear that Portland has been working on a revised tree code. The revisions sound good, however, the code could be made even better if it included stronger protections for our existing urban tree canopy... Our urban trees serve many important functions. Tree protections should be comprehensive across all land use types and for both development and non-development activities. Congratulations on the new proposal, and thank you for considering my comments for making it stronger." - *Dianne Ensign (3/22/10)*
	"The Tree Project proposal before you is the first step in making sure we don't recognize the importance of trees after we begin to see what we have lost - when we are forced to recognize how arrogant we were to believe we could adequately replace lost canopy... Please pass the Tree Project forward to Council with the strong recommendation that now is the time to recognize the urgency of beginning this new approach to trees and the need to protect and conserve their multiple values for every resident of Portland." *Bonny McKnight (3/23/10)*
	"I just want to say I'm in favor of stronger protections for our urban trees! This has been needed for a long time. Several years ago my brother and I had to sell our parents' home, and discovered there was no way to protect our mature fir trees! Fortunately, we were able to find new family who likes trees to buy our house. Portland needs stronger tree protections, for the health of our whole urban ecosystem." *Frodo Okulam*
	"I would like to say that the Southwest Hills Residential League (SWHRL) Neighborhood enthusiastically supports the proposed Tree Project in its entirety. We are so gratified that the city is incorporating suggestions for improvement of tree policies from the Southwest Neighborhoods Inc (SWNI) document created several years ago. Our tree canopy is so essential to the character of the SW Hills, and we need the best tools to protect and enhance it. We are so grateful for the hard work and dedication of the Tree Project team...We urge you to support this needed update to Portland's tree policies." *Nancy Seton, SWHRL Neighborhood Assn. Land Use Chair, Board Member (3/23/10)*
	"I am in support of the City Wide Tree Policy for a number of reasons. Just to touch on a few, [trees] help with the pollution in cleaning the air, they provide noise barriers, and they are an asset to beautify our city. There are so many more reasons and I'm sure you have heard them all but if we don't protect our trees we will be the losers in this endeavor. Obviously they can't speak for themselves but they play a major part in keeping our City green and I for one support this Tree Policy. Thank you for your time and consideration." *Carol Williams*
	"As stewards and advocates of watershed health and restoration, the Tryon Creek Watershed Council (TCWC) spends significant volunteer time and resources on projects designed to protect existing tree canopy and plant native trees. We are encouraged by the proposed Citywide Tree Project objectives and new regulatory framework... Thank you for your hard work on developing the proposal, and for the opportunity to provide input." *Terri Preeg Riggsby, Chair, Tryon Creek Watershed Council (3/22/10)*
	"Metro acquires natural areas to safeguard water quality, protect and restore fish and wildlife habitat, and also to develop regional parks and trails. Updating and clarifying existing tree regulations will better help us manage these public lands for future generations." *Jim Desmond, Director Sustainability Center, Metro (4/12/10)*

	"...worked on the SWNI Tree white paper and supports adoption of the tree code as proposed because it creates equity by requiring every property owner to participate in maintaining and improving Portland's tree canopy... Based on tree experience to date believes, at least in areas where more dense development has occurred, that the current City hodgepodge of policies related to trees is materially unfair to those individuals who are concerned and active in maintaining this resource" *John Gibbon (4/13/10)*
	"Street trees and trees on private property located in side front and back yards are the "pocket parks" for many residents who have limited or no access to city parks, at any scale. The loss of this vegetation greatly impacts the form, identity and value of these neighborhoods. The City of Portland is rapidly losing an important piece of its heritage and identity. The proposed tree policy is an opportunity, for the City of Portland, to implement a strategy / policy / codes on the ground that will support many of the lofty sustainable and green goals that are advocated 'in the air'." *Simone Goldfeder, Architect LEED AP (4/4/10)*
	"Trees are in a transition as to how we think about them. They have been considered decorative to a large extent, subject to only owner control, and replaceable. That limited view no longer serves the interests of our City residents. I believe we are moving into thinking of trees in terms of function. That makes canopy loss and watershed values of primary importance as we regulate and inform our actions regarding trees. It also makes the protected tree size more important to the discussion. The functional loss of tree value cannot be separated from where we live. We cannot be expected to replace those functional values elsewhere. That makes it essential to find ways to avoid the loss. Incentives for tree retention, education about tree value, information about how to protect trees and our tree canopy, and regulation that evaluates and guides unavoidable tree removal are all tools we can use. A significant part of maintaining those functional values has got to be a realistic assessment of mitigation, identification of geographical areas impacted by tree loss, and the philosophical transition of trees into the status of green infrastructure that deliver public good beyond the property on which they grow." *Bonny McKnight (4/12/10)*
	"As a north Portland neighbor and neighborhood association chair, I completely support the Citywide Tree Policy and have long wished for a better way to protect existing tree canopy and a policy to help advocate for increased canopy." *Barbara Quinn, Chair, Friends of Cathedral Park Neighborhood Association (3/26/10)*
	"Please support stronger protections for our urban tree canopy: Trees clean our air and water, provide wildlife habitat, increase our property values, sequester carbon dioxide, mitigate urban stormwater, reduce urban heat island effects and improve our quality of life and livability of our city. **It is critical that we protect our existing tree canopy as well as planting new trees.** It takes years for a tree to grow and reach its full potential and newly planted trees are highly vulnerable. To be effective, any tree strategy must focus first and foremost on protecting our existing tree canopy. **It is critical that we all take responsibility for trees**: Tree protections should be comprehensive across all land use types and for both development and non development related activities." *Judy Todd (4/1/10)*
	"There is an end to Portland's significant tree skyline unless enactment of meaningful tree codes and regulations that preserve/protect trees is implemented by the City Council, and BDS along with full cooperation of all City Bureaus and interested parties. You have already heard the lists of benefits that trees provide this, or any, city. A permanent exclusion of priority or large trees from Portland forever would alter healthy livability here. Forever." *Greg Schifsky (4/27/10)*
	"The Hosford-Abernethy Neighborhood Association (H.A.N.D.) is pleased to support the initiatives taken by the Bureau of Planning and the Forestry Division to articulate clear goals and policy directives aimed at improving urban canopy cover for the entire city. Neighbors have been frustrated by overlapping accountability, conflicting guidelines, and uneven compliance that plague the current system. By bringing all regulations and regulators together in one place, residents, businesses, developers, and other stakeholders can confidently make decisions concerning tree removal and re-planting...We feel the goals outlined in the Tree Policy Draft can be accomplished while also providing opportunities for integration of solar arrays, and that the two are not mutually exclusive, but rather parts of the City's infrastructure. In general, we believe that city policy that encourages the retention of large trees and educates residents concerning the benefits native species will enhance the livability of Portland for generations to come." *Alex Bassos, HAND Chair (4/29/10)*

	Kina Voelz, reported that HAND's board voted to support the project. She said neighbors have been frustrated with overlapping accountability of city offices and appreciate regulations brought together in one place that will provide opportunities for preservation and replanting. She supported regulations to help reach goals and said goals for solar energy and thermal panels do not need to conflict with goals for tree canopy. She supported retention of large trees to enhance livability in Portland and the region for generations. – *Kina Voelz, Hosford Abernethy NA (HAND), Excerpt from (3/23/10)Joint Planning and Urban Forestry Commission Minutes*
	Logan Lauvray, Mt. Scott Arleta NA, emphasized the need for planting and preservation, one City number for calling about tree issues as well as a hot line that works on weekends. He supported 6-inch tree diameter for triggering a permit. – *Logan Lauvray, Mt. Scott Arleta NA, Excerpt from (3/23/10)Joint Planning and Urban Forestry Commission Minutes*
	Response: *General support for stronger tree regulations and the Citywide Tree Project proposal is duly noted.*
	General Comments in Opposition
	"...Portland, Oregon is a city of some 537,081 individuals... You see testimony of maybe less than 100 individuals regarding tree policy. That means that the majority of the population is content with the current tree policy otherwise they would be down testifying in front of your commissions or marching in the streets as we have recently see regarding police policy. We should not let the emotions of a few individuals dictate what is acceptable by the majority of the population." *Jeff Fish, Fish Construction NW, Inc. (4/13/10)*
	"The bottom line is that there is not the wanton destruction of trees in Portland as some will claim, that current policy works, and that the new tree policy is too large and complex for the Bureau of Development Service to manage. Better if we are to spend nearly two million dollars to purchase trees and let the general public add more trees to their yard if they desire." *Jeff Fish, Fish Construction NW, Inc. (4/13/10)*
	"We are not opposed to the protection and preservation of trees, but feel extensive and complex code does not properly address the numerous situations that arise with trees, particularly in employment/industrial zones. We recommend consideration of less code combined with options such as a tree manual addressing best management practices." *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*
	"To be very clear, the Bureau of Development Services is not supportive of the draft published in February because: it is overly complex; and it will be very difficult for users, both City staff and the general public, to understand and implement. BDS has consistently advocated for a simple, straight-forward, and practical set of regulations... regulations that can be grasped easily by any property owner. On the continuum from simplicity to greater complexity, there are problems at both ends of the spectrum: • the simpler the regulations, the more control of the details is relinquished, and you have a broad-brush approach that doesn't address specific situations and can be impractical or unreasonable; • the more complex the regulations, the fewer people understand them, the greater the confusion about them, and the more time-consuming and expensive the implementation, to the point that the cost outweighs the benefit. For example, at the simple end of the spectrum, you could have a tree program solely requiring one-tree-for-one-tree replacement, with no exceptions... Another example of a very simple tree program would be to have a minimum tree density standard apply to every lot in the City... It is easy to understand and explain, but again, you lose some ability to prioritize which trees are more valuable compared to other trees, or how to handle situations where 100% building coverage is expected and desired, etc...the published draft is closer to the complex end of the spectrum. BDS is hoping to find something more in the middle. Finding the appropriate balance between simplicity and complexity is always challenging, as is finding the appropriate balance between flexibility and practicality for each situation on the one hand, and certainty and predictability on the other hand. BDS is committed to achieving an increase in the City's tree canopy through the collaborative development of a much simpler set of regulations and incentives." *Rebecca Esau, Manager, Land Use Services Division, Bureau of Development Services (3/22/10)*

	Response: *Reaction to the complexity of the initial proposed draft is noted. Staff have been working with the Urban Forestry and Planning Commissions to refine and simplify the regulatory system. Moreover, project staff have been closely working with the implementing bureaus to improve upon existing systems in a way that is manageable, cost effective, and produces results to protect, preserve, restore, and expand Portland's Urban Forest.*
	Comments regarding the process
	"The process by which the proposal was developed is fundamental to the product before you. This is not a project which used an advisory committee to tweak a fairly complete staff proposal and then send it forward. It was just the opposite, and it is a model of how to create good public policy while also building informed advocacy for it. Tree concerns came from neighborhood interest and effort. Funding for the Tree Project came from community support before Council. A stakeholder Committee was formed from all interests that would be impacted. The Committee was shown the current regulatory status of trees, provided some options for problem solving, invited to develop others, and worked out solutions generally acceptable to the Committee...The Tree Project did not intend to provide all the answers but it does focus the discussion. The elements of the Tree Project include staff support but also include responsiveness mechanisms like the 24 hour hot-line and Tree Permits to help the general public and system users understand the many roles trees play in the City." *-Bonny McKnight (3/23/10)*
	"DRAC has not had a chance to comment on the Portland Tree Plan" *Jeffrey Paul Fish, President, Fish Construction NW, Inc. (3/23/10)*
	"Because the proposal before you represents major changes to the existing city code, I understand that you are receiving a large volume of comments, with very divergent perspectives and recommendations. If there are any significant changes to the code in the current proposal, and I understand that some significant changes may be proposed soon, I urge you to undergo another round of public review and comment before making your recommendation to City Council. I realize that this re-iterative process can be time-consuming, but doing so will improve the program and be critical to public understanding and acceptance of the changes." *Linda Robinson (4/13/10)*
	"Given that you are receiving many comments on this project, we ask that any significant changes to the code as currently written should be submitted for public review and comment before final adoption." *Jane A. Van Dyke, Executive Director, Columbia Slough Watershed Council (4/9/10)*
	"Need for additional public comment and involvement. Changes to the options now under consideration warrant additional public review and opportunity for public comment." *BES Tree Code Option, Bureau of Environmental Services (4/27/10)*
	"Given that you are receiving so many comments on this project, we request that any significant changes to the revised code as currently proposed be submitted for public review and comment before final adoption." *Jean Fike, Executive Director, East Multnomah Soil and Water Conservation District (5/10/10)*
	"With many private and public agencies facing limited staff resources and a relatively short period to review this public draft, we feel additional public review time is necessary to ensure unnecessary regulatory reviews and/or requirements do not occur that would add to the economic difficulties facing new development. There appears to be numerous potential situations where trees would need to be evaluated and it is difficult for us to identify all situations without thorough review of the draft code, review with City staff, and, preferably, input from development and environmental professionals. Therefore, we request consideration of an extended public review period to solicit public input/comments followed by another public hearing before this joint commission prior to the Commission making recommendations." *Tom Wright, LEED AP, AICP, Principal/Director of Planning, Group Mackenzie (4/12/10)*

	"The City Staff on this project have been communicative, responsive, thorough and meticulous in not only their review of the current regulations, a ungainly task in itself, but also in working with all stakeholders in developing policies, code changes, and streamlined regulations that would benefit all parties. This effort has taken many years to get to this point and it is important that we take this next step to comprehensively address and fix many of the issues surrounding Trees in our City… SWHRL (Southwest Hills Residential League) strongly supports the adoption of the Tree Project." *Jim Thayer, Southwest Hills Residential League, President (3/23/10)*
	Response: *The project proposal was released on February 16, 2010. The Citywide Tree Project Team provided a briefing to DRAC on March 11th. In addition, two open houses were held (March 9th and 16th). In response to public comment, and because the proposal was evolving through the course of several work sessions, the Planning Commission kept the hearing record open from March 23 to June 8, 2010. The Urban Forestry Commission is continuing to accept public testimony, including at its recent work session on June 17. Public comments have been submitted throughout this 16 week period. Additional public review will occur with the release of the City Council recommended draft.*

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Appendix D

Citywide Tree Project Outreach Log
(December 10, 2010)

Citywide Tree Policy Review and Regulatory Improvement Project Update

OUTREACH CALENDAR, INCLUDES THE FOLLOWING ACTIVITIES TO DATE:

Briefing Calendar

Project Briefing/Review	Date	# of public participants
2007		
UFMP Action Plan interbureau team	October	3 (UFC members)
Citywide Land Use Group	October 22nd, 7:00 pm	15
Development Review Advisory Committee(DRAC)	December 13th, 7:30 am	12
DRAC/Impact Assessment Game	December 18th 2007 3-5pm	1
2008		
E. Portland Neighborhood Office/Coalition	January 9th, 2008 6:30pm	11
DRAC	January 10th, 2008, 7:30am	14
Citywide Parks Group	January 17th, 7:00 pm	24
Columbia Slough Drainage Districts	January 24th, 11:00 am	7
Citywide Land Use Group	January 28th, 7:00 pm	11
SWHRL (attended meeting about history of forested SW area; discussed tree project in March)	January 30, 7:00 pm	50+
Johnson Creek Watershed Council	February 19th 5:30pm	20
SWHRL	March 4th, 7:00 pm	16
Group Mackenzie SDG participants	April 3rd	2
Tryon Creek Watershed Council	April 14th	11
BES Watershed Managers Group	May 28th	
Commissioner Saltzman & Parks Foundation	June 30th	4
Bridlemile Neighborhood	November 8th	
2009		
Citywide Land Use Group	January 26th, 7:00 pm	30
Watersheds Advisory Committee	February 11th, 4:15 pm	14
E. Portland Neighborhood Office	February 11th, 6:30 pm	10
DRAC	February 12th, 7:30 am	11
Columbia Slough Watershed Council	March 17th, 2:00 pm	1
Citywide Parks Group	March 19th, 7:00 pm	8
Multnomah County Drainage District	April 24th	2
Sustainability Commission	April 28th, 2:00 pm	4
Commissioner Saltzman	June 16th, 10:00 am	
Multnomah County Drainage District	July 30th, 10:30 am	7
Audubon of Portland	August 5th, 3:00 pm	2
Southwest Hills Residential League	October 21st, 7:00 pm	
Citywide Land Use Group	October 26th, 7:00 pm	
Partners in Community Forestry Nat'l Conf	November 10th, 3:00 pm	65
DRAC	November 12th, 7:30 am	20
East Portland Neighborhood Office	December 9th, 6:00 pm	6
2010		
Commissioner Fish	January 6, 10:00 am	
Citywide land Use Group	January 7, 7:00 pm	12
Russell Neighborhood Association	February 18, 6:00 pm	5
Citywide land Use Group	February 22, 7:00 pm	13
East Portland Neighbors Park Group	March 4, 7:00 pm	6
Public Open House (West)	March 9, 7:00 pm	8
Multnomah County Drainage Dist. (dir.)	March 10, 1:00 pm	2

Johnson Creek Watershed Council (dir.)	March 10, 4:00 pm	1
DRAC	March 11, 8:00 am	20
Homebuilders Association	March 11, 10:00 am	22
Audubon	March 16, 2:30 pm	2
Public Open House (East)	March 16, 6:30 pm	12
Mayor Adams	March 22, 3:00 pm	
Port of Portland	March 29, 3:00 pm	5
Columbia Slough Watershed Council	March 29, 6:30 pm	15
CNN Coalition (LUTOP)	April 5, 7:00 pm	8
Group McKenzie (conf call)	April 9, 9:00 am	2
Columbia Corridor Golf Course Reps	April 12, 10:00 am	2
John O'Shea, Arborist	April 14, 4:00 pm	1
PP&R Horticulturists	April 22, 1:30 pm	
Homebuilders Association (Mayor's Office)	April 27, 2:00 pm	7
BPS Greenbag	April 28, 12:00 pm	
DRAC	May 13, 8:00 am	15
North Portland Coalition (NPLUG)	June 21, 7:00 pm	5
Save Our Elms/ R.Ross, P. Livingston	June 28, 12:00 pm	2
Multnomah County Drainage Dist. (dir.)	July 29, 11:30 am	5
Food Policy Group Subcommittee	August 3, 4:00 pm	7
Port of Portland	August 12, 10:30 am	3
Homebuilders Association	August 12, 1:30 pm	4
Sara Petrocine (Commissioner Leonard)	August 30, 11:15am	
Jane Hansen (Design Commissioner)	September 9, 10:00am	1
Toni Anderson/Diane Bilyeu (Auditor's Office)	September 29, 4:00 pm	
Dan Jenkins/Steve Dixon, Landscape Arch.	September 30, 9:00 am	2
Amy Ruiz (Mayor's Office)	October 19, 4:00 pm	
Betsy Ames/Jim Blackwood (Commissioner Fish)	November 10, 3:00 pm	
Commissioner Fish (w/Zari Santner)	December 6, 1:00 pm	

Stakeholder Interviews	**Date**	**# of public participants**
Developers	November 28, 2007	3
Developers	January 24 & 25, 2008	3
Arborists	January 29, 30 &Feb 5, 2008	3

Stakeholder Discussion Group	**Date**	**# of public participants**
Meeting #1	March 12th, 2008	21
Meeting #2	April 11th, 2008	15
Meeting #3	April 25th, 2008	15
Meeting #4	May 9th, 2008	15
Meeting #5	May 23rd, 2008	13
Meeting #6	June 13th, 2008	16
Meeting #7	June 27th, 2008	11
Meeting #8	July 11th, 2008	11
Meeting #9	July 25th, 2008	12
Stakeholder group with Portland Plan	August 15th, 2008	10
Meeting #10	August 22nd, 2008	16
Meeting #11	September 12th, 2008	13
Meeting #12	September 26th, 2008	10
Meeting #13	October 10th, 2008	16
Meeting #14	October 24th, 2008	14
Briefing	January 30th, 2009	15
Proposal Briefing	March 3rd, 2010	16

Citywide Tree Policy Review and Regulatory Improvement Project Update

e-mailed Project Scope for review to the following individuals and groups:

Citywide Parks Group	Friends of Trees
Neighborhood Coalitions	Individual developers and arborists
Homebuilders Association of Portland	Urban Forest Action Plan Team
Coalition for a Livable Future	Columbia Corridor Association
Audubon Society of Portland	Multnomah County Drainage District
Metro	Port of Portland
Development Review Advisory Committee (DRAC)	Columbia Slough Watershed Council
Bureau Directors Group	Johnson Creek Watershed Council
Citywide Land Use Chairs	Tryon Creek Watershed Council
Urban Forestry Commission	

Jurisdictions	Date	# of other staff
City of Beaverton	June 3, 2008	2
City of Vancouver	June 23, 2008	4
City of Tigard	May 6, 2008	2
City of Lake Oswego	March 27, 2008	3
Multnomah County Planning Staff	February 25, 2010 3:00 pm	2
Metro (Heather Nelson Kent)	April 10, 2010	1
Multnomah County Planning Staff	October 14, 2010	2
Multnomah Co. (Comm. Deborah Kafoury)	November 17, 2010	4

Commission and Subcommittee Meetings	Date	# of public participants
Urban Forestry Commission	October 18th, 2007 7:30am	14
Urban Forestry Commission (policy cmte)	December 6th, 2007	4
Urban Forestry Commission	February 21st, 2008 7:30am	12
Urban Forestry Commission	August 21st, 2008	13
Urban Forestry Commission (policy cmte)	November 14th, 2008	3
Urban Forestry Commission	November 20th, 2008 8:00am	10
Urban Forestry Commission	January 22nd, 2009 8:00 am	5
Urban Forestry Commission	February 6th, 2009 12:30pm	8
Planning Commission	February 10th, 2009 1:30 pm	30
Urban Forestry Commission (R&R comm.)	May 20th, 2009 9:00 am	4
Urban Forestry Commission	May 21st, 2009 9:00 am	6
Urban Forestry Commission (R&R comm.)	May 29th, 2009 9:00 am	4
Urban Forestry Commission	June 18th, 2009 8:00 am	10
Urban Forestry Commission (policy cmte)	June 26th, 2009 2:00 pm	2
Urban Forestry Commission	July 16th, 2009 8:00 am	
Urban Forestry Commission (policy cmte)	October 6th, 2009 10:00 am	4
Urban Forestry Commission	October 15th, 2009 7:30 am	11
Urban Forestry Commission (policy cmte)	December 11th, 2009 9:00 am	3
Urban Forestry Commission (policy cmte)	January 6th, 2010 7:00 am	3
Urban Forestry Commission	January 21, 2010 8:30 am	
Urban Forestry Commission	February 18, 2010 8:00 am	10
Planning Commission Briefing	February 23, 2010 6:00 pm	12
Planning Commission Briefing (special)	March 4, 2010 10:00 am	4
Urban Forestry Commission (policy cmte)	March 15, 2010 8:00 am	3
Urban Forestry Commission	March 18, 2010 7:30 am	15
Planning Commission/UFC hearing	March 23, 2010 6:00 pm	60
Planning Commission/UFC Worksession #1	April 13, 2010 12:30 pm	30
Urban Forestry Commission	April 15, 2010 8:00 am	15
Planning Commission/UFC Worksession #2	April 27, 2010 6:00 pm	10
Planning Commission/UFC Worksession #3	May 11, 2010 6:00 pm	8
Planning Commission Worksession #4	June 8, 2010 12:30 pm	12

Urban Forestry Commission Worksession #4	June 17, 2010 9:00 am	4
Urban Forestry Commission (policy cmte)	July 23, 2010 1:00 pm	4
Planning Commission	July 27, 2010 6:00 pm	
Urban Forestry Commission	July 29, 2010 8:00 am	2
Design Commission	September 2, 2010, 2:30 pm	12
Historic Landmarks Commission	September 13, 2:30 pm	8
Urban Forestry Commission Chair	October 4, 1:30 pm	1
Urban Forestry Commission	November 17, 8:00 am	9
Historic Landmarks Commission	November 22, 2:00 pm	17

Bureau Directors Meetings	**Date**
Bureau Directors	November 8, 2007 10:30 am
Bureau Directors	December 13, 2007 10:30 am
Bureau Directors	October 23, 2008 12:00pm
Bureau Directors	November 13, 2008 11:00 am
Bureau Directors	October 22, 2009, 9:00 am
BES Director	November 15, 2009 1:15 pm
Bureau Directors	November 23, 2009 3:30 pm
Bureau Directors	January 7, 2010 10:45 am
Bureau Directors	February 3, 2010 12:00 pm
Bureau Directors	February 19, 2010 2:30 pm
Bureau Directors	March 15, 2010 1:45 pm
Bureau Directors	April 9, 2010 2:30 pm
Bureau Directors	June 2, 2010 3:30 pm
Bureau Directors	June 18, 2010 11:00 am
Parks Director	October 15, 2010 2:00 pm
Bureau Directors	November 10, 2010 11:00 am

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Appendix E

Norway Maple Invasive Species Information

White Paper

BES Briefing

Comparison of Norway and Sugar Maple

FREQUENTLY ASKED QUESTIONS ON INVASIVE TREE SPECIES AND THE NORWAY MAPLE



City of Portland Bureau of
Planning and Sustainability
Sam Adams, Mayor | Susan Anderson, Director

ENVIRONMENTAL SERVICES
CITY OF PORTLAND
working for clean rivers

PORTLAND PARKS & RECREATION
Healthy Parks, Healthy Portland

On the cover: Flagged Norway maple trees invading George Hines park, SW Portland

WHAT MAKES A TREE SPECIES INVASIVE? An invasive tree species has both the ability and the opportunity to reproduce without assistance and to outcompete native vegetation. Although many non-native species can reproduce on their own and thereby invade in the built environment, we are generally concerned with those species that are also able to invade our natural areas. Note that not all non-native plants are invasive; invasive species are those that cause (or are capable of causing) great disruption in native systems.

WHY DO SPECIES INVASIONS IN NATURAL AREAS REQUIRE ACTION?

Invasive species disrupt natural systems, compromising watershed health, impairing ecosystem function and biodiversity, and jeopardizing community livability. The consequences of such alterations to the ecosystem services we take for granted compel us to combat invasions to the extent practicable as soon as possible. There are significant costs associated with controlling and removing invasive species from natural areas. The federal government estimates that a dollar of early invasive species control work prevents $17 of future control efforts.

- Mechanisms for Invasion:
    - Seed transport via wind, humans and animals, vehicles, yard debris removal, city leaf pick up, and water (e.g., transport via stormwater conveyance systems).
    - Runners or other direct methods of extending into natural areas.
- Life Strategy Traits:
    - Numerous traits make invasive species superior competitors, such as:
        - Frequent production of large amounts of seeds
        - Relative shade tolerance enables germination and growth in undisturbed, closed canopy conditions
        - Rapid growth and dense canopy form crowd out native species
        - Invasive species are often generalists that can adapt to a broad range of growing conditions
    - Absence of the predators (i.e., pests and pathogens). Invasive species generally can spend less energy and resources on defense against invaders, and more on spreading and propagation.

In some cases, invasive species must reach a certain level of maturity before posing a significant threat; for other species, prolific seedling regeneration alone can result in disruption to native ecosystems.

HOW WAS THE CITY OF PORTLAND NUISANCE PLANTS LIST DEVELOPED, AND HOW IS THE LIST MANAGED?

The City's Nuisance Plants List (and subsequent updates) was developed by an interdisciplinary team of horticulturalists, ecologists, and other experts from both within and outside City government. Using professional judgment, the team assembled the Nuisance Plants list based on a combination of species occurrence in Portland and the metropolitan region, evidence of invasive behavior, impacts on public health and safety, and the economic burden of controlling plant invasions.

There are many more plant species that demonstrate invasive tendencies than are included on the Nuisance Plants List. Inclusion on the Nuisance Plants List indicates a heightened level of concern that warrants action. Because our knowledge of invasive species is limited and continuously expanding, the

list is modified periodically based on best available information. In the case of Norway maple, the City joins many jurisdictions who have prohibited the propagation, sale and planting of this species.

WHY IS NORWAY MAPLE ON THE NUISANCE PLANT LIST?

Norway maple (*Acer platanoides*) has a number of traits that allow it to out-compete local natives, namely:



Figure 2. In 2009, more than 2000 trees were removed from George Himes park.

- **Prolific seeding** that produces numerous small trees that quickly grow to use available light resources. There are recorded cases locally where thousands of seedlings have been generated by a small group of adult trees. Like other maples, Norways have samaras which are easily dispersed by wind and runoff; however, other maples used for landscaping do not display this reproductive ability. This large amount of seed deposited in urban areas can easily be transported to the urban/wildland interface.
- **Dense canopy** that shades out other native or more desirable species.
- **Shade tolerance** allowing germination and growth in low-light, closed-canopy conditions.
- **Hardiness** and resistance to stressful conditions.

Dense canopy shades out understory plants and native seedlings, resulting in changes to forest structure and composition with consequences to biodiversity, habitat availability and quality, and ecosystem services.



Figure 3. Norway maple invasion. Leslie J. Mehrhoff, University of Connecticut, Bugwood.org

Norway maple has long been considered invasive in mixed deciduous forests of the northeastern United States; over the past decade, recognition of the specie's invasive tendencies in the Pacific Northwest has prompted local municipalities to manage the species as a nuisance, including invasion control programs and planting bans.

Norway maple is found in natural areas throughout the City of Portland. In a 2006 Portland Parks survey of Parks-owned natural areas, 52 out of 125 properties were found to have Norway maple growing in the wild (i.e., escaped from cultivation in the built environment). While most of the 52 properties had only trace Norway maple presence at that time, a few showed large infestations, of more than 50% Norway maple in the canopy.

Norway Maple Canopy Cover	Acres of Natural Area Affected
Trace	382.2
1% to 10%	230.2
10% to 20%	27.0
20% to 50%	6.1
50% to 75%	4.6
TOTAL ACRES AFFECTED	*650.0*

Table 1. Acreage and canopy cover of Norway maple in City of Portland parks, 2009.

The City manages natural areas so that natural regeneration of native species can occur; ongoing invasion from nuisance species disrupts that natural regeneration and promotes an artificial level of disturbance that can affect habitat availability and quality. Considerable City resources have been invested in sensitive natural areas such as Oaks Bottom, Children's Arboretum, Rocky Butte, and Sellwood Park among others, to reduce the influx of Norway maple seedlings. The Watershed Revegetation Program spends about $20,000 each year on Norway maple eradication. These economic costs of controlling Norway maple are amplified by the costs of biodiverisity loss and habitat disruption and degradation.

By reducing the availability of planting spaces for nuisance species such as Norway maple, the City takes a modest step toward reducing the primary source of nuisance plant invasions: seeds. In a natural forest system, seed dispersal ranges may be relatively modest. In the urban environment, however, transportation corridors and the activities of humans and animals expand seed distribution ranges and exacerbate the nuisance plant problem.

Is Norway Maple a Suitable Street Tree?

Norway maple was once used extensively in the urban landscape as a fast growing, deciduous tree. The extensive past use of this tree, however, should not be equated with suitability as a street tree and may more reflect the ease of propagation and quick growth of the tree; Norway maple is, "...strongly objected to" by Sunset's Western Garden Book due to the tree's "voracious" root system, potential for sooty mold, and "sticky drip". The characteristics that enable Norway maple to invade wildlands are often the same that can make it problematic in the urban setting.

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Ladd's Addition and Norway Maple

At Issue

The Citywide Tree Project (CTP), a high priority implementation action in the City's 2007 Urban Forest Action Plan, will prohibit future plantings of tree species from the City Nuisance Plant List on City property and City right of ways. The Norway maple (*Acer plantanoides*), is on this list. This has raised concerns among some residents of Ladd's Addition, who feel that the "historic character" of Ladd's Addition will be compromised if they are no longer able to continue to plant this species on public ROW's.

Background

The Citywide Tree Project proposal reflects extensive collaboration with many community stakeholders and City Bureaus and includes substantial changes to City code, including extensive updates and consolidation of existing code dealing with tree planting, maintenance, etc., into one title: Title 11 Trees. The prohibition on planting of Norway maple is consistent with and furthers the City's Invasive Plant Management Strategy, adopted by City Council in August 2009 [RN. 36726].

Some members of the Hosford-Abernathy Neighborhood Development group (HAND) (where Ladd's Addition is located) are opposed to this prohibition and have approached the City Council members informally and presented their case to the Historic Landmarks Commission; once on 9/13 and again on 10/22 (with City staff present both occasions). Following the first meeting, City staff was instructed by the Historic Landmarks Commission to work with residents to find a suitable replacement tree and make clear the City's position and the risks of allowing an exception. City staff presented to HAND in October where they disseminated both a pictorial essay and a white paper and answered questions. The suggested replacement species, sugar maple (*Acer saccharum*) already present in Ladd's, has been rejected as a replacement by some members of HAND.

Current Status

The Planning Commission and the Urban Forestry Commission approved and recommended this prohibition in late July and rejected a request from some residents of Ladd's Addition to delay or allow an exception for the neighborhood to plant Norway maples. However, the Historic Landmarks Commission decided (11/22/10) to recommend an exception for the Ladd's Addition Historic District to plant Norway maples on public ROW's, to City Council, who will address this issue when the CTP goes to Council on February 2nd.

Key Considerations

The Norway maple is a serious pest: it seeds prolifically (these seeds make their way to Portland's urban/wildland interface), produces dense shade, toxifies the soil, decreases hydrologic function (kills understory, shallow roots, etc.) and destroys native habitat. To this end, the species is now prohibited in many states and provinces, counties, and cities across North America. It is a common component of the urban forest in many cities (including Portland) and was frequently planted due to its relative hardiness and ease of production. It is, incidentally, considered a poor street tree by many authorities.

Considerable City resources have been and are being spent eradicating this species from natural areas. For example, BES Reveg. spends ~20k a year alone on eradication of this species. In PPR's 2004 survey, Norway maple was the 5th most encountered invasive in Forest Park. In 2004, Norway maple (after years of control efforts) still affected 650 acres of Parks administered land with new infestations (such as one on Mt. Tabor) discovered frequently.

The City has numerous letters from experts supporting the prohibition, letters from residents of Ladd's Addition who oppose the use of Norway maples (City staff was surreptitiously approached by one HAND member who expressed that they supported the City's prohibition on this species but that they didn't care to openly disagree with the more "vociferous" members of HAND), and the precedence of many other municipalities.

HAND counters that they are following the original Ladd's planting plan which calls for Norway maples and American elms on certain streets (incidentally, ~30% of trees in Ladd's currently don't match this planting plan). Also, as an historic district, they feel that they are supported by the National Historic Register Guidelines which acknowledge the importance of landscape materials in maintaining historic character; however, the state Historic Register office denies that this designates specific species such as Norway maples for Ladd's Addition. Furthermore, the National Historic Register is administered by the National Park Service who considers Norway maple "invasive" in the Pacific Northwest. Additionally, HAND has already planted other types of elms as their American elms die due to Dutch elm disease.

HAND has also countered that the maples in Ladd's could not be the source of the "weed trees" in natural areas. This violates well established invasion theory of how invasives spread and HAND has misrepresented some peer-reviewed literature to their end. They have 'demanded false proof' that Ladd's maples are responsible for the weed trees encountered in natural areas and have presented other logical fallacies and non-sequiturs as argument, i.e., the 'false dilemma' that there are no suitable replacements for the species. Finally, they have presented the few nurserymen and urban foresters who support their position as experts.

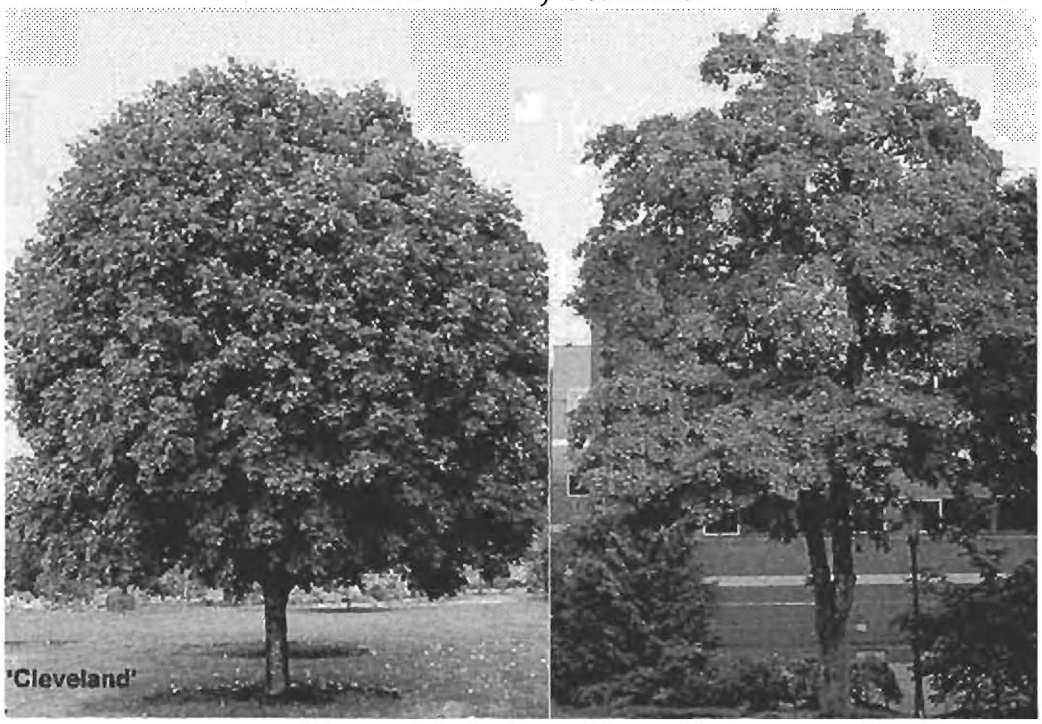
Conclusions

The Norway maple has been on the City's Nuisance Plant List for many years. In presenting the City's stance to HAND, City staff has described the rational for the prohibition: the cost of invasive species control to the City of Portland, the need for unified policy, the science and ecology behind invasives in general and Norway maple in particular, and how this prohibition is consistent with the City's Invasive Plant Management Strategy.

Were City Council to approve an exception for Ladd's Addition, a precedent would be set where exceptions to City code are allowed for certain neighborhoods addressing community specific preferences. The City and its many partners (NPSO, CWMA's, Audubon, PSU, etc.) have invested significant resources and many years of effort to implement a unified policy across City programs, code and government.

Comparison of Norway Maple to Sugar Maple

Plant Habit, Summer

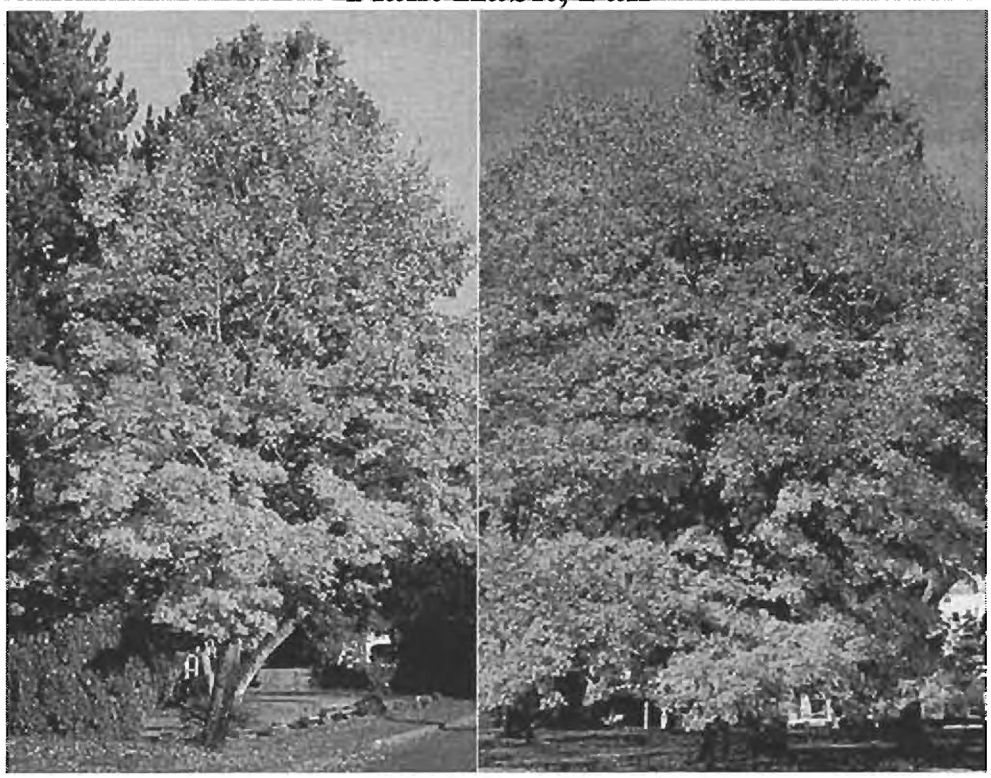


Norway Maple (Acer Platanoides)



Sugar Maple (Acer Saccharum)

Plant Habit, Fall



Norway Maple (Acer Platanoides)



Sugar Maple (Acer Saccharum)

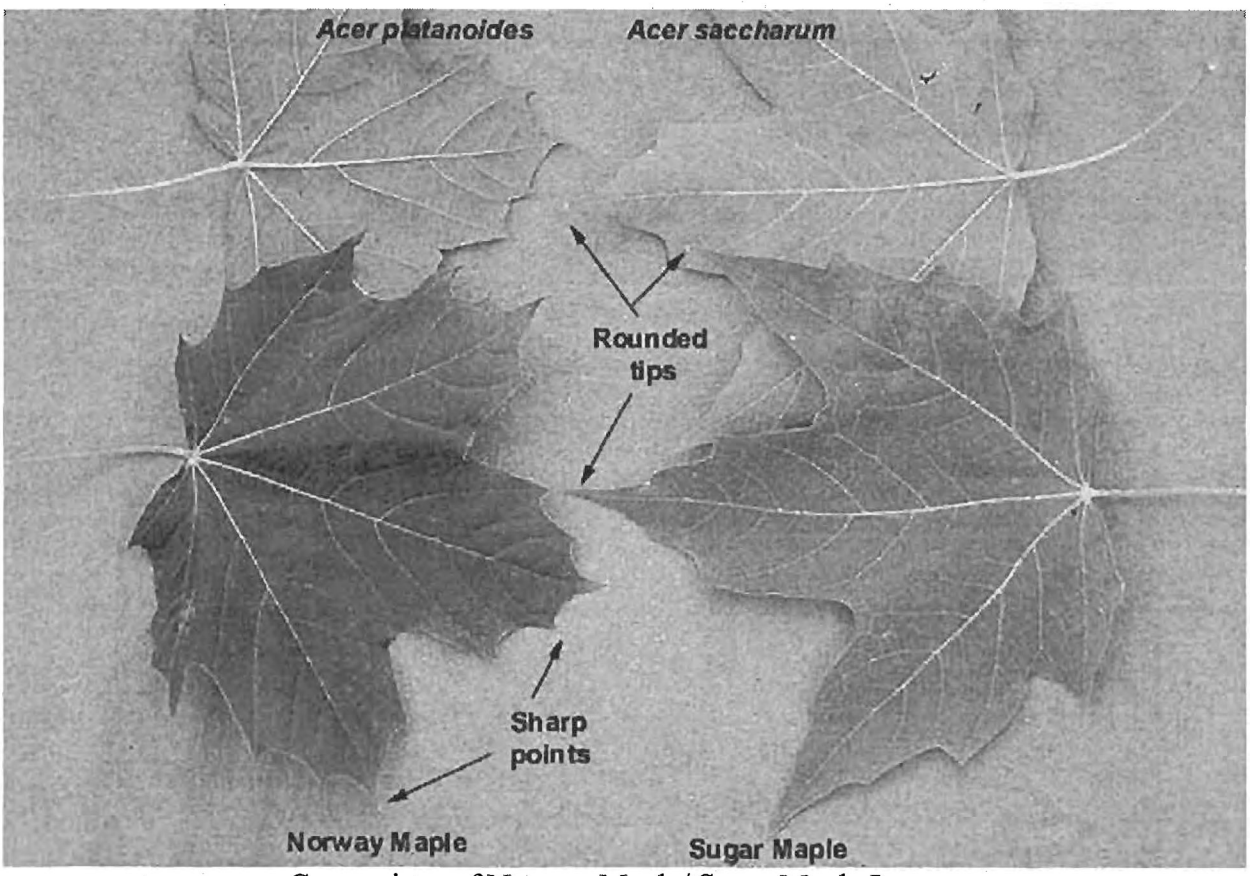
Leaves



Norway Maple (Acer Platanoides)



Sugar Maple (Acer Saccharum)



Comparison of Norway Maple/ Sugar Maple Leaves

Leaves, Fall

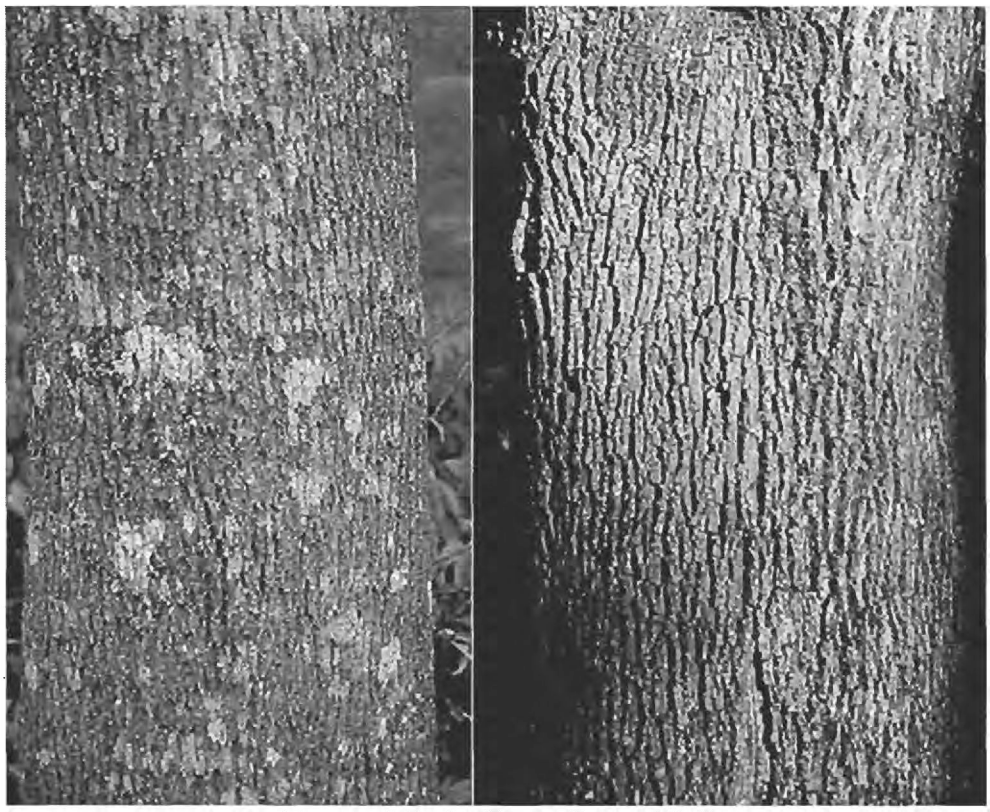


Norway Maple (Acer Platanoides)



Sugar Maple (Acer Saccharum)

Trunk and Bark

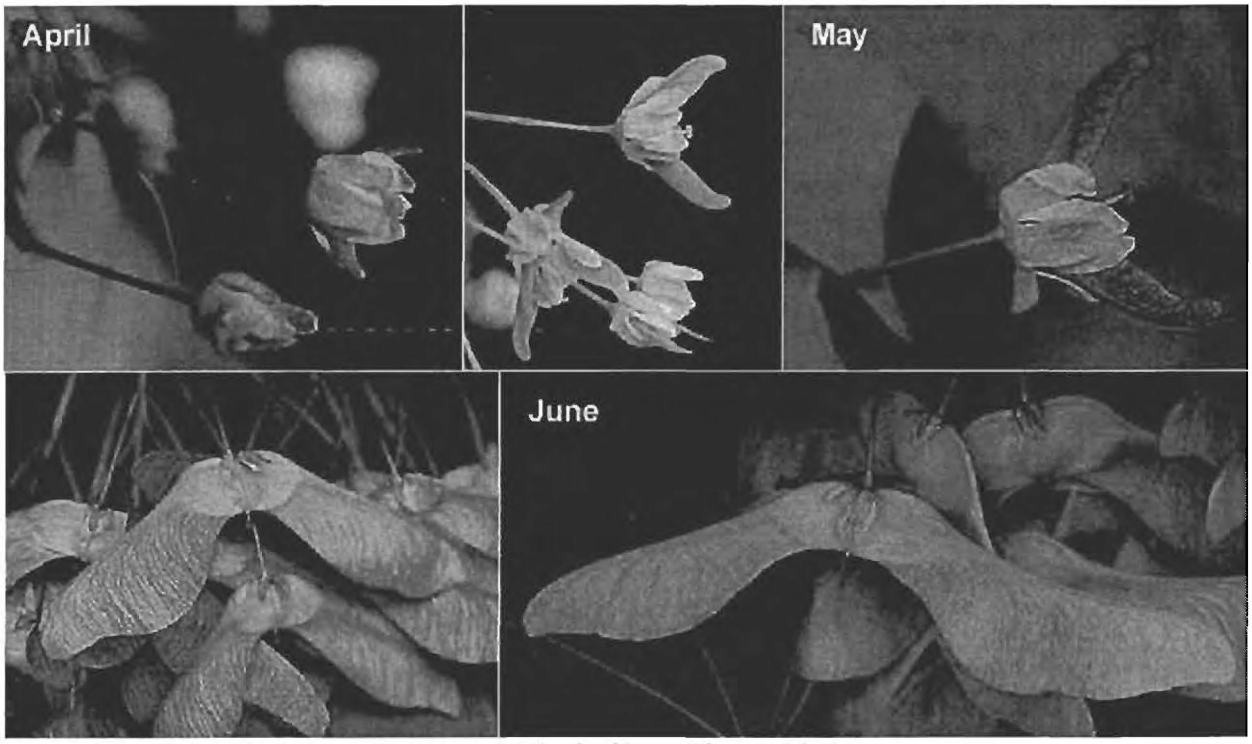


Norway Maple (Acer Platanoides)

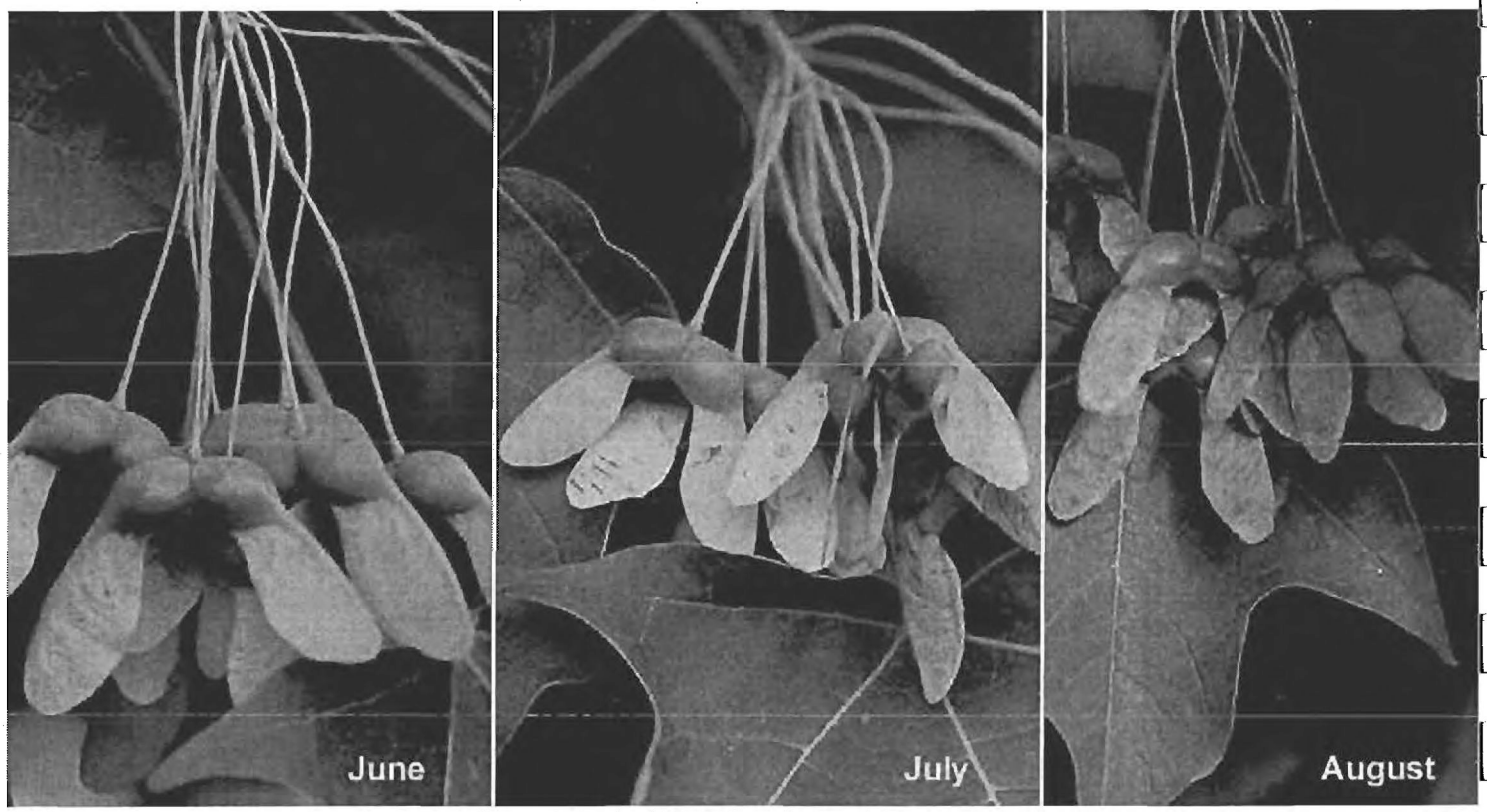


Sugar Maple (Acer Saccharum)

Fruit



Norway Maple (Acer Platanoides)



Sugar Maple (Acer Saccharum)

Norway Maple ***Acer platanoides*** • A-ser plat-an-OY-dez

- Broadleaf deciduous tree, 35-50(75) ft [11-15(23) m] high, dense foliage, broad crown, stout stems. Leaves opposite, simple, 10-18 cm across, 5-lobed, lobes pointed, glossy dark green above, also glossy below often with hairs in axils of veins, milky sap observed when petiole removed. Foliage sometimes develops an excellent yellow in fall. Showy clusters of yellow or greenish-yellow flowers in early spring, before leaves open, each flower about 8 mm diam. Large fruit, glabrous, wings wide spreading.
- Sun. Easy to transplant. Adapted to extremes in soils (sand, clay, acid, calcareous). Withstands hot dry conditions better than sugar maple. Tolerates pollution. Shallow root system may compete with turf and lift sidewalks. Over used in some areas.
- Hardy to USDA Zone 4 Native to continental Europe.
- Caution: **most selections of *Acer platanoides* produce large quantities of seeds which can germinate rapidly and crowd out native species. Although not native to North America, Norway Maples have been found in second-growth woodlands near cities, especially in the northeastern U.S.**
- Sometimes confused with *Acer saccharum*, Sugar Maple, see comparison.
- There have been many selections from this species and a large number are available commercially, Dirr (1998) lists 36 and Jacobson (1996) lists over 45. Some of the more popular selections include:
    - 'Cleveland' - medium green, upright, oval, dense, 40 × 30 ft (12 × 9 m); yellow fall color.
    - 'Columnare' - dark green, narrow, upright, ascending branches, 35 × 15 ft (11 × 4.5 m); yellow fall color.
    - Conquest™ ('Conzam') - purplish red then dark green, columnar, 35 × 8 ft (11 × 2.4 m); red fall color.
    - 'Crimson King' - deep purple, oval, becoming rounded, 40 × 35 ft (12 × 11 m); maroon to reddish bronze fall color.
    - Crimson Sentry™ - deep purple, compact, dense, pyramidal to oval, 25 × 15 ft (7.5 × 4.5 m); maroon to reddish bronze fall color.
    - 'Deborah' - reddish purple then bronze green, broadly oval to rounded, 45 × 40 ft (14 × 12 m); bronze fall color.
    - 'Drummundii' - variegated, light green with creamy white margin, broadly oval, 35 × 25 ft (11 × 7.5 m); yellowish fall color.
    - Emerald Lustre™ ('Pond') - medium green, upright spreading, rounded, 45 × 40 ft (14 × 12 m); yellow fall color.
    - 'Emerald Queen' - deep green, reddish tint in spring, dense, oval, upright sreading branches, 50 × 40 ft (15 × 12 m); yellow fall color.
    - 'Fairview' - reddish purple then bronze green, upright oval, 45 × 35 ft (14 × 11 m); yellow gold fall color.
    - 'Globosum' - medium green, dense, round, short and wide, 15 × 18 ft (4.5 × 5.5 m); yellow fall color.
    - Parkway®; ('Columnarbroad') - dark green, oval with good central leader, 40 × 25 ft (12 × 7.5 m); yellow fall color.
    - 'Princeton Gold' - bright yellow, oval, 35 × 30 ft (11 × 9 m); yellow fall color.
    - 'Royal Red' - deep purple, oval then becoming rounded, 40 × 30 ft (12 × 9 m); maroon to reddish bronze fall color.
    - 'Schwedleri' - purplish red becoming dark green, 40-50 × 40-50 ft (12-15 × 12-15 m); organge red fall color.
    - Summershade® - light green, broad, rounded, 42 × 40 ft (13 × 12 m); yellow fall color.
    - 'Superform' - medium green, broadly oval to rounded, 45 × 40 ft (14 × 12 m); yellow fall color.

Sugar Maple ***Acer saccharum*** • A-ser sak-KAR-um

- Deciduous tree, 60-75(100) ft [18-23(30) m], ascending branches, upright oval, twigs of small diam. With age bark becomes furrowed, with long irregular thick plates or ridges. Leaves opposite, simple, 7.5-15 cm long and across, 3-5 lobed, narrow and deep sinuses,tip acuminate, base cordate, margin slightly coarsely toothed, generally dark green above (but variable), pale green to light green below; petiole usually 5-7.5 cm long; fall color varies from brilliant yellow, burnt orange and red tones (a comparison with a Red Maple). Flowers perfect, small, without petals, greenish yellow, on 2.5-7.5 long, thin, pedulous, stalks (pedicels), appear before leaves. Fruit are paired, winged (samara), relatively small (< 2.5 cm long), glabrous, somewhat horseshoe-shaped, matures in Sept.-Oct. Winter tree form shows long shoots, but the side shoots are not short as in Red Maple (*A. rubrum*).
- Sun to part shade. Often seen in the forest under a canopy. Prefers well-drained, moderately moist, fertile soil. Does not perform well in compacted or restricted areas. Susceptible to salt injury.
- Hardy to USDA Zone 4 Native from the Maritime provinces and southern parts of Ontario and Quebec, New York, and south to Georgia, Mississippi and Texas.
- *saccharum*: Latin name for sugar cane. Maple syrup is made from the sap of this tree. About 40 liters of sap are required to make 1 liter of syrup.
- The national tree of Canada; a stylized version of its leaf is the central feature of the Canadian flag.
- Sometimes confused with *Acer platanoides*, Norway Maple

Source and photos: Oregon State University http://oregonstate.edu/dept/ldplants/1plants.htm#acer, accessed December 8, 2010

Appendix F

Southwest Tree Committee
Tree Protection and Preservation in Portland
A Call for Reforms
(October 25, 2005)

- Inadequate tree preservation plans
- Inadequate tree protection zones
- Lack of enforcement of the required tree preservation plans
- Lack of enforcement of other regulations
- Need for public education and outreach regarding the role of trees.

Background of Current Regulations Pertaining to Tree Preservation
There are several city agencies that have regulatory responsibility related to trees; the Bureau of Planning is the bureau that develops policy and is responsible for writing new regulations and modifying existing regulations in Title 33, the Bureau of Development Services (BDS) Land Use Services division implements the zoning code. Urban Forestry in Portland Parks and Recreation regulates street trees, trees on public property, some trees on private property such as heritage trees, historic trees, and trees at least 12 inches diameter on dividable lots not currently proposed for land division. They coordinate with Portland Department of Transportation on issues related to streets and street trees. The Bureau of Environmental Services also impacts tree preservation within the city through the Stormwater Management Manual, Watershed Management Plans and Revegetation Program. The Watershed Management Plan that will be submitted for comment this fall may also inform and influence tree preservation regulation once it is adopted. It is not clear what the process will be for integrating that document into the City's regulatory framework.

Our committee calls for three reforms: A) changes to city code and procedures, B) an expanded and invigorated tree liaison program, and C) a program of education and incentives for tree preservation. Issues which were identified as needing resolution, but where no specific reforms are suggested are included in section D.

Proposed Reforms

A. Changes to city code, interpretations of city code, and procedures

1. **Individual lot owners must receive notice when their lots are subject to preservation plans.**

   If homeowners are unaware that a tree plan exists it will most likely be violated, making the plan inadequate. The plans are complex and difficult to enforce, and therefore inadequately enforced. City Code Section 20.42.050.A provides in part that "Trees may be cut on unregulated property without a permit except where the tree proposed to be cut: 1. Has been expressly protected through an applicable land use regulation or required to be preserved as a condition of approval; ..."

   Tree preservation plans in fact are conditions of approval in land division cases, and 33.630.200.C provides in part that "Trees to be preserved on individual lots must be permanently preserved through a tree preservation plan, ..."

It is clearly the intent that tree preservation plans be permanently in effect, and yet there is no framework for notifying individual lot owners of their responsibility. It is important that individuals are aware of constraints on cutting of trees prior to purchasing property. Owners are cutting trees that should be protected sometimes out of ignorance of the tree's protected status. There is also no clear definition in the code of what *permanent* means. It should be stated that trees must be replaced at the end of their natural lifespan. The city tree guide should have some guidance in it for each species regarding the average lifespan for each species.

Methods of getting notice to lot owners:

- Add some information currently in the GARTH system into the data and mapping system accessible to the public (heritage trees, significant trees) and add a field to indicate whether a tree plan exists for the site;
- Consider affixing 'permanent' metal tags to all trees protected by tree preservation plans.
- Ensure that individuals are given a disclosure form that indicates the zoning code(s) and other regulations in effect on a property for sale within the City of Portland. This form should provide clear instructions on how to use the City of Portland BDS website to determine what additional zoning regulations apply to the property in question, and if applicable, how to obtain documents such as tree plans and stormwater management facilities. The coversheet should include information on how to obtain the information without web access such as requesting the information by telephone, in writing or in person for a small fee. A similar coversheet should be attached to all title reports for properties sold within the City of Portland. We recognize that requiring this type of a disclosure form or fact sheet may require some legal changes. We feel that when homebuyers are aware of restrictions prior to purchase they are less likely to violate codes once they purchase property. Individuals moving to Portland from other areas are often unaware of the types of zoning codes and development restrictions that may impact the ability make changes to property.

2. **All tree preservation plan options must include some protection of significant trees.**

The current code allows tree preservation plans that are inadequate in that they do not protect significant trees. The concept of the "significant tree" is an important one in the tree preservation chapter (33.630) of the land division code. The existence of a single significant tree triggers application of 33.630 to a land division. A significant tree is a) a tree more than 20 inches in diameter that is not a nuisance or prohibited plant or b) a tree belonging to one of 18 tree species that are significant at varying diameters less than 20 inches. While defining *significant trees* the provisions of the chapter fails to adequately protect them.

Chapter 33.630 gives the land division applicant five different options for preserving trees. Option 1 requires the applicant to preserve at least 35 percent of the total tree diameter on the site but does not require the applicant to preserve a single significant

tree. Options 2, 3, and 4 give the applicant incentives to preserve significant trees by lowering the percentage of total tree diameter to be preserved. Option 5 focuses on tree canopy for sites larger than an acre. A final option is to do mitigation in lieu of preserving trees.

Nearly all land division applicants are choosing option 1, the option that doesn't require protection of significant trees. Option 1 needs to be modified to protect some percentage of the significant trees.

3. **Modify codes with prescriptions or incentives so that more builders choose to preserve trees rather than cut and plant.**

It is too easy to cut mature trees within the current land division and development system. Chapter 33.248.020.H.2 applies to new residential development. It gives builders three options for meeting tree requirements. Option 1 requires some trees on site to be preserved. Option 2 allows all the trees on site to be cut but requires replacement plantings. Option 3 allows payment into a tree fund when preservation or plantings are not practicable.

In practice, builders are not choosing Option 1. They are cutting the trees and planting new trees that are poorly monitored and have high mortality rates. The code should be changed to favor more preservation, either through incentives or prescriptive rules. This Chapter should be amended to include incentives for preservation of *significant trees* as noted for the land division code in item 2 above.

4. **Trees selected for preservation must be adequately protected during construction and given adequate root protection zones.**

Monitoring is insufficient to ensure that current root zone protections and construction practices are sufficiently protective of trees. More protective practices used in other jurisdictions with substantive tree protection program should be considered for adoption (such as Lake Oswego, OR (Ch.55.08.030) or City of Palo Alto, CA[9]), combined with active monitoring of tree protection in Portland, can be used to ensure that code reflects 'best management practices' for preserving trees. Updated protections and monitoring, enforcement when practices are not adhered to, incentives for preservation, and replacement of trees when trees die following development are key to protecting the urban forest canopy. For example, rigid chainlink fences may be more effective than the permitted flexible fencing. There should be a tickler system for random selection for inspection at 3 years after the final inspection to determine if protected and preserved trees are alive. This is an area where partnering with the tree liaison program, watershed councils, Master Gardener and other stewardship programs maybe helpful in providing some additional resources.

5. **Without a good tracking and monitoring system the existing codes are not protective due to an inability to enforce and evaluate the efficacy of the codes.**

There is not easy way to obtain statistics on violations of all aspects of tree cutting and tree preservation. Without this it is difficult to evaluate the effectiveness of the

code in preventing inappropriate tree cutting or preserving trees. As mentioned in item 3 above, we need to develop a systematic approach to evaluate whether the root protection zones are adequate, and what areas of the code are most problematic. This information can be linked with tree inventories of public and private trees to evaluate the program. It is not clear how enforcement can be at optimally effective if the data system is insufficient to easily track the permitting, inspection and violation process.

6. **BDS staff should be able to challenge arborists report claiming exemption of trees from preservation under Chapter 33.630.030 to ensure that tree protection plans are truly protective.**

This code section exempts dead, diseased, and dangerous trees from protection "as determined by the City Forester or an arborist." Arborists in practice are liberal in determining that trees should be exempted, and the above language puts BDS staff in a weak position to challenge an arborist's determination. The exemption of trees by an arborist should be challengeable by BDS staff. A consulting arborist should be available to resolve conflicting assessments of tree health and hazard status if one is unavailable on BDS staff.

7. **Portland needs a residential certificate of occupancy (COO) to provide better tools for enforcement and ensuring compliance with tree protection, landscaping and tree planting required as part of the development process.**

The requirement for a residential COO was deleted from the city code in 2002. A certificate is required for commercial buildings and change of occupancy for commercial and mixed use buildings. By not requiring a COO there are minimal incentives or enforcement mechanisms to make sure that inspections are completed and all of the permit requirements especially those not associated with building codes, are met. Builders can sell houses and homeowners can occupy homes before a final permanent erosion control measure inspection is done, thus there are limited incentives for ensuring that the work is completed. The data system and resources for enforcement are insufficient to track whether work is completed and to check on landscape certification forms that are received. This issue is particularly problematic since the COO is still referenced in 20.40.070G. "All trees required by this Section must be planted prior to the issuance of a certificate of occupancy."[10]

8. **Protection should be consistent within the city codes for ease of public understanding and to ensure that the tree canopy is preserved as infill occurs and the city reaches full built capacity within the established zoning.**

Current regulations in the different bureaus are not consistent with regards to the criteria used to determine which trees should be protected. For consistency and to meet the goals of the urban tree preservation it would be helpful to have Chapter 20 apply to all *significant trees* as defined in Chapter 33 and remove the exemption for fully developed lots that do not have existing tree plans. (This would require a change in the definition of regulated property under 20.42.020, as well as changing the purpose of the tree cutting regulations to align them more with the Urban Forestry Plan and sustainability goals. This change will help ensure that the goals and requirements of land use regulations of Title 33 are met. Note that Clearing, Grading

and Erosion Control 24.70.020 would also need to be reviewed and modified to achieve consistency.) This approach would avoid confusions related to differing tree diameters that trigger protection in BDS zoning and land division compared to the diameters protected by Urban Forestry, while ensuring that native species and large specimens of non-native species are adequately protected. (BDS protects trees at least 6 inches diameter at breast height (DBH), Urban Forestry at least 12 inches DBH.)

This is just one possible solution to resolve the noted inconsistency and provide an equal level of protection of trees on properties in the city while simplifying the permit process for property owners.

9. **The code that governs permits for clearing, grading and erosion control (24.70.020) is unclear and contradictory in how it addresses cutting trees.**

Wording of this section of code makes it difficult to understand how it fits with other codes governing tree cutting. It describes that a tree cutting permit is needed for operations where slopes in whole or in part exceed 25%. The permit is needed if the area to be cleared is or when 5 or more trees of six-inch diameter are going to be cut. This section of code does not refer back to 20.40.040 requiring a permit for cutting all trees at greater than 12" DBH.

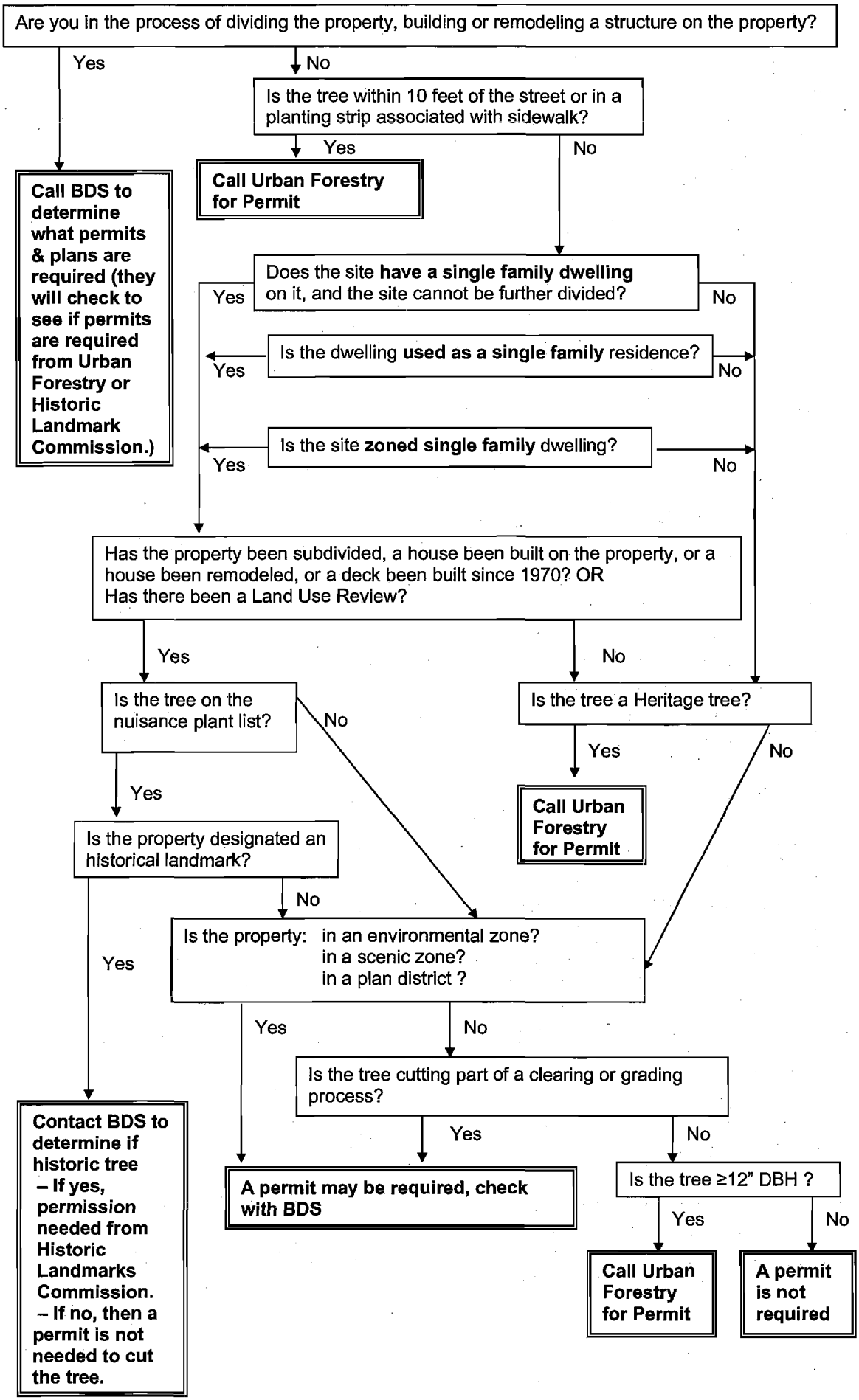
10. **When mitigation is required under section 20.42.100 there are requirements (C) that the replacement tree must live for three years after planting or be replaced, and must not be cut without a permit. A system to tag and track trees required for mitigation must be developed otherwise this is requirement is unenforceable.**

There are no clearly established mechanisms to track these trees which are supposed to have some form of permanent protection. Trees required as mitigation must be put into a centralized data system, and homeowner must be made aware of the tree's protected status as described in item A.11., below. The mitigation requirements under this code are different than those in the zoning code Chapter 33.248. The requirements in 20.42.100 should be reviewed to determine if the two chapters can be made consistent.

11. **Currently individuals who want to determine if they need a permit to cut a tree on their property must call several bureaus, or actually visit the permit center. Information on tree cutting regulations is not available from a centralized source, either by telephone or the internet. There is no way from the internet to determine if there is a tree plan recorded for a particular property. As part of increasing public education, awareness and providing easy mechanisms for compliance a central repository of information is needed**

The complexity of the current scheme that a property owner must use to determine: a) if they need a permit to cut a tree on their property; and b) which bureau has jurisdiction, is shown in Figure 1. The city needs an easily accessible and well-publicized central repository of information on tree regulation, preservation, and

Figure 1: I want to cut a tree on my property, do I need a permit?



planting. The Bureau of Development Services should be the steward of that repository since they currently enforce a majority of the regulations and maintain the permit center which should be a one stop office for permits providing information to the public. Permit requests that should be provided by Urban Forestry can be routed to them rather requiring residents to call multiple offices or wade through the wording of the tree ordinance to determine which code applies. Planting guidelines from all bureaus should be integrated into a single document.

BDS should have a tree hotline that gives the public a single place to go to for information and complaints. Complaints can then be routed to the appropriate office similar to the way PDOT routes calls to the 823-SAFE number.

Website information should:

a) Lead viewers through a decision matrix to encourage tree preservation and replacement and clarifies which regulatory process and permit applies if tree removal or cutting is needed (The same matrix should be used to respond to telephone inquiries.)
b) Provide instructions on how to identify whether a tree preservation plan, heritage tree designation, historic landmark tree designation, tree protection required for violation mitigation applies to a particular property
c) Link to other sources of information, such as Portland Maps for environmental and scenic zone overlay information.
d) Describe the city's regulations relating to trees and vegetation.
e) Describe the tree liaison program and give contact information.
f) Include information and/or give links to related subjects such as naturescaping and invasive vegetation management..

12. **The handouts and website from Urban Forestry are unclear and lead individuals to determine early on, that their property is "unregulated" when they actually may fall under zoning codes. Simplify and update handouts from Urban Forestry.**

Give citizens one phone number to call. Brochures that advise the reader to call other bureaus or to read an ordinance to determine if they are covered tend to alienate the public and result in people just going ahead and cutting, since it is too hard to figure out if a permit is needed and where to get it.

13. **Apply a consistent approach to trees on both private property and public property**

BDS, BOP, PDOT, and Urban Forestry should cooperate to make sure the city has a consistent approach to the planting, preservation, and cutting of trees, whether on private property, in the street, or on other public property.

14. **All code language should specify tree diameters rather than circumference, which is more easily measured and recordable by property owners.**

While we recognize the measurement of tree size as diameter at breast height (DBH) is standard in forestry and landscaping it is not readily understood by some

homeowners and requires an extra computational step or use of special measurement tools. Current code explains how to measure DBH in terms of the vertical height on the tree, and how to manage when there are multiple leaders, but nowhere is there an explanation of how to measure diameter. If DBH remains as a standard of measure then there should be an explanation of how to calculate diameter or describe tools and methods to be used. (See Appendix 2 as an example.) To make the measurement simpler for the lay public, and not require computation we suggest providing circumference measurements in parentheses. For large and complex tree plans we would expect standard tools to be used to determine diameter at breast height, but for determining whether a permit is needed to cut a single tree it seems that providing a circumference should be adequate.

15. **Violations and recurrent violations should be dealt with in a tiered system similar to the recently adopted (August 24, 2005) changes to the Environmental Zone Codes.**

We feel very strongly that the City should reexamine the practice of citing the property owner only for tree cutting violations. This is particularly true when examining the issue of topping trees, and/or cutting protected trees. There should be a tracking system to monitor landscaping and arborist services and other contractors that repeatedly violate these protections with increasing penalties.

16. **Anecdotal information indicates that topping and cutting of trees to obtain and maintain views is one of the common violations of tree preservation and tree cutting ordinances. The city should develop a best management practices standard for this type of pruning.**

We suggest that the city provide guidance on the best methods for pruning and structuring trees to provide and maintain a view. A standard could be a useful tool to help preserve trees and enforce the prohibition of topping. Existing standards such as the ANSI A300 Standard and the ISA Tree Pruning Recommendations might be a good starting point. Developing this standard should include input of Urban Forestry, BDS and other partners from the arborist community. It should be available to the public through various outreach programs including home and garden shows. This information should also be provided to industry contacts as noted in item 3b. Guidance should include cost information about penalties for violations related to illegal cutting and topping, including the costs for required long term professional pruning correction for topped trees.

17. **Integrate information to prevent urban wildfires into the code and planting guidelines.**

Information on fire-resistant species and the fire-resistant index of tree species should be integrated into the landscaping and planting guidelines from the city for areas that are particularly vulnerable to urban wildfire. This will require coordination between Portland Fire Bureau, the Bureaus of Planning, Development Services and Parks and Recreation. A column indicating fire resistance of tree species could be added to the Tree and Landscape Manual, and information on fire resistance should be added to

the Portland Plant list. This information could be made available at home and garden shows and nurseries.

18. **Code should be clear and consistent regarding management of tree on property lines.**

All sections of code where this is a pertinent issue (land division, rights-of-way, undeveloped and fully developed sites, street trees) should be clear and consistent.

19. **Evaluated and amend code to require revegetation for areas cleared of nuisance trees and invasive plants, when there are no significant trees present.**

There may be times when areas are cleared of nuisance trees and invasive plants leaving an area devoid of vegetation and open to significant erosion. The code should require revegetation when areas are cleared and no ground cover or trees remain.

20. **To strengthen the City's commitment to tree preservation and green infrastructure code should reinforce the need for flexibility and innovative solutions to preserve existing mature trees when new streets and sidewalks are developed or existing sidewalks are being damaged by mature trees.**

Citizens at times have to struggle with conflicting messages from City bureaus relative to the development and maintenance of sidewalks. There should be flexibility to encourage the use of alternative approaches to preserve trees. Inclusion of language similar to that below in appropriate code sections would encourage the development and use of alternate approaches.

> *When new sidewalks and street improvements are designed the City Engineer should consult with the City Forester to preserve as many significant trees as possible using innovative design methods and materials for sidewalk and street construction.*
>
> *Where sidewalk or curb damage due to tree roots occurs, every effort shall be made to correct the problem without removing or damaging the tree. The City Forester shall be responsible for developing or approving corrective measures in consultation with the City Engineer.*[11]

21. **The City should institute a 24 hour Hotline violation number that is tied to an on-call inspector to respond to violations of tree cutting (and other development codes) that occur on weekends and after working hours.**

Anecdotal information indicates that violations of tree cutting (and other development codes) frequently occur on weekends, when there are no mechanisms for getting an enforcement action. (While there may be some established mechanisms for code enforcement outside of usual business hours, the protocols are not publicized and are not clear among all of the partner city agencies. Therefore, whatever protocols might exist they are not effective enforcement tools.) Since cutting a tree is not an action that can be undone a mechanism to provide rapid response outside of regular working hours would help prevent loss of valuable resources.

22. **Public notice should be given of applications to cut trees in the right-of-way.** Recently, in the West Portland Park neighborhood, housing went in on a site that was subdivided sometime in the past, perhaps many years ago. Therefore, the current development was done with administrative permits without public notice or review. The development included the cutting of trees in the public right-of-way. PCC 20.42.110B provides for notice to the affected neighborhood coalition when an applicant applies for a tree cutting permit on private property. PCC 20.40.100 should be amended to give similar notice to the affected neighborhood association and/or coalition when permits are sought to cut trees in the public right-of-way. Cuts in the public right-of-way can be as or more significant than cuts on private property, and because the right-of-way is publicly owned, the public has a clear interest.

B. Enhance the Tree Liaison Program

Develop an enhanced tree liaison program to ensure that citizens understand the resources in the community that are available to help them plant and maintain tree cover on their own property and within their neighborhoods.

The tree liaisons can function as mediators and information resources on planting and maintenance of street trees, tree preservation in areas without sidewalks, and tree preservation on private property. The current tree inventory program should be expanded to include methodology for collecting data on trees in public rights of way where there are no sidewalks and curbs. In depth information on tree codes and enforcement processes will be part of this comprehensive program. Linkages with resources for homeowners needing assistance with tree identification, maintenance, ivy removal and fall leaf removal will be part of the program.

Provide neighborhood associations with an annual updated list of active trained tree liaisons within their neighborhood boundaries to insure the integration and use of the tree liaisons at the neighborhood level. It would be helpful to have the tree liaisons come to a neighborhood association meeting after they complete training to introduce themselves to association members and to let them know of any specific projects or interest they have related to trees in the neighborhood.

While some tree liaisons may choose to be involved in specific planting or inventory projects others may choose to serve as citizen resources related to tree-related codes, tree identification and to help provide linkages for tree preservation, and ways to obtain assistance for leaf cleanup and pruning for low income residents. In depth training should be provided to meet these needs.

C. Other Education and Incentive Programs

The regulatory program is insufficient without additional educational and incentive programs to ensure that the public and professionals that provide services such as landscaping, gardening and tree removal are all aware of the benefits of preserving mature trees, the codes, and the consequences of not following them. Programs should be developed that encourage the preservation of trees through incentives. We are making

some suggestions here with the understanding that other approaches may be more effective and sources of funding need to be identified. Some of these activities can be carried out by non-profit organizations or other city partners.

1. **Develop a 'CALL before you cut ' outreach program**
This program would be similar to the "call before you dig" program for utilities. Ads could be placed in phone books, Business Service Directories, Home Shows, Farmer's Markets, local newspapers, web sites, and other locations where the public would look for tree cutting services. Information should include warnings about costs if they cut first without checking.

2. **Educate arborists, tree specialists, landscapers, and gardeners regarding codes/regulations related to tree preservation.**
This can include outreach to professional associations, professional training programs, office of licenses and the State Contractors Licensing Board. Coupled with education about code should be education and encouragement for arborists, gardeners and landscapers to educate clients regarding the benefits of tree preservation - a repeat tree customer is better than just taking a tree down once.

3. **Create a city/environmental welcome basket for new homeowners that introduces them to city information, identifies their neighborhood association and coalition, city services, and provides educational materials regarding trees, tree values, naturescaping, etc.**

4. **Tree cutting violation fees should be put into the Tree Fund established under 33.248.H.c. The uses of the fund described in 33.248.H.c.(1) should be expanded to include: ivy removal programs, educational programs like Naturescaping and cost sharing mechanisms for replacement trees for low-income homeowners.**

5. **Create incentives for removal of ivy and other invasive plant species**

D. There were four issues identified as needing resolution, but where no specific reforms were suggested or examined to our satisfaction. These are included here to stimulate broader city-wide discussion.

1. **Cutting trees to create views**
For years, property owners have cut trees to create views. Sometimes they cut trees on their own property. Sometimes, with or without permission of the owner, they cut trees on other private or public lands. Sometimes they seek city permits, sometimes not. City code and policy validate public views, but our code is silent on the issue of whether private views are a legitimate use that justifies cutting protected trees. In one recent case, the city granted environmental review approval for tree cutting to create a view, and declined to address the issue of the use. LU 04-002118 EV EN. In a process that includes a public discussion, the city needs to address and resolve this matter.

2. **Loophole in scopes of 33.630 Tree Preservation and 33.248 Landscaping and Screening that does not adequately protect trees.**

There are cases where a developer will build first, and later apply for a land division, which lets them avoid the rules in 33.630 during development. This issue should be examined to determine if there is a way to integrate 33.630 and 33.248 to protect trees better by preventing this from happening.

3. **Updating and amending tree preservation plans**

Tree preservation plans primarily address conditions at the point in time when the plan is approved. But plans can become out of date as time passes; trees mature and die naturally, and new trees and vegetation arise through natural processes and human intervention. A discussion is needed on what should happen to plans when they reach a certain age, say ten years. One idea is to have an expedited amendment process to update plans.

4. **There may be insufficient resources to enforce tree regulations.**

The SW Tree Committee is concerned that BDS and Urban Forestry will not have the resources to enforce regulations related to trees. The city must determine the resources needed for effective enforcement of tree preservation codes. We need to determine if consolidating responsibility for tree protection within one bureau would be a more effective regulatory approach.

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[1] Portland Parks and Recreation, Portland Urban Forestry Management Plan 2003. March 2004. Portland Parks and Recreation, Portland, OR

[2] United States Department of Agriculture. Benefits of Urban Trees, Forestry Report R8-FR 71, United States Department of Agriculture Southern Region. Sept. 2003.

[3] City of Portland. Sustainable Infrastructure Report. 2001. City of Portland, December 2001.

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Appendix 1

SW Tree Committee Core Members

Margot Barnett
John Gibbon
Greg Schifsky
Leonard Gard

Additional individuals who attended one or more meetings

Rich Adelmann
Neil Blatner
Micki Carrier
Jayne Cronlund
Tim Cushing
Lillie Fitzpatrick
Steve Mullinax
Susan Murray
Victor Von Salza

Appendix 2

Tree Measurement

F-35-02

THE OHIO STATE UNIVERSITY EXTENSION

Extension FactSheet

School of Natural Resources, 2021 Coffey Road, Columbus, Ohio 43210

Measuring Standing Trees

Determining Diameter, Merchantable Height, and Volume

Randall B. Heiligmann
Extension Specialist, Forestry

Stephen M. Bratkovich
Former Extension Specialist, Forestry

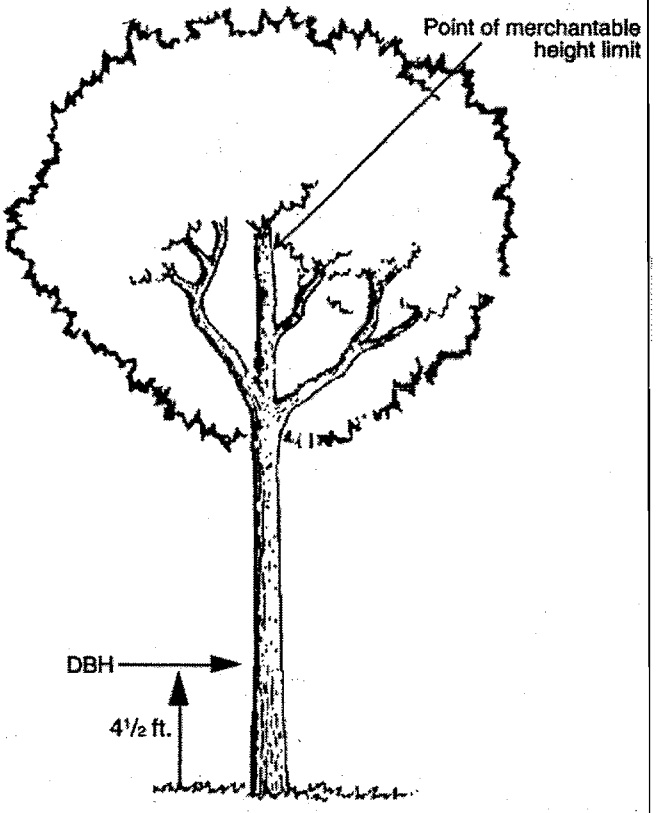
Woodland owners often need to measure the merchantable board-foot content (termed "volume") of certain trees in their woodland. In order to sell timber, for example, an estimate is needed of the quantity to be sold. If trees are to be cut to provide lumber, an estimate of volume is needed to determine what size and how many trees to cut. Using the methods described in this article, a woodland owner can estimate the board-foot volume in one or several trees. If an estimate is needed for several acres, however, it is recommended that the woodland owner engage the services of an Ohio Department of Natural Resources Division of Forestry Service Forester, a consulting forester, or an industry forester. Methods needed to accurately and efficiently inventory timber volume on large areas are beyond the scope of this publication.

Tree Volume Estimation

In the United States, the most common measure of lumber volume is the board foot, defined as a piece of wood containing 144 cubic inches. It can most easily be visualized as a board 12 inches square and one inch thick (12" x 12" x 1" = 144 cubic inches). However, any piece of wood containing 144 cubic inches is a board foot (e.g., 3" x 4" x 12"; 2" x 6" x 12"; etc). The board-foot content of any board may be determined by multiplying the length by the width by the thickness, all expressed in inches, and dividing by 144 cubic inches.

The board foot is also the most common volume measure for trees and logs to be used for lumber and veneer. The board-foot volume of a tree or log is an expression of the number of board feet of lumber that can be cut from that tree or log. The lumber volume that can be cut from a tree or a log depends on a great many variables, including how the tree is cut into logs, the dimensions of the lumber, how much of the log is lost in sawdust and waste, and the efficiency of the sawmill and workers. Because of these variables, the board-foot volume of a tree or log cannot be measured exactly but is estimated.

Numerous methods (called "rules") have been developed to estimate board-foot tree volume. Two board-foot volume rules are commonly used in Ohio, the Doyle and the International 1/4-Inch rules (Tables 1 and 2). Both of these rules provide an estimate of the board-foot content of a tree based on tree-trunk diameter breast high and merchantable tree height (discussed later). The Doyle rule is the most common rule in Ohio. It is used



Common reference points used to measure standing trees.

by the timber industry and many professional foresters. The International 1/4-Inch rule is used by state agencies and the U.S. Forest Service.

A comparison of these two volume tables will show that they are not identical. The International 1/4-Inch rule is generally considered to be the best estimate of the amount of lumber that can actually be sawn from a tree or a log under optimum conditions. The Doyle rule substantially underestimates the volume of trees in the smaller diameter classes. The International 1/4-Inch rule should, therefore, be used when the most accurate estimate of yield is important, as when determining how many trees to cut to obtain a specified amount of lumber. When marketing timber stumpage, however, the choice of volume rule is less critical. Confusion on quantity should not arise as long as both buyer and seller know which rule was used to estimate volumes. Timber stumpage prices are commonly adjusted based on which rule is used.

Measuring Tree Diameter

Tree-trunk diameters are measured at breast height (termed diameter at breast height or DBH), defined as the diameter of the tree 4-1/2 feet above ground on the uphill side of the tree. If a tree forks below breast height, each trunk is treated as a separate tree. DBH can be measured with a tree caliper, a Biltmore stick, a tree diameter tape, or a flexible measuring tape (e.g., cloth or steel). Tree calipers, Biltmore sticks, and tree-diameter tapes can be purchased through forestry equipment supply companies. The flexible measuring tape can be used to measure tree trunk circumference and circumference divided by 3.14 to determine diameter.

Measuring Merchantable Height

Merchantable height is the height of the tree (or the length of its trunk) up to which a particuar product may be obtained, usually minus a one-foot stump height. Merchantable tree heights for sawlogs and veneer are generally estimated to the height where the trunk diameter tapers to 10 inches, or until heavy branching or defects are encountered. The merchantable height of very valuable trees, such as veneer black walnut, may be measured to the nearest foot or two feet. The merchantable height of most other trees is measured in units of 16-foot logs and 8-foot half-logs. Merchantable height measurements are rounded to the nearest half-log. Thus, a tree with a merchantable height of 42 feet would be measured as having 2-1/2 logs of merchantable height.

Merchantable heights may be measured with a number of special instruments designed specifically for tree-height measurements such as clinometers, altimeters, relascopes, or hypsometers. These instruments are available through forestry equipment supply companies. Merchantable heights can also be measured with a long pole if only a few trees are being measured and they have relatively short merchantable heights. With some practice, merchantable heights in log and half-log units can be estimated quite accurately, particularly for trees with short merchantable heights.

Using the Tables to Estimate Merchantable Tree Volume

Once the diameter at breast height and the merchantable height of a tree have been measured, Table 1 or 2 may be used to estimate its volume in board feet. For example, a 20-inch DBH oak tree with a merchantable height of 2-1/2 logs contains 260 board feet Doyle rule or 350 board feet International 1/4-Inch rule.

When using these tables, it is important to remember that only that portion of the trunk that will produce a useable product should be measured. Portions of the trunk or entire trunks that are hollow, excessively crooked, rotten, etc., should not be measured. You may hear foresters or buyers talking about gross and net volume. Gross volume is the estimated tree volume without deduction for defects (i.e., the DBH and merchantable heights of all of the trees were measured ignoring defects, volumes were determined, and the volumes were added up). Net volume is the estimated tree volume with proper deductions made for defects.

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Keith L. Smith, Associate Vice President for Agricultural Administration and Director, OSU Extension

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2/2002-jaf

Table 1. Standing Tree Board Foot Volumes — Doyle Rule

Dbh (inches)	Number of 16-Foot Logs							
	1/2	1	1-1/2	2	2-1/2	3	3-1/2	4
	Board Feet							
12	20	30	40	50	60			
14	30	50	70	80	90	100		
16	40	70	100	120	40	160	180	190
18	60	100	130	160	200	220	40	160
20	80	130	180	220	260	300	320	360
22	100	170	230	280	340	380	420	460
24	130	220	290	360	430	490	540	600
26	160	260	360	440	520	590	660	740
28	190	320	430	520	620	710	800	880
30	230	380	510	630	740	840	940	1,040
32	270	440	590	730	860	990	1,120	1,220
34	300	510	680	850	1,000	1,140	1,300	1,440
36	350	580	780	970	1,140	1,310	1,480	1,640
38	390	660	880	1,100	1,290	1,480	1,680	1,860
40	430	740	990	1,230	1,450	1,660	1,880	2,080
42	470	830	1,100	1,370	1,620	1,860	2,100	2,320

From: Ashley, Burl S. 1980. *Reference handbook for foresters.* USDA NA-FR-15. 35 pp.

Table 2. Standing Tree Board Foot Volumes — International 1/4-Inch Rule

Dbh (inches)	Number of 16-Foot Logs							
	1/2	1	1-1/2	2	2-1/2	3	3-1/2	4
	Board Feet							
12	30	60	80	100	120			
14	40	80	110	140	160	180		
16	60	100	150	180	210	250	280	310
18	70	140	190	240	280	320	360	400
20	90	170	240	300	350	400	450	500
22	110	210	290	360	430	490	560	610
24	130	250	350	430	510	590	660	740
26	160	300	410	510	600	700	790	880
28	190	350	480	600	700	810	920	1,020
30	220	410	550	690	810	930	1,060	1,180
32	260	470	640	790	940	1,080	1,220	1,360
34	290	530	730	900	1,060	1,220	1,380	1,540
36	330	600	820	1,010	1,200	1,380	1,560	1,740
38	370	670	910	1,130	1,340	1,540	1,740	1,940
40	420	740	1,010	1,250	1,480	1,700	1,920	2,160
42	460	820	1,100	1,360	1,610	1,870	2,120	2,360

From: Ashley, Burl S. 1980. *Reference handbook for foresters.* USDA NA-FR-15. 35 pp.

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Appendix G

Portland Urban Forest Action Plan
(February 2007)

PORTLAND PARKS & RECREATION

Healthy Parks, Healthy Portland



Urban Forest Action Plan

February 2007

Urban Forest Action Plan

February 2007

Accepted by City Council March 15, 2007

PROJECT STAFF

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This document was reviewed by staff from the Water Bureau, Portland Development Commission, and Portland Parks & Recreation City Nature zone managers.

PORTLAND PARKS & RECREATION
Healthy Parks, Healthy Portland

www.PortlandParks.org
Commissioner Dan Saltzman • Director Zari Santner

GOALS

The three goals of the *Action Plan* are the primary goals of the 2004 *Management Plan*.

Actions:

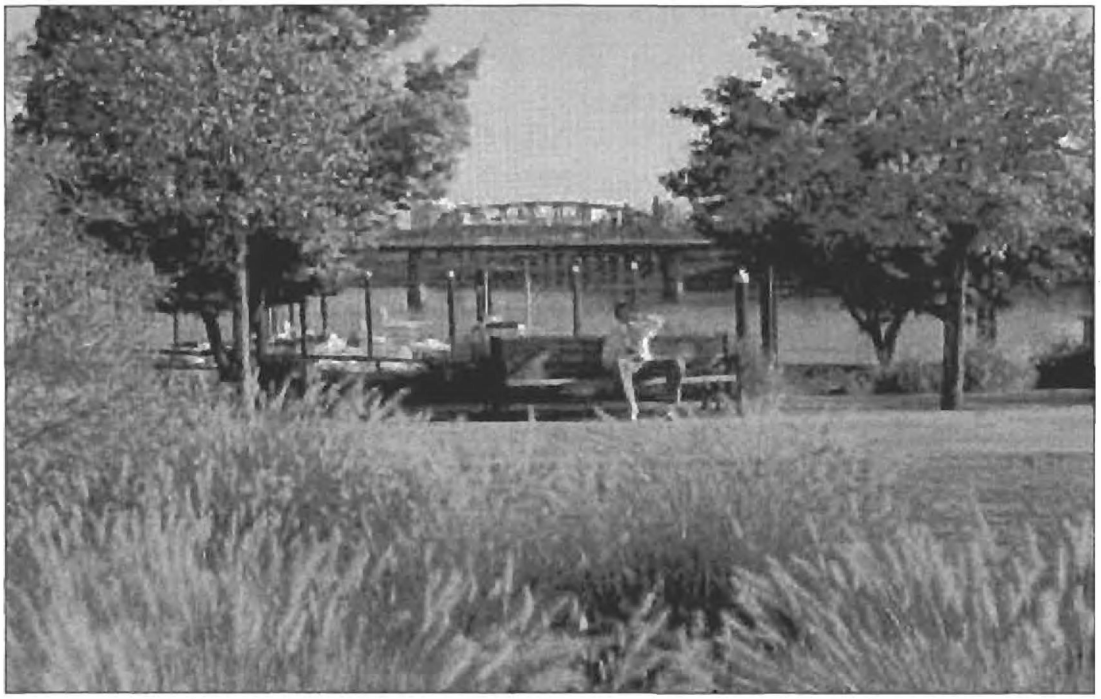
The prioritized actions of the action plan can be done by City of Portland bureaus, although achieving all of the plan's goals will require participation from private organizations, individuals, and other public agencies. Additional city resources will be required to fully realize the city's vision for the urban forest.

NEXT STEPS

- An expanded interbureau committee, with representation from the Urban Forestry Commission and community groups, will meet quarterly to coordinate and monitor progress. One of the first tasks will be to develop performance measures.
- The Urban Forestry Commission will report annually to City Council on implementation progress.



Westmoreland Park



South Waterfront Park

Summary of Goals and Actions

DRAFT ACTION PLAN GOALS AND OUTCOMES

Goal 1: Protect, preserve, restore, and expand Portland's urban forest.

- **Outcome A: Enhanced Canopy**
  The tree canopy is optimized, meeting stocking and canopy targets.
- **Outcome B: Regulatory Program**
  The City has a comprehensive, consistent and clear regulatory program for trees.
- **Outcome C: Development**
  The Urban Forest is enhanced through development and redevelopment.

Goal 2: Develop and maintain support for the urban forest.

- **Outcome A: Shared Stewardship**
  Stewardship of the urban forest is shared by residents, agencies, and non-governmental organizations (NGO's), and businesses.
- **Outcome B: Public Education**
  The public has a strong awareness of tree benefits and ecosystem health issues; education opportunities are abundant.
- **Outcome C: Stable Resources**
  Stable resources support the urban forest.



Kenton neighborhood before and after

Goal 3: Manage the urban forest to maximize community benefits for all residents.

- **Outcome A: Street Tree Distribution**
  Street trees are equitably distributed throughout the city.
- **Outcome B: Livability**
  The urban forest contributes to the health and wellbeing of Portlanders.
- **Outcome C: Watershed Health**
  The urban forest contributes to improved watershed health, including water quality, stream flow, floodplain function, habitat, and biological communities

DRAFT ACTION PLAN KEY TERMS

- **Priority:** the importance of the action in accomplishing the outcome under which it is listed. Items may be high priority actions but may lack resources or specific work plans.
- **Time Frame:** when the action will or could be initiated or accomplished.

  Selected current actions are examples of current programs that have recently been initiated or are proposed for significant expansion.
  Early actions can be initiated or accomplished within two years with existing or identified resources.
  Five-year and ten-year actions could be initiated within those time frames if so directed and funded through the City's work planning and budget process.
- **Lead:** identifies the coordinating or responsible bureau for a particular action.
- **Support:** bureaus or organizations that serve as minor or major participants.



Johnson Creek Park

GOAL 1

PROTECT, PRESERVE, RESTORE, AND EXPAND PORTLAND'S URBAN FOREST

Goal 1 - Outcome A: Enhanced Canopy
Tree canopy is optimized, meeting stocking and canopy targets.

Selected Current Actions

- Assess street, right-of-way, and park tree status (quantity, type, condition) through standardized sampling.
  Lead: Portland Parks & Recreation
- Track numbers of street and right-of-way trees permitted to be planted and removed.
  Lead: Portland Parks & Recreation
  Note: Tracking began in 2006
- Continue and increase programs to plant trees throughout the city.
  Lead: Portland Parks & Recreation, Bureau of Environmental Services
  Note: Additional resources would augment current effort.
- Reevaluate tree management, especially pruning by utility companies. Develop collaborative effort to better ensure the health of trees near utility lines.
  Lead: Portland Parks & Recreation
- Continue work of the established interbureau team to coordinate actions and monitor progress toward Urban Forestry Plan Goals
  Lead: Portland Parks & Recreation
  Support: Bureau of Planning, Bureau of Development Services, Bureau of Environmental Services, Portland Department of Transportation, Office of Sustainable Development

High Priority Actions

Early actions

- Adopt tracking system to periodically evaluate overall city tree canopy.
  Lead: Portland Parks & Recreation
  Support: Bureau of Environmental Services, Office of Sustainable Development, Sustainable Development Commission, Coordinating Committee
  Note: Performance measures to be adopted by interbureau committee
- Develop standard performance measures for determining city-wide urban forest quality (e.g. diversity, tree health, appearance).
  Lead: Portland Parks & Recreation, Bureau of Environmental Services
  Note: Performance measures to be adopted by interbureau committee
- Evaluate current city programs for effectiveness in preserving older trees. Look for new opportunities and approaches.
  Lead: Portland Parks & Recreation
  Support: Bureau of Planning
- Develop additional methods to promote trees that are appropriate for their location and optimize urban forest benefits (e.g., broad canopy, native, or evergreen trees where appropriate, discourage columnar and pest prone species; maximize shade and stormwater interception).
  Lead: Portland Parks & Recreation
- Review and Revise current approved list of street trees, incorporating, where appropriate, additional large, evergreen and native trees.
  Lead: Portland Parks & Recreation

Five-year Actions

- Complete Assessment of street tree planting opportunities (stocking level).
  Lead: Portland Parks & Recreation
  Note: Based on completed street tree inventory
- Restore and expand City maintenance of designated street trees.
  Lead: Portland Department of Transportation
  Support: Portland Parks & Recreation
  Note: Funding has been reduced in recent years; fewer street trees are now maintained by the City.
- Develop a regular maintenance schedule for street and park trees.
  Lead: Portland Parks & Recreation, Portland Department of Transportation
- Develop and adopt standards and Best Management Practices (BMP's) for selection, purchase, planting, and care of urban trees.
  Lead: Portland Parks & Recreation
- Train city employees who work on or around trees on adopted tree care standards.
  Lead: Portland Parks & Recreation
  Note: Based on development and adoption of standards
- Develop quality tree care training program for arborists and landscapers.
  Lead: Portland Parks & Recreation

Medium Priority Actions

Early actions

- Design green streets to coordinate with street tree requirements and opportunities.
  Lead: Bureau of Environmental Services, Portland Parks & Recreation
  Support: Portland Department of Transportation
- Consider urban forest condition and potential in site planning for new and existing parks.
  Lead: Portland Parks & Recreation

Five-year Actions

- Work with Oregon Department of Transportation (ODOT) to plant and maintain trees on state highway rights-of-way.
  Lead: Portland Parks & Recreation, Bureau of Environmental Services
  Note: Expand existing efforts into a larger program.
- Adopt tracking system to evaluate number of trees approved for planting and removal through development permit review.
  Lead: Bureau of Development Services
  Note: Current systems do not capture or allow tracking of this information.
- Explore the possibility of the City managing all street trees.
  Lead: Portland Parks & Recreation
  Note: Currently, adjacent property owners are responsible for most street tree planting and care.

Ten-year Actions

- Conduct full street tree inventory and update on a regular basis.
  Lead: Portland Parks & Recreation
- Upgrade City-owned parking lots, by planting trees, to meet current standards.
  Lead: Portland Parks & Recreation, Bureau of Environmental Services, and others



Columbia Park

Goal 1 - Outcome B: Regulatory Program

The City has a comprehensive, consistent and clear regulatory program for trees.

Selected Current Actions

- Continue to implement process and code "quick fixes" that promote the goals of the *Urban Forest Management Plan* such as the Regulatory Improvement Code Amendment Package (RICAP) for the zoning code, and other bureau specific efforts.
  Lead: Bureau of Planning, Portland Parks & Recreation, Bureau of Environmental Services, Bureau of Development Services
  Note: Each City Title has its own process for code amendments.

High Priority Actions

Early actions

- Review and amend mitigation requirements in Title 20 for tree removals.
  Lead: Portland Parks & Recreation
  Support: Bureau of Environmental Services

Five-year Actions

- Review and clarify city goals and policies relating to topics such as tree preservation, tree removal and replacement, tree planting, trees for wildlife habitat, tree species and age diversity, and trees as part of the city's green infrastructure. Update the Comprehensive Plan as necessary to reflect city adopted policies relating to trees, such as the *Urban Forest Management Plan*, the *Portland Watershed Management Plan*, and *Sustainable Development Principles*, and to address policy gaps as determined during the policy review.
  Lead: Bureau of Planning
  Support: Portland Parks & Recreation, Bureau of Environmental Services, Portland Fire and Rescue, Portland Department of Transportation, Office of Sustainable Development
  Note: This item may require a separate scoping phase, and must be coordinated with code review.



Maricara Natural Area

- Review codes (including incentives) and processes (including enforcement) related to tree preservation, removal, and planting for internal clarity and consistency with city policy and other (city, state, fed) mandates.
  Lead: Bureau of Planning
  Support: Bureau of Development Services, Portland Parks & Recreation, Bureau of Environmental Services
  Note: This item may require a separate scoping phase. To be coordinated with policy review.
- Revise tree-related codes, administrative rules, standard operating procedures (SOP's), memoranda of understanding (MOU's) etc. for clarity and consistency
  Lead: Bureau of Planning, Portland Parks & Recreation, Bureau of Development Services
  Support: Bureau of Development Services
  Note: Based on code review action
- Ensure compliance with tree planting requirements and construction-related tree protection as part of site or building permit inspection.
  Lead: Bureau of Development Services

Medium Priority Actions

Five-year Actions

- Ensure compliance with tree preservation requirements as part of site or building permit inspection
  Lead: Bureau of Development Services

Goal 1 - Outcome C: Development
The Urban Forest is enhanced through development and redevelopment.

Selected Current Actions

- Continue to develop and provide clear and simple information for customers during development permitting process.
  Lead: Bureau of Development Services, Portland Parks & Recreation
  Note: Expand current program
- Continue to develop and enhance design information and technical assistance for developers (commercial, industrial, and residential) and residents on tree protection, planting, and maintenance.
  Lead: Bureau of Development Services
  Note: Expand current programs

Medium Priority Actions

Early actions

- Develop awards program for innovative projects that protect existing trees or provide new trees during development.
  Lead: Portland Parks & Recreation

Low Priority Actions

Five-year Actions

- Explore options for methods to notify new property owners of existing land use review (LUR) requirements such as tree preservation.
  Lead: Bureau of Planning
  Support: Bureau of Development Services

Ten-year Actions

- Develop a system to facilitate access to tree preservation plans from land use reviews.
  Lead: Bureau of Planning
  Support: Bureau of Development Services

GOAL 2

DEVELOP AND MAINTAIN SUPPORT FOR THE URBAN FOREST

Goal 2 - Outcome A: Shared Stewardship

Stewardship of the urban forest is shared by residents, agencies, and non-governmental organizations (NGO's), and businesses.

Selected Current Actions

- Educating property owners about their responsibilities for the care of street trees.
  Lead: Portland Parks & Recreation
  Support: Bureau of Environmental Services
  Note: Expand program currently in progress through Neighborhood Tree Liaison Program
- Providing financial and technical support to community and non-profit groups engaged in planting and maintenance of trees.
  Lead: Portland Parks & Recreation, Bureau of Environmental Services
  Note: Expand current programs

Medium Priority Actions

Five-year actions

- Outreach to and coordination with state and federal agencies to encourage proper tree establishment and maintenance procedures.
  Lead: Portland Parks & Recreation
  Note: Based on standards to be developed (see Goal 1)

Goal 2 - Outcome B: Public Education

The public has a strong awareness of tree benefits and ecosystem health issues; education opportunities are abundant.

High Priority Actions

Early actions

- Establish website with information about trees and tree care, and links to regulations.
  Lead: Portland Parks & Recreation
  Support: Bureau of Environmental Services, Bureau of Development Services, Office of Sustainable Development
- Develop materials about tree benefits, care and regulations to be disseminated by realtors.
  Lead: Portland Parks & Recreation
- Augment Neighborhood Tree Liaison Program to include more neighborhoods, additional training and support.
  Lead: Portland Parks & Recreation
- Present annual report to City Council from Urban Forestry Commission, and post on website.
  Lead: Urban Forestry Commission, Portland Parks & Recreation
  Support: All
- Assess environmental and social benefits from Portland's public trees.
  Lead: Portland Parks & Recreation
  Note: Based on standardized sampling of public trees (see Goal 1)
- Disseminate Information about the benefits/ services provided by the urban forest and the status of the urban forest.
  Lead: Portland Parks & Recreation
  Support: Office of Sustainable Development, Bureau of Planning
  Note: Based on benefit assessment



Street trees bring beauty to Portland's neighborhoods

Medium Priority Actions

Five-year Actions

- Promote research on urban forest topics and disseminate results (e.g. analyzing trends in land use and effects on the urban forest).
  Lead: Portland Parks & Recreation
  Support: Bureau of Planning
  Note: Coordinate with academic institutions

Goal 2 - Outcome C: Stable Resources

Stable resources support the urban forest.

High Priority Actions

Early actions

- Increase funding to enhance tree planting in city parks.
  Lead: Portland Parks & Recreation
- Work with corporate sponsors to contribute funding for urban forestry tree and maintenance activities.
  Lead: Portland Parks & Recreation

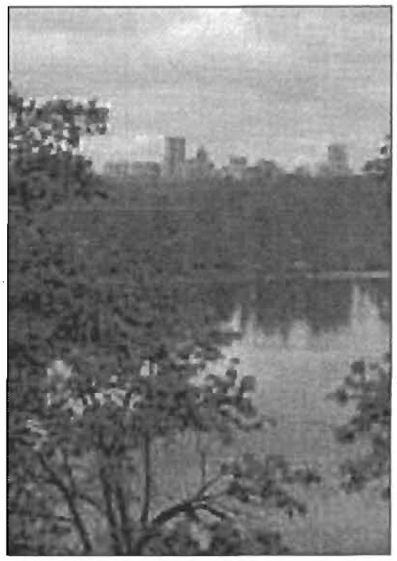
Medium Priority Actions

Five-year Actions

- Incorporate tree establishment and long-term maintenance into all appropriate capital project plans
  Lead: Portland Parks & Recreation, Bureau of Environmental Services, Portland Water Bureau, Portland Department of Transportation, Bureau of Planning.

GOAL 3

MANAGE THE URBAN FOREST TO MAXIMIZE COMMUNITY BENEFITS FOR ALL RESIDENTS OF THE CITY



Oaks Bottom Wildlife Refuge

Goal 3 - Outcome A: Street Tree Distribution

Street trees are equitably distributed throughout the city.

High Priority Actions

Early actions

- Target low income neighborhoods for street tree planting.
  Lead: Portland Parks & Recreation
  Note: Continue existing efforts; establish formal prioritization system

- Target neighborhoods with lower canopy for street tree planting.
  Lead: Portland Parks & Recreation
  Support: Bureau of Environmental Services
  Note: Continue existing efforts; establish formal prioritization system.

Medium Priority Actions

Five-year Actions

- Develop neighborhood tree planting plans through neighborhood tree liaison program.
  Lead: Portland Parks & Recreation

Goal 3 - Outcome B: Livability

The urban forest contributes to the health and well-being of Portlanders.

High Priority Actions

Early actions

- Coordinate tree-related actions from the City's plans such as Natural Hazard Mitigation Plan, Local Action Plan on Global Warming, Portland Watershed Management Plan.
  Lead: Portland Parks & Recreation
  Support: Bureau of Environmental Services, Bureau of Planning, Portland Fire and Rescue, Portland Department of Transportation, Bureau of Development Services
  Note: Coordination though Interbureau Committee.

Five-year Actions

- Augment leaf removal and composting capacity
  Lead: Portland Department of Transportation
  Support: Bureau of Environmental Services

Medium Priority Actions

Five-year Actions

- Support planting of food-producing trees in appropriate locations.
  Lead: Office of Sustainable Development



Leach Botanical Garden

Goal 3 - Outcome C: Watershed Health

The urban forest contributes to improved watershed health, including water quality, stream flow, floodplain function, habitat, and biological communities

Selected Current Actions

- Reducing extent of invasive weed problem.
  Lead: Portland Parks & Recreation, Bureau of Environmental Services
  Note: Expand and coordinate existing programs

High Priority Actions

Early actions

- Develop an integrated strategy for compliance with Metro's Nature in Neighborhood (NIN) program and the Total Maximum Daily Load (TMDL) requirements (e.g. for water temperature).
  Lead: Bureau of Planning, Bureau of Environmental Services
  Support: Portland Parks & Recreation, Bureau of Development Services
  Note: Identify the role of the urban forest in the compliance strategy.
- Implement revegetation (tree planting) actions specified in Portland Watershed Management Plan.
  Lead: Portland Parks & Recreation, Bureau of Environmental Services
- Increase canopy and shade in natural areas and along streams.
  Lead: Portland Parks & Recreation, Bureau of Environmental Services
- Develop specific canopy targets, where appropriate, by land use and watershed.
  Lead: Portland Parks & Recreation, Bureau of Environmental Services, Coordinating team

Five-year Actions

- Implement integrated strategy (described above) using regulatory and non-regulatory tools.
  Lead: Bureau of Development Services, Bureau of Environmental Services, Portland Parks & Recreation
  Note: Based on developed compliance strategy above

Medium Priority Actions

Five-year Actions

- Revise Portland Plant List (PPL) native and nuisance lists periodically.
  Lead: Bureau of Planning
  Support: Bureau of Environmental Services, Portland Parks & Recreation, Portland Fire and Rescue.
- Develop concept plans for "nature spots" for parts of the city deficient in access to nature: areas of native trees and understory shrubs in appropriate locations in parks.
  Lead: Portland Parks & Recreation, Bureau of Environmental Services

Ten-year Actions

- Increase canopied areas around large open recreational spaces in developed parks.
  Lead: Portland Parks & Recreation, Bureau of Environmental Services



Westmoreland Park

Appendix H

Citywide Tree Project Newsletters

Spring 2008

Winter 2009

Bureau of Planning | City of Portland

CITY OF PORTLAND BUREAU OF PLANNING

Spring 2008

Citywide Tree Project

Policy Review and Regulatory Improvement

It Began With a Seed of a Plan

The Citywide Tree Project will reach across City bureaus and into the community to establish effective and consistent regulations relating to trees in Portland. Not all the solutions will rely on regulatory tools however. Other solutions will be considered including programmatic incentives, administrative restructuring, procedural enhancement, improved enforcement and educational outreach.

This project has its origins in the Portland Urban Forestry Management Plan (UFMP). The UFMP, issued in 2004, provides direction for the maintenance and improvement of Portland's urban forest. The UFMP identifies various obstacles to the continued health and management of the urban forest. One important obstacle is the City's current regulatory framework. Increasingly complex tree rules and regulations make the development process confusing and difficult to coordinate.

In 2006, a committee representing multiple city bureaus was formed to ensure that the goals and recommendations of that plan were actualized. Specific actions, including the Citywide Tree Project, were outlined and assigned priority and timelines for completion based on their need and available funding. The Urban Forest Action Plan was accepted by City Council on March 14, 2007.

Citizens and neighborhood groups convinced the City Council that it was important to address the City's tree policies and regulations. Council responded by funding the first year of the two-year project, and directing the Bureau of Planning to lead the project in close collaboration with the Bureau of Development Services, Portland Parks and Recreation and the Bureau of Environmental Services.



How will the city ensure a vibrant and healthy urban forest is maintained, now and in the future?

Visit the website:

www.portlandonline.com/planning/treeproject

Send an email:

BOPCTP@ci.portland.or.us

Write a letter:

Bureau of Planning
c/o Tree Project
1900 SW 4th Ave.
Suite 7100
Portland, OR 97201-5350

Call us:

(503) 823-7700
(503) 823-6868 TDD

By the numbers...

- The City of Portland has an estimated 236,000 street trees.
- Tree canopy covers 26% of the city. The Urban Forest Management Plan goal is 33%.
- The environmental benefits provided by the entire urban forest canopy exceed $38 million per year.
- The replacement value of the entire urban forest is estimated at $5 billion.

Getting to the Root of the Solution

Trees intersect with a number of City titles and bureau priorities, as well as state and federal mandates relating to environmental quality and watershed health. As new city regulations were adopted to address specific issues, these changes were not always coordinated with other rules or bureaus. Consequently, the regulations have become disjointed and difficult to administer. Citizens, applicants and staff alike find the rules confusing.

The Citywide Tree Project is a major component of achieving Goal 1 of the Urban Forest Action Plan: to "Protect, Preserve, Restore and Expand Portland's Urban Forest." The goal is served by three specific outcomes:

- Optimize the urban forest canopy.
- Develop "a comprehensive, consistent and clear regulatory program for trees."

(Continued on page 2)

Getting to the Root of the Solution

(Continued from page 1)



Trees and development can coexist, with careful site planning and meaningful regulations.

• Enhance the urban forest "through development and redevelopment."

Comprehensively assessing the current regulatory and policy framework relating to trees will address each of these desired outcomes. The project team has developed a list of issues that the project will address. These issues fall into five general topic categories: Policy, Code Conflicts, Tree Preservation, Site Design and Implementation.

Existing city policies will support and guide the Citywide Tree Project. The project will also make recommendations to inform Portland's larger policy plan update (The Portland Plan).

The Citywide Tree Project will evaluate the strengths and shortcomings in the current regulations and propose ways to revise and integrate the codes to work more consistently and seamlessly with each other.

Conscientious site planning and tree preservation as part of development and redevelopment projects have great potential for integrating existing and new trees to help meet urban forest canopy targets.

Site design and tree protection methods will be explored to enhance the urban forest. However, the most carefully crafted preservation measures are ineffective if they are not adhered to in the field before, during and after construction.

This project will examine improvements to implementation, through enforcement tools, permit review, inspection processes and educational opportunities.

To exist as a nation, to prosper as a state, and to live as a people, we must have trees. -Theodore Roosevelt

What Will It Take?

The two-year Citywide Tree Project involves up-front investment of time to develop a clear understanding of the key issues from a broad array of perspectives. City staff met with community representatives and experts early on to discuss the issues and potential solutions. A stakeholder group representing a wide range of interests has been formed to further evaluate the issues and the strengths, limitations, costs, and benefits of various solution options.

This input will be instrumental in helping to narrow and shape the solutions. Based on the preferred solutions, staff will draft recommended code amendments during the fall of 2008. Recommended solution packages and draft language will be presented in the winter of 2009 to the Planning Commission in a broader public forum. Ultimately, City Council will select and adopt the recommended package of solutions.



Trees are an important part of the environmental, economic, and cultural fabric in the city.

Tell Us Your Story, Send Us Your Pictures

Do you have an interesting tree preservation or planting story? Suggestions for ways the City can improve its tree regulations?

Share your stories and ideas with the project team contacts listed on the front page. Be sure to include an approximate date and general location for your story.

Also, we are constantly trying to improve our project website and would love to include your photos. If you have pictures of trees or tree-related subjects, and would like to see them posted on the project website, please indicate that you agree to let us use them. Thank you for your interest and support.

City of Portland Bureau of
Planning and Sustainability
Sam Adams, Mayor | Susan Anderson, Director

Project Charge

The Citywide Tree Policy Review and Regulatory Improvement Project is a multi-bureau effort led by the Bureau of Planning and Sustainability. The project is a high priority in the City's Urban Forest Action Plan. Its charge is to clarify, simplify and provide a consistent and effective regulatory framework for trees in the City of Portland, and to enhance the urban forest canopy through development and redevelopment.





Citywide Tree Project
Policy Review & Regulatory Improvement

Stakeholders have fruitful discussions

A 20 member Stakeholder Discussion Group (SDG) was formed in spring 2008 to foster an open dialogue between various groups with interests closely tied to trees.

The SDG is comprised of members from the Urban Forestry Commission, Johnson Creek Watershed Council, Multnomah County Drainage District, Friends of Trees, NW District Coalition, Columbia Corridor Association, Homebuilders Association, East Side Neighborhoods Group, Citywide Parks Group, Portland Audubon, Institutional Coalition, and a residential infill developer, planning consultant, commercial developer, and certified arborist. Staff from the bureaus of Planning, Environmental Services, Parks and Recreation, Transportation, and Development Services provided staff support and participated in the discussions.

The SDG met from April through October, discussing code complexity and inconsistency, tree preservation during development, and implementation, including inspections, enforcement, and neighborhood notification. The participants reviewed staff's initial analysis of the major issues and potential solutions, candidly sharing their thoughts, opinions, experiences, and advice. The SDG members also gave input regarding tree-related issues that should be addressed through the Portland Plan.

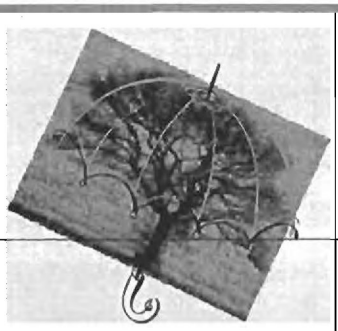
Stakeholders generally agreed that trees are important amenities in the City, and that existing regulations and the regulatory structure could be much clearer, simpler, and more effective in enhancing the urban forest. There is also a growing appreciation for trees as an integral component of the City's "green infrastructure." Still, the stakeholders brought many different viewpoints "to the table." Neighborhood groups expressed concerns about the loss of trees, particularly the large trees. They are concerned about impacts on slope stability, shade, and neighborhood identity. SDG members noted that large, native trees are often replaced with smaller ornamental trees that contribute less to air and water quality, stormwater management, habitat, and neighborhood livability.

The development community explained how difficult it can be to meet various City requirements, including tree protection, especially when developing smaller sites. De-

Continued on page 2

Tree preservation and development issues are intermingled in a complex web, much like the branches in a tree.





Trees help manage stormwater.

By the numbers . . .

A tree does not reach its most productive stage of carbon storage for about 10 years.

An acre of trees can absorb as much carbon per year as is produced by a car driven up to 8,700 miles.

Shade trees can make buildings up to 20 degrees cooler in the summer.

The amount of oxygen produced by an acre of trees equals the amount consumed by 18 people each year.



Seeing the forest for the benefits of the trees

Why are urban trees important? During Portland's early days, trees were cleared in order to attract prospective development. But even then, trees were planted to dignify parklands and promote home sales. As the City grew, trees gained recognition for their aesthetic and cultural benefits. Certain trees were designated as historic landmarks in the 1970s. In the early 1990s, the City began to recognize heritage trees based on their age, size, type, historical association or horticultural value.

Today, the City recognizes the suite of benefits or "ecosystem services" that trees provide. During the 1990s the City adopted its first Urban Forestry Management Plan and protections for forested areas through environmental overlay zoning. More recently, the City recognized how trees contribute to watershed health in the Portland Watershed Management Plan. The City partners with Friends of Trees and watershed groups to plant trees in Portland neighborhoods and natural areas. Existing tree protections and planting programs are key elements of City programs to comply with state and federal environmental mandates.

As the discussions of climate change intensify, trees earn yet another role; as sequesters of carbon, filters for the air, and elements of passive solar heating and cooling. An ambitious strategy for enhancing the urban forest is recommended in the City's Urban Forest Action Plan and draft Climate Protection Strategy. Additional studies have also linked trees to increased property value, crime reduction, faster patient recovery, and a sense of place.

The City is now committed to a significant tree planting investment through the "Grey to Green" initiative. This investment in our green infrastructure translates into a more livable Portland.

ENHANCING CANOPY THROUGH DEVELOPMENT

Portland expects a million more residents over the next 20 years. To address stakeholder concerns, the project identified the key issues and opportunities to address them. For example, the City currently requires tree preservation plans only in limited development circumstances. Even then, existing rules do not effectively prevent removal of tree groves and large, native trees, or fully prevent damage to trees during construction (including trees on or just across property lines or on neighboring property). The development community notes that the City's rules are rigid, often resulting in preservation of smaller, lower quality trees. The City's landscaping standards also do not promote tree preservation or planting of "higher functioning" trees.

The Citywide Tree Project is examining incentives to encourage tree preservation and effective planting. Development standards (e.g., setbacks, minimum building coverage, pedestrian access configuration) could be more flexible. The City could also provide advanced mitigation credit for proactive tree planting. The City could establish an initial assessment process to promote "designing with trees."

That said, it must be understood that not all trees can be protected. The Citywide Tree Project is exploring ways to ensure that tree replacement addresses multiple functions, tree size, and species diversity. In-lieu tree planting fees should be updated to reflect current costs and ensure that money in the City tree fund is invested most effectively.



Stakeholder discussion, continued from page 1

Developers are concerned about impacts of tree requirements on affordability, project costs, and review and construction timelines.

All told, the stakeholders volunteered over 1,000 hours to help inform and shape the potential solutions under consideration (listed on page 3).

OPTIONS UNDER CONSIDERATION

The project team is detailing a list of key improvements to the current regulatory system. The following options form the basis for the draft code and procedural proposals.

REGULATORY CLARITY AND CONSISTENCY

Establish a single point of contact for the public.

A single point of contact will provide prompt, consistent responses to tree-related questions and requests. Citizens will be directed to the appropriate information or staff representative.

Pilot a 24-hour "Tree Response Hotline."

Citizens and city staff who have after-hours and weekend tree cutting inquiries and street tree emergencies can contact this hotline, which could be piloted using the Bureau of Environmental Services "Spill Response" line.

Consolidate rules into a new citywide "Tree Title."

Consolidating tree related rules into a single City code title would clarify, simplify, and improve the cohesiveness of the regulatory framework, while also elevating the important role of Portland's urban forest.

Consolidate tree permitting functions.

Currently, multiple bureaus are responsible for tree-related permitting. The City Council has called for consolidation of many City permitting functions. Tree permitting functions could be in one central location, simplifying the application process, and ensuring more consistent implementation. City arborists could help support and expedite the permitting process.

Make the tree permit system more consistent, equitable & comprehensive.

Currently, single-family properties are subject to different tree removal permitting requirements. The project is considering options to make the permit system more uniform, while continuing to allow quick removal of hazard trees.

ENHANCE THE URBAN FOREST

Encourage tree preservation – provide flexible development standards.

The project is proposing greater flexibility in site design requirements when trees will be retained without a time-consuming and expensive adjustment process.

Provide advanced mitigation credit for proactive tree planting.

This approach will encourage property owners to plant trees ahead of future development projects to offset tree loss when those projects occur.

Perform "initial tree assessments" to inform project design.

This approach encourages trees to be factored into any major investment or commitment in a site design. The assessment can then be used to evaluate an applicant's proposal against more meaningful preservation and planting criteria.

Improve tree preservation, planting and protection through land use reviews and building permits.

Proposed tree preservation and planting standards would be tiered and applied equitably across development types, recognizing lot size, land uses, and different flexibility and constraints associated with different development types. Ensure that trees on-site, on property lines and on adjacent properties are protected from damage during construction.

Improve tree replacement

Establish tree replacement guidelines that compensate for functions lost when trees are removed. Address quantity, size and species diversity.

Promote retention of significant trees.

Emphasize *preservation* of important tree species and large trees, and *replacement* of smaller, non native trees.

IMPLEMENTATION IMPROVEMENTS

Publish a tree manual.

The Portland Tree Manual will include flexible standards and best management practices for tree protection, planting, and tree care. It will assist project applicants and property owners, will be user-friendly and can be readily updated to reflect new technologies and information.

Update tree fund administration.

The project proposes to update in-lieu of planting fees to reflect current costs and to clarify criteria for expenditures to better address watershed and neighborhood equity issues.

Increase neighborhood awareness of tree preservation and removal activity through consistent site posting.

Instituting a site posting requirement will provide property owners, builders, subcontractors, neighbors, and inspectors with information on tree preservation requirements, penalties for non-compliance, and who to contact with questions.

Provide access to tree permit and preservation plans online.

Using the existing PortlandMaps website, tree cutting permit information could be posted, and in the future, online access to tree plan drawings may also be included.

Enhance inspection effectiveness.

The project will recommend more frequent, better timed inspections to ensure tree preservation and protections are working. Additional training for inspectors and strategic consultation with City arborists is also recommended.

Clarify and simplify enforcement procedures.

The project proposes a simpler process to better reflect the severity of violations, and expedite replanting.

"I never before knew the full value of trees. My house is entirely embosomed in high plains trees, with good grass below and under them I breakfast, dine, write, read, and receive my company. What would I not give that the trees planted nearest round the house at Monticello were full grown."

Thomas Jefferson



The three legs of the **Citywide Tree Project:**





The Citywide Tree Project will refine and improve Portland's regulatory framework, confirm and clarify existing city policies, and develop a system that can be readily integrated into the fabric of Portland's future. However, there are important tree-related issues that are outside the scope of the Citywide Tree Project.

Accommodating future growth while providing sufficient space for trees, integrating trees into a carefully planned network of habitat areas and connectors and into a sustainable energy system are just a few of these broad-reaching topics.

Over the next three years, the Bureau of Planning and Sustainability will lead a project to update the City's 1980 Comprehensive Plan. The "Portland Plan" is an inclusive, citywide effort to guide the physical, economic, social, cultural and environmental development of Portland over the next 30 years. Through the Portland Plan, the city can evaluate ways to accommodate growth and shape the city while fostering a thriving urban forest.

"The best time to plant a tree is twenty years ago. The second best time is now."

African Proverb



FOR MORE INFORMATION
Visit the website:
www.portlandonline.com/planning/treeproject

WANT TO CONTACT US?
Send an email:
BOPCTP@ci.portland.or.us

Write a letter:
Bureau of Planning and Sustainability
c/o Tree Project
1900 SW 4th Ave.
Suite 7100
Portland, OR 97201

Call us:
503.823.7700
503.823.6868 TDD

City of Portland Bureau of
Planning and Sustainability
Sam Adams, Mayor | Susan Anderson, Director

WHAT'S SIGNIFICANT ABOUT SIGNIFICANT TREES

Several of the initial project proposals increase the emphasis on preserving "significant trees." This responds to the community concern over the loss of Portland's big trees and tree groves. Significant trees are trees that are native to the Portland area, or are larger than a specified size. These trees provide more substantial benefits and services than those provided by smaller, non-native ornamental trees. Significant trees are critical to help reduce stormwater runoff, provide shading and cooling, capture carbon, and provide wildlife habitat. Some significant trees represent species that are rare and declining in the region. For instance, Oregon White Oak and Pacific Madrone trees provide unique habitats, are very slow growing and require specific soil types and sun exposure to flourish. Other native trees, like the Douglas fir, are ubiquitous, connecting us to our geographic and cultural heritage.

Significant trees are already recognized in the Portland Zoning Code and given priority for preservation during land divisions. Native trees are an important aspect of the Willamette River Greenway and other environmentally sensitive areas.

City's rules aren't clear cut

Question: Do I need a permit to remove my tree?

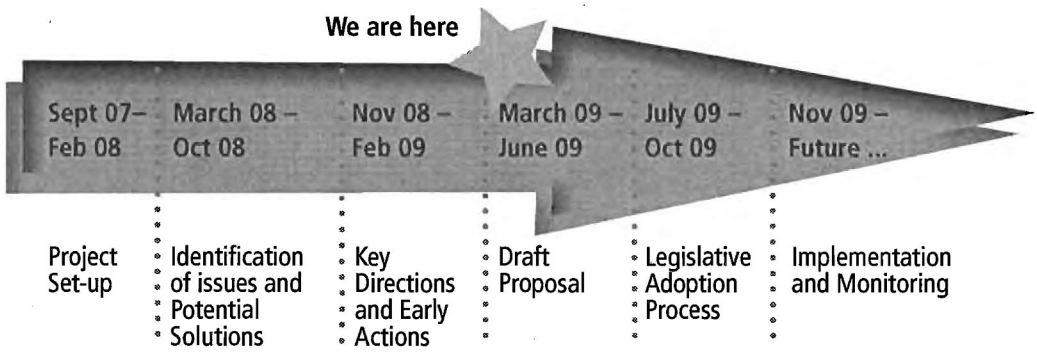
In Portland this question is easier to ask than to answer. The City's tree related regulations are placed in multiple titles.

Removal of trees on private property is regulated by the Parks Title (Title 20) and the Zoning Code (Title 33) depending on whether the property is in a specific overlay or plan district area, and whether development is occurring or not. Removal of trees from hillsides requires a permit through the Parks Title and the Building Regulations Title (Title 24). Street trees are regulated by the Vehicles and Traffic Title (Title 16), Public Improvements Title (Title 17), and Parks Title. Hazard tree abatement is addressed through the Vehicles and Traffic Title, Parks Title, Property Maintenance Title (Title 29), and Fire Regulations (Title 31). Trees and solar issues are discussed in the Administration Title (Title 3), but there is no discussion of trees and signs in the Sign Regulations of Title 32.

Not surprisingly, this array of codes leads to confusion when someone asks what rules govern trees on their property or in the parking strip. Determining which requirements apply is difficult, and finding out which City agency is responsible can be equally confounding. To determine the requirements to remove a tree may require contacting up to four separate bureaus.

To add to the confusion, the regulated tree sizes differ from code to code. The City's tree cutting permit system applies inconsistently to single family property.

The Citywide Tree Project is proposing consolidating the multiple tree-related codes into a single Tree Title and creating a Tree Manual to assist property owners and applicants with tree related issues. Additionally, the project proposes a single point of contact to obtain answers to any particular tree related question.



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Appendix I

Citywide Tree Project Scope

Citywide Tree Policy and Regulatory Review Project

Scoping Paper

Introducing the project

The City Council has directed the Bureau of Planning to lead a multi-bureau effort to review and refine, as needed, Portland's policies and regulations relating to trees. This project is listed as a high priority action item in the *Portland Urban Forest Management Plan* (UFMP) Draft Action Plan, reviewed and accepted by City Council on March 14, 2007. The 3 main goals of the UFMP are:

•

The project also received strong support from citizens, community organizations, and the Bureau of Planning FY 2007-08 budget advisory committee.

Several key project objectives have been identified based on input from stakeholders such as the Southwest Neighborhoods, Inc., representatives of Portland's Citywide Land Use Chairs Group, and city bureau staff:

- Create a comprehensive, consistent and clear policy framework and regulatory program addressing trees on private and public land (including rights-of-way) in Portland
- Improve the effectiveness of mechanisms to track and enforce requirements for tree preservation and replanting
- Provide clear, accessible information to the public about tree maintenance and removal.

The project will include collaborative work with stakeholders to identify and evaluate key issues and potential solutions, and to make changes to City policies, codes and procedures as needed.

For a complete project Statement of Work (submitted to City Council during the budget process) see Attachment 1.

Project scope

The Citywide Tree Policy and Regulatory Review project is to be completed within 2 years. Early actions are to be identified within one year or sooner. To meet the project objectives within the allotted time and budget, the Bureau of Planning will work with other bureaus and community stakeholders to:

1. Establish clear and realistic project success criteria;
2. Craft a well-defined scope of work (identifying what will and will not be addressed by the project); and,
3. Ensure that the project success criteria and scope of work are understood and accepted by key stakeholders.

This scoping paper is intended as a discussion piece to help establish project success criteria and a work scope. The paper contains an initial list of success criteria, followed by a list of issues that have been identified by community members and/or staff, so far, as important to address. The Bureau of Planning will share this draft report with a broader range of bureaus and

community stakeholders and invite feedback on the criteria and priority issues to address during the course of the project.

Project Success Criteria

The project scope should be designed to meet a defined, agreed upon set of "project success criteria." Defining the project success criteria will foster a consistent understanding among diverse stakeholder interests as to what the project is and is not intended to accomplish. The project success criteria must address both "content-" and "process-related" issues.

In terms of content, the project should be designed to address key problems and concerns related to tree removal, preservation and replacement as documented in the *Southwest Tree Committee Report* (October 25, 2005), RICAP database, the tree issues identified in the *Land Division Code Monitoring Report* (May 2007), and the Urban Forest Management Plan Implementation Strategy/Draft Action Plan (November 2006).

The project success criteria should reflect frequently cited issues concerning the City's tree policies and regulations, such as:

- Conflicts among policies contained in different guidance documents
- Complexity, ambiguity, duplication and inconsistencies among City codes and titles
- Inconsistent interpretation and enforcement of conditions of approval regarding tree preservation/replacement
- Inadequate tracking mechanisms and follow-through on conditions of approval (particularly tree preservation plans)
- Lack of clear and accessible information regarding required tree removal or maintenance for property owners
- Impacts on trees as a result of infill development

The project success criteria must also address:

- Broad-based interest among bureaus and community stakeholders
- The fact that policies and codes will be effective only if effectively implemented over the long-term

Taking into consideration the project objectives and issues identified above, the following initial list of project success criteria are proposed for discussion:

- The solution(s) should be understandable to citizens, developers, city staff
- The solution(s) should result in an overall improvement in clarity of information and ease of access to the information
- The solution(s) should result in an overall "improvement" in tree regulation implementation and enforcement, with the understanding that not all identified "problems" will be resolved with this project.
- The solution(s) will, at a minimum, continue Portland's compliance with any state and federal clean water and clean air requirements.
- The solution(s) will keep City cost for implementation and enforcement to a minimum.

Recommended Potential Project Elements

Presented below are a number of specific issues recommended for inclusion in the Citywide Tree Policy and Regulatory Review project scope of work. The intent of identifying issues is to foster discussion and aid stakeholder understanding and anticipation of the project. Issues are grouped under the following sections:

Policy Issues
Code Issues
Implementation Issues

The initial lists are based on stakeholder input received to date and will be amended to reflect additional input during the project scoping process.

A. POLICY ISSUES

1. **Inconsistencies/lack of clarity between City plans and policy documents.** There are inconsistencies between the types and levels of tree-related policies and goals established in documents such as the *Comprehensive Plan*, the *Urban Forestry Management Plan*, the *Portland Watershed Management Plan* and the Sustainability Principles. In addition, the roles and functions of trees and tree canopy are not well addressed in the *Comprehensive Plan.* Existing policies lack cohesiveness and unity. The analysis will note all the areas where trees are and are not addressed, e.g., relative to infrastructure, air and water quality, stormwater management, erosion and landslide prevention, and tool to foster pedestrian-friendly streets, public health, etc.

   Bureau of Planning Recommendations: The project should clarify the respective roles of these documents and at a minimum develop recommendations for improved clarity and consistency as needed.

2. **Cumulative impacts.** Impacts on the urban forest and other natural resources occur over time as a result of small decisions and actions on individual sites, not necessarily large projects. Not all impacts to the urban forest are regulated, such as allowed tree removal on developed residential sites that can not be further subdivided. Impacts can include significant loss of tree canopy in certain areas, and the conversion of large mature, native and non-native trees to small ornamental trees. The City does not currently have policies addressing cumulative impacts.

   Bureau of Planning Recommendations: The project should explore this issue and identify potential policies and tools to address the issue, e.g., no net loss of tree canopy/net gain through broad-based mitigation for loss of tree canopy. Loss of /mitigation for forest understory vegetation in environmentally sensitive areas should also be addressed as part of the discussion.

3. **Achieving planned density/infill.** City policies to achieve planned densities through infill development and by allowing or requiring certain types of building form appear to compete with the City's Urban Forest Management Plan Goals and Desired Outcomes. City policy does not address how to mesh other city goals while achieving density. This issue has arisen most recently in areas of East Portland, and areas of Southwest Portland have been experiencing incremental loss over time.

Bureau of Planning Recommendations: The project can address some of the impacts of infill development by coming up with tools to manage cumulative impacts, and by addressing some of the regulatory issues covered in the next sections (e.g., preservation and replacement of trees). The project should not address issues relating to the Comprehensive Plan and Base Zone designation in high infill areas. These issues should be addressed through area-specific projects such as the East Portland Review and follow-up actions from this work.

4. **Accountability for meeting and implementing City goals.** The City sets goals and policies to guide regulations pertaining to urban form, tree protection, landscaping treatments, etc. but then defers inspection and enforcement to the same stakeholders who are required to comply with the regulations. When the City does conduct inspections, expertise on specific tree and landscaping requirements is lacking. There are recent case examples where neighbors hired their own arborist to counter the arborist reports submitted with land use reviews.
   Some city land use review staff lack the expertise to properly judge arborist reports and have asked the urban forestry staff to help with the review, but frequently an "objective" third party (arborist) review is what is needed.
   City code calls for reliance on arborist recommendations and decisions as to which trees should be removed or protected in both development and non-development situations. Lack of oversight and guidance has resulted in decisions and actions that are inconsistent with each other and with City policy.

   Bureau of Planning Recommendations: The project can provide the opportunity to research and recommend other alternatives for inspection and enforcement that better achieve compliance with City goals and policies.

5. **Managing trees and other City infrastructure facilities.** Goal 11 of the Comprehensive Plan describes the goals and objectives for the provision and maintenance of all public facilities. Trees are not currently considered a "public facility" or "infrastructure" in the same way that streets, sewers, etc are considered infrastructure, despite ample evidence documenting the many functions trees provide in an urban environment: stormwater detention, moderating temperature extremes, reducing air pollution, etc.
   Trees roots can sometimes interfere with other infrastructure elements such as underground utilities and sidewalks. Because existing policy does not address trees as an important infrastructure element, the engineered infrastructure element takes precedence and trees are damaged or removed when roots get in the way.

   Bureau of Planning Recommendations: In combination with other policy issues described above, the project can provide background and recommendations to include trees when planning for infrastructure and public facilities, and to modify appropriate policy documents that guide the development and maintenance of public facilities.

B. CODE ISSUES

1. Complex code structure/issues relating to multiple City Titles

Many of the most pressing tree-related concerns relate to the provisions of Title 33 and how they are carried out. Some community stakeholders have expressed strong concerns that the zoning code does not seem to be effective in preserving tree canopy, particularly mature trees. Additional concerns have been expressed regarding the replacement of mature trees such as native conifers with small non-native ornamental trees, resulting in long-term changes in neighborhood character and reduced watershed function (e.g., stormwater management) over time. Other stakeholders have expressed concern that the zoning provisions are too rigid and costly, and impede development in the City's commercial and industrial zones. Given the diverse concerns identified to date, the project should address at least the following Zoning Code related items:

- **T1 standards**
  Tree planting or preservation standards (T1) apply to all new single-dwelling building permits in any zone that allows single-dwelling development. The intent of the standards is to "encourage" preservation, and allow replanting or paying into a tree fund when the first two options are infeasible. However, replanting is the option most frequently chosen. Tree root protection standards were adopted with the T1 standard in 1999 but have since been simplified so that roots are no longer being adequately protected. Also, there is some confusion when and if the T1 standard applies in multi-family or commercial zones where there is also a general landscaping requirement.

- **Base zone development standards**
  There are no tree preservation or protection requirements in any base zone; other than the T1 standards described above, developers are permitted to remove every tree on a site, despite the fact that almost every base zone requires a certain percentage of landscaping, including trees, when development is approved. In many cases, large trees are removed to prepare a site for development only to be replaced with much smaller species. The landscaping code provides a "credit" if existing trees are saved and used as part of the landscaping requirement, but is rarely used. This has led to situations such as the one in multi-dwelling zones where developers build housing structures first and remove trees as allowed under current regulations with the building permit, then apply for a subdivision later (after trees are already removed) to avoid tree preservation requirements.

- **Overlay zone regulations; NRMPs, Plan Districts**
  Multiple zoning code provisions affect tree protection/planting/removal:
  - Overlay zones –environmental, greenway, and scenic
  - Plan Districts – Cascade Station, Columbia South Shore, Johnson Creek Basin, Northwest Hills, Rocky Butte, South Auditorium
  - Natural Resource Management Plans – Forest Park, Smith and Bybee Lakes, Peninsula Drainage District No. 1, East Columbia Neighborhood

  Although many of the provisions of the overlay zones and plan districts are meant to work together, the combination of these sections plus other City titles adds to the general confusion about what applies and where. For example, within the Northwest Hills Plan District, the tree canopy requirement for Balch Creek only applies to portions of the site within the environmental zone. The NRMPs can be thought of as long-term environmental management plans for large areas; they purport to describe on-going maintenance activities as well as new projects, both planned/funded and "wish-list", and provide varying

descriptions of these activities. Some of the described activities are deemed "exempt" from the requirements of the Zoning Code, while others are directed into a land use review process. The problem with the NRMPs is that they have remained frozen within the context of their date of development and as the Zoning Code has been updated, the NRMPs have remained frozen in time. NRMP requirements related to trees supercede any Zoning Code provisions, even those that are exempt, and making a change to the NRMP requires a land use review. (NOTE that additional research is necessary to identify the exact provisions within each NRMP that has application to a citywide tree project).

- **Land Division Chapter**
  Tree preservation regulations were adopted with the land division rewrite project in 2002. The requirements have proven difficult to implement and include the following issues:
  - Significant trees are not being protected under the current regulations, although that was the intent of the regulation when created
  - Code loopholes allow trees smaller than 12 inches to be cut before the land division application
  - Tree preservation requirements do not provide guidance or allow staff discretion to determine which trees are best preserved based on location or species.
  - Arborists provide inaccurate reports and identify healthy trees for removal
  - Trees to be preserved are often damaged by construction equipment
  - In some situations, developers can build houses first, then remove trees, then apply for the land division and bypass the tree preservation requirement altogether
  - Properties with some environmental zoning are subject to two different, somewhat incompatible tree preservation requirements

- **Tree preservation plan violations**
  There is a process to deal with violations of tree preservation plans, eg, illegally removing trees designated for protection as part of a land division approval. The process and any associated fines are not enough to deter the continuation of violations, this according to several developers who have been subject to the violation process (eg, it's cheaper to cut than to follow the process).

- **Violations**
  Environmental zone tree removal – treats tree violations differently than land division tree violations

  Land division tree preservation plan violations- described above

  Title 20 tree cutting permit violations – newly created provisions offering an award for anyone providing information about illegal tree removal that is governed by Chapter 20.40 (public land) and 20.42 (private land) adds to the confusion about which regulations apply to trees. In this case, if an illegally removed tree is (or was) subject to any zoning code provision, the reward program does not apply.

  Title 24 clearing and grading violations

- **Portland Plant List/Invasive Plants**

There are some tree species listed as "nuisance" plants that are prohibited from being used to meet zoning code tree planting requirements, but the Urban Forestry recommended list of street trees includes these species.

Bureau of Planning Recommendations: The project can address the issues above as many of them are interrelated and also tie into other code issues as well as policy issues.

2. TITLE 20 Parks and Recreation

As described above, the chapters of Title 20 that cover trees are inconsistent and incompatible with other City Code provisions that regulate the same thing. (note: we will need help from someone well versed with the requirements of Title 20to continue expanding on this issue and determine the link to other regulations)

- Chapter 20.40 – regulates planting trees and removing trees on public property and in the right of way
- Chapter 20.42 – regulates tree removal on private property when the tree is not regulated by other provisions of the City Code and is also on a single-family developed lot and the lot can not be further divided.

3. TITLE 24 Building Regulations

Title 24 implements the uniform building code regulations developed by the State of Oregon. In general, the building code is developed to ensure structural safety and includes regulations that achieve a basic level of protection for life-threatening situations (earthquakes, floods, fire, landslides). The state develops the basic building code elements, and local jurisdictions can add provisions that are specific to their community for issues that may be more prevalent than in other parts of the state. For example, the City Council enacted a ban on clearing and grading on steep slopes without a permit in the 1990s when such clear-cutting was creating a landslide hazard to adjoining properties. (note: we will need help from someone well versed with the requirements of Title 24 to continue expanding on this issue and determine the link to other regulations)

- Demolition permits – can by used to effectively clear trees and grade sites
- Clearing and Grading permits –
- Other?

4. TITLE 31 Fire Regulations

Title 31 implements fire regulations for the City

C. IMPLEMENTATION ISSUES

There are many City Code provisions to implement and enforce, with various bureaus having more responsibility to inspect and enforce their own bureau's regulations and sometimes the regulations of other bureaus. Inspection staff frequently have specializations in structural areas unrelated to plants, but must provide the inspection to ensure compliance with a permit. The following topics are a first attempt at characterizing implementation issues and will be further developed in discussions with stakeholders.

1. During/after construction

- Inspections performed by non-experts – despite best intentions, the City's inspectors for most tree-requirements are not knowledgable about trees or plants. In addition,

some of the urban forestry requirements allow inspections by non-experts instead of the experts in the urban forestry department.

- Trees to be preserved are inadequately protected and are damaged by construction equipment - the existing tree protection requirements, when followed, are inadequate for protecting trees. When there is a failure to provide even the basic tree protection elements, inspectors fail to note this lack.
- Required plantings often not monitored after initial inspection. Once a building permit is issued and the building occupied, there is very little follow-up with the developer or property owner. The requirements are only completed as a complaint-driven enforcement action, when a neighbor calls the City to complain.
-

2. Enforcement

- Reporting/point of contact – there is no one contact for tree-related concerns. Urban Forestry has developed a brochure to help direct inquiries but it provides a confusing message, at best, as to the appropriate bureau to call.
- Current violation fees makes it cheaper to cut trees first, then go through violation process Staff have received feedback from developers that it is easier to cut now, pay later, than to follow requirements or request changes to tree protection plans.
- Enforcement is complaint driven and penalties and mitigation may not be effective in deterring cutting or replacing lost trees.
-

3. Changes in ownership/occupancy

- New owners/renters unaware of tree preservation agreement (this issue applies to zoning code landscaping requirements as well). Some tree removal violations could be prevented if they were aware of the requirements.
- Single-dwelling residential development is where most of the tree issues occur, yet there is no "final occupancy" permits that can be held back to delay structure occupancy until tree requirements are met.

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Appendix J

Citywide Tree Project Issue Papers

1. Trees, Utilities, and Infrastructure
2. Coordinating Plan Review – Public/Private Infrastructure and Tree Preservation Requirements
3. Tree Preservation:
   Land Divisions
   New Single Family Residential Development
   Protection Fencing Requirements
   Loss of Significant Trees
4. Development Processes That Lack Tree Preservation Regulations
5. Tree Removal Regulation in City Titles
6. Tree Inspections
7. Violations, Enforcement, and Penalties

Figure 2: SE Schiller looking east towards the unimproved section with a number of trees adjacent to the roadway that will likely be removed as the properties are developed due to street frontage improvements and the installation of utilities.

Street Trees and Sidewalks

Street trees planted in the public right-of-way are regulated by the Urban Forester in coordination with PDOT. Maintenance costs, however, are borne by the adjacent property owner who must obtain permits to plant, trim or remove a street tree. Where street improvements and maintenance projects require the removal of tree branches to allow access for road construction equipment, the adjacent land owner is responsible for the costs of the actual pruning work.

If a public sidewalk is affected by roots from a tree, then a PDOT sidewalk inspector will require the homeowner to repair the sidewalk. Unless the Portland Parks - Urban Forester requires additional measures to protect street trees, roots may be cut and the new sidewalk repaired without tree preservation in mind. If the Urban Forester limits root cutting, the sidewalk will need to be formed around it. In some cases, changes in sidewalk or driveway design (such as width, location, or alternate use of materials) may occur if the Urban Forester does not allow the tree roots to be cut. The roots from trees on private property that cause buckling or other damage to public right-of-way features may be cut and removed without consulting the Urban Forester.[1]



Trees and Overhead Utilities

Large trees near power lines can cause problems as falling limbs are the primary cause of power outages. PGE operates its own extensive tree-maintenance program[2] that contracts with tree crews to prune trees along power line rights-of-way every three years or as required by state mandate. PGE's crews examine trees on a block-by-block basis and look for trees or limbs that could fail and hit a power line[3]. Their crews will work on any tree that poses a possible threat to power lines. Usually, these are trees that are planted directly below the lines in a public planting strip, but can also include private trees that overhang the right-of-way. PGE's practice is not to top a tree; instead PGE prunes out a U-section in the middle of the tree to provide clearance for lines. This practice is a type of selective crown reduction. This represents an emerging trend in powerline clearing maintenance from years past, when harmful effects of topping trees was not yet known.

Trees and Sewer & Water Systems

The Water Bureau and Bureau of Environmental Services (BES) each has a number of facilities that can be affected by tree roots. The majority of these are sewers and mains located in public rights-of-way. Tree roots can enter sewage lines and crack or break the pipes causing water to flow into the pipe, decreasing its capacity. Sewage can flow out of damaged pipes into the soil which can create health problems. Additionally, tree roots can block sewer lines causing a backup. Most tree root problems in sewer mains



[1] There is a gap between Forestry and Development Services on the status of trees that straddle a property line between a parcel and the street. Development Services considers a tree in the right-of-way if any part of the trunk is on the property line, while Forestry looks at the likely placement at time of planting. The result is that trees that have grown into the Right-of-Way are not subject to review by Development Services, and Forestry continues to consider them as private trees.

[2] Title 20.40.080.E authorizes the Forester to contract with utilities to prune trees that interfere with any component of the utility system. Notification of the owner can be waived at the discretion of the Forester.

[3] PGE's website provide information to the public on tree pruning, utility safety and their own tree maintenance operations. They also provide a list of trees suitable to different planter strip placements.

are discovered during routine video taping of sewer lines. But problems can occur quickly and are not limited to old pipes. Sewers constructed in the mid to late1990's are beginning to experience root intrusion. The city addresses roots in city sewer mains and the public portion of service laterals. Private property owners are responsible for lateral sewer pipes on private property. In Portland, approximately 8,000 sewer mains or 2 million linear feet of public sewer lines have some degree of root damage[4]. Damage from tree roots also affects water pressure in public mains and can affect fire service. In these situations, the trees are generally removed. However, in some cases the roots that are causing the problem could potentially be removed without removing the tree. When permits are obtained to install or repair sewer and water pipes on private or public property, there is no requirement for a site plan that identifies adjacent trees.

A number of historic water conduits, such as pipes from Bull Run, cross private lands which have easements to restrict development or tree planting that might interfere with pipes and their maintenance. Similarly, sewer laterals that connect buildings to sewer mains in streets are often placed in easements that serve a similar purpose. Enforcing these easements is problematic because pipes and their easements are often not shown on maps in the Development Services Center and most owners are not aware of the location of utility lines on their property. Since no permit is required to plant a tree, there often is no process to check whether trees are placed above utilities.

Trees and Stormwater Facilities

The City of Portland's approach to stormwater management emphasizes the use of vegetated surface facilities to treat and infiltrate stormwater on the property where the stormwater runoff is created[5]. Managing stormwater onsite is required of all new and redevelopment as specified in the Stormwater Management Manual developed by the Bureau of Environmental Services (BES)[6]. These stormwater facilities are intended to reduce demand on combined sanitary-storm and separated storm sewer systems, promote on-site infiltration of stormwater and reduce polluted runoff as development occurs. Because the right-of-way may need to be expanded to accommodate stormwater facilities, trees are sometimes removed.

Site planning on private property does not always take into account conditions in the right-of-way or adjacent properties. Trees on adjacent parcels or on the property line are not included in site plans or subject to tree preservation requirements of that development. Stormwater facilities on private property may be placed without regard to trees on adjacent property.

For example, a large swale for a private street might be dug into the roots of neighboring tree that is not part of the development. Designed to detain and store stormwater, the swale will be inundated with each rain and may subject an adjacent tree's roots to long periods of heavy soil saturation that may not be appropriate for the species and may contribute to tree windfall. Conversely, swale and stormwater planter landscaping designed without considering proximity to neighboring trees may be adversely affected by shading, leaf litter, etc.

As stormwater facilities are installed on both public and private streets, they require monitoring and maintenance to perform effectively. For public streets, the contractor provides a two year

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[4] Each year, approximately 250,000 linear feet of high and medium priority sewer lines are treated by the City at a cost of approximately $230,000.

[5] The Bureau of Environmental Services has also established an administrative rule to protect surface features that convey water across private property outside of existing Environmental Overlay Zones. A thirty foot 'no disturbance' buffer called a 'drainage reserve' is placed across drainage ways through the development review process. The rules offer some protection for existing trees in this 'reserve' area, although tree preservation is not the primary intent of the administrative rule.

[6] Infiltrating stormwater onsite with landscaped facilities meets a number of stormwater requirements, including pollution reduction, volume and peak flow reduction, and groundwater recharge. Landscaped facilities also improve air quality, reduce heat island affect, add visual appeal to neighborhoods that can increase property values, as well as provide valuable urban wildlife habitat.

"establishment period" during which they are required to monitor and maintain the facilities they construct. After the establishment period, BES monitors and maintains the facilities. Trees planted in a facility are monitored to ensure they are thriving. Private stormwater facilities are supposed to be managed by adjacent land owners via maintenance agreements that run with the land, however, it is not clear how this is being enforced. The increasing number of stormwater facilities has made it difficult to tell if stormwater facilities for either private or public streets are being monitored as frequently as originally intended.

Trees and New Subdivisions

Mature trees can be adversely affected by road building, sidewalks, driveways, public and private utility installation and stormwater facilities in new subdivisions. The City processes only a few new large subdivision applications (10+ lots) each year; the majority of land division applications are for 2-10 new lots. It can be challenging for developers to meet requirements for utilities, infrastructure, and tree preservation on the smaller sites. Due to the site constraints associated with smaller partitions, the tree mitigation option is frequently requested because standard tree preservation requirements typically reduce the area available for development and routing of roads and utilities.

In addition, the site design process and land division review primarily focus on the area within the development site alone. As a result, proposed infrastructure improvements are generally located without regard to possible effects to trees on neighboring properties. For example, on narrow long parcels, a private street, including a required sidewalk and stormwater swale, is often placed at the edge of the site. Although this construction can harm trees on adjacent parcels or on the property line, these trees are not subject to tree preservation requirements and are not typically shown on site plans. The construction damage to trees that straddle property lines is a frequent cause of disputes between neighbors.

During the final step in residential development, new plantings (including trees), are installed to vegetate stormwater facilities and to meet City landscaping requirements. There is not sufficient review or inspection by City staff with expertise in landscaping or arboriculture to verify those trees and other plantings are placed properly. Problems can also result when soils, sunlight availability, and other conditions are not suited to the selected species of tree. Trees placed above, below or next to vulnerable utilities and infrastructure can result in future conflicts.

POTENTIAL SOLUTION CONCEPTS

The following criteria are intended to guide the design and evaluation of potential solution concepts.



Criteria for Solutions:

- Encourage preservation of existing trees in development and redevelopment
- Optimize placement and minimize conflicts between trees, utilities and infrastructure facilities.
- Increase the area and health of the urban canopy
- Foster proper maintenance of trees and utilities
- Foster proper installation of trees and utilities

The following is an initial list of potential solutions to address the issues described above. The intent of this section is to examine a range of possible solutions to help inform discussion and the development of staff recommendations and future decisions.

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1. RECOGNIZE AND MANAGE TREES AS INFRASTRUCTURE

The City could adopt clear policies and regulations establishing the role of trees as infrastructure to be planned and managed on a "level playing field" with other infrastructure and utility facilities. The City could also consider capitalizing the installation of street trees and/or establish programs to maintain street trees as public assets. This is listed as an item to be considered in the Urban Forestry Action Plan.

Pros:

- This would explicitly recognize the social and ecological functions of trees within the equation of utility and infrastructure design and replacement.
- This would shift the decision making process around designing utilities to consider trees
- This could potentially reduce the responsibility of private property owners to maintain street trees, fix sidewalks, etc. and could increase public interest in having more trees in their neighborhoods.
- This would provide a more equitable solution for tree trimming work required for other public infrastructure needs.
- This could potentially provide greater public oversight of street tree management.
- In conjunction with other potential solution concepts identified, could help achieve Urban Forestry canopy targets.

Cons:

- Would require significant funding and staffing.
- Will need to evaluate liability issues

2. REQUIRE INFRASTRUCTURE PERMITS TO ADDRESS TREES

Require site plans that show the location of trees within a certain distance of the proposed work for all utility permits. Establish provisions to prevent conflicts between proposed utilities and infrastructure facilities, and trees/tree roots.

Pros:

- This would ensure that trees are identified on plans and are considered as part of a utility or infrastructure permit.
- In conjunction with other potential solution concepts identified, could help achieve Urban Forestry canopy targets and other desired outcomes.

Cons:

- Addressing trees during utility permitting could add time, cost, or possibly hamper the utility work.
- Utility work permits on private land are issued over-the-counter. A site plan (with or without trees) is not required, nor is there a review by Planning & Zoning that apply conditions of approval or a Tree Protection Plan.
- Inspections are a current problem – who would be responsible?

3. INCLUDE OFF-SITE TREES ON PLANS

Require site plans submitted for all infrastructure designs to also include off-site trees up to a certain distance. Establish provisions to prevent conflicts between proposed utilities and infrastructure facilities, and neighboring trees.

Pros:

- This would require consideration of the effects of placing utilities and stormwater facilities in close proximity to neighboring trees.
- This would help address cumulative impacts by addressing trees on adjacent sites.

- In conjunction with other potential solution concepts, could help achieve Urban Forestry canopy targets.
- Would reduce ambiguity in the current regulations pertaining to trees on or near property lines.
- Recognize trees as an organic feature that is not limited by parcel boundaries and that construction impacts can affect trees on other properties.

Cons:
- Access to adjacent parcels to survey tree locations and assess health is not always available.

4. ENHANCE REVIEWS OF LANDSCAPE PLANS

Assign an internal landscape architect or arborist to review landscape and stormwater facility landscaping plans and conduct field inspections to capture 3-dimensional features and development elements (retaining walls, grade changes, slopes, footings, etc.).

Pros:
- This would focus additional expertise on putting the right tree in the right place
- In conjunction with other potential solution concepts identified, could help achieve Urban Forestry canopy targets
- This would verify that trees and plants are installed properly – providing the greatest chance of survival.

Cons:
- Could potentially increase the timeline of review
- Additional costs for a new position
- Quantity of work may not be manageable

5. EDUCATE PROPERTY OWNERS AND DEVELOPMENT COMMUNITY

Educate property owners and the development community regarding proper species and planting locations, tree maintenance and removal procedures. An education program that addresses landscaping design and utilities for property owners, builders, contractors and landscapers might help reduce conflicts associated with new developments and activities in existing neighborhoods. Nurseries, utility companies, and neighborhood tree liaisons could participate in the development and distribution of information and trainings. Community groups could also monitor tree infrastructure, either through a data gathering program or an adopt-a-tree program.

Pros:
- The dissemination of information about trees, infrastructure and utilities would help prevent conflicts and promote successful mitigation of existing problems.
- In conjunction with other potential solution concepts, could help achieve Urban Forestry canopy targets

Cons:
- Making information available does not guarantee that it is used.
- Additional public cost to fund and implement this program
- Success is dependent on the quality of information and would need sufficient oversight.

6. PROVIDE UTILITY INFORMATION ON TREE PLANTING PERMITS

When obtaining a permit to plant a street tree, include information about the height of power lines and the location of water and sewer lines on the property, and direct the property owner to avoid planting in those areas. Also include a list of acceptable trees based on planter strip width, presence of overhead lines, etc.

Pros:

- Coordinating street tree placement with existing utilities would help to reduce future conflicts.
- In conjunction with other potential solution concepts identified, could help achieve Urban Forestry canopy targets

Cons:

- The location of laterals is uncertain on many properties in the City.

7. CALL BEFORE YOU PLANT

Publicize the Call 811 program (http://www.digsafelyoregon.com/) for utility locates before planting trees especially in the public rights of way. PortlandMaps does provide some information on utility location, but is not always accurate or precise.

Pros:

- Coordinating new tree planting with existing utilities would help to reduce future conflicts.
- In conjunction with other potential solution concepts identified, could help achieve Urban Forestry canopy targets

Cons:

- Most tree planting on private property does not currently require a permit which might reduce participation in such a program.
- Accuracy of known locations may not be sufficient to make informed tree location choices.

8. PREVENTIVE MAINTENANCE FOR SEWER AND WATER PIPES

For new construction or when a sewer or water pipe is exposed, require the joints between the lateral and the main to be sealed or wrapped in a material that protects against root intrusion.

Pros:

- The up-front investment can reduce maintenance costs in the future.

Cons:

- Recapturing costs – who pays?
- Would need to check for conflicts with the plumbing code.
- Uncertain if the long term performance of these methods has been tested.

9. ENHANCE STORMWATER FACILITY MAINTENANCE AND COMPLIANCE PROGRAM

Create a BES inspection and compliance program for stormwater facilities in order to ensure private stormwater facilities are effectively maintained, and to improve routine inspections of increasing number of public and private stormwater facilities in the city

Pros:

- The long-term performance of these facilities is dependent on oversight and education of both the public and City bureaus.

Cons:

- Cost for additional staff and associated inspection/enforcement resources.

10. COORDINATE RIGHT-OF-WAY PERMITTING

Designate a single permitting body to coordinate work within or adjacent to public rights-of-way.

Pros:

- This would allow work plans to be checked against best practices for tree preservation and avoid successive utility work in the same location.
- Would prevent conflicts and inadvertent violations in the field.
- In conjunction with other potential solution concepts identified, could help achieve Urban Forestry canopy targets

Cons:

- Agencies that currently issue their own permit would have to take additional time to coordinate with other bureaus before conducting their work.
- Specialized knowledge within each bureau makes consolidating functions difficult.

Questions:

1. Do other utility companies have authority similar to that of PGE?
2. How does Urban Forestry respond to permit applications to remove private trees (subject to Title 20) if it is argued that they are buckling a sidewalk or infiltrating sewer lines?
3. What clearance around tree branches is necessary to protect power lines?
4. Does Forestry currently consider utility placement in recommendations for street trees?

Citywide Tree Project

Policy Review and Regulatory Improvement

Issue Paper

DISCUSSION DRAFT

Coordinating Plan Review – Public/Private Infrastructure and Tree Preservation Requirements

ISSUE DESCRIPTION

Trees that are planned to be preserved in conjunction with new development are at risk from lack of coordination during permit review and construction-related issues.

BACKGROUND

The City applies a number of specific requirements for utility and other infrastructure improvements at the time new development is proposed. Depending on the scale of the development, requirements may be limited for private and public utility connections for simple "trade" permits (i.e. electrical, plumbing, mechanical trades), or may involve more complex requirements for sewer and water connections, stormwater disposal, street tree preservation or planting, and some level of tree preservation or planting on the site. For large scale developments, public street and sidewalk widening or improvements may also be required.

For very simple utility connections (a new sewer lateral for an existing house as an example), the permit application does not include a site plan. The application includes no information to determine if trees or tree roots will be affected. Further, these trade permits are typically not reviewed by planners to determine whether any tree preservation requirements apply to the site.

Where a land division review precedes new development, the City requires that proposed infrastructure improvements are reviewed so that utilities are planned, coordinated, and designed for the entire subdivision rather than on a lot-by-lot basis. During preliminary plat review, the location of streets, sidewalks, sewers, water mains, storm drain lines and drainage swales are all considered together with the preservation of selected trees on the site. In some cases, to accommodate the installation of needed infrastructure, significant grading may be required, including the construction of retaining walls and carefully tapered slopes that meet specific standards.

Following preliminary approval of the land division, the applicant submits a final plat for review. The final plat is prepared in substantial conformance with the approved land division. The preliminary approval may require specific easements and changes to rights of way dedications to be shown on the final plat. If a roadway is to be widened, or a utility easement relocated, impacts to the tree preservation plan are considered. Minor changes may not be deemed to affect trees, however in some instances the location of utility easements is not considered in light of the tree preservation plans. When a major change occurs, a review of amendments to the preliminary approval is required and an adjustment must be filed with the final plat if the tree preservation standards can no longer be met. These reviews can add several months of additional time to the process. Frequently in these cases, the applicant submits revised arborist reports that further reduce the root protection area, or acknowledge that the infrastructure construction will not be detrimental to the tree.

Whether required as part of public and private street improvements or other site improvements, site construction plans are prepared and submitted during the final plat process. The plans detail how the required infrastructure will be built and provide enough information so that the City's Infrastructure Bureaus can prepare bonds to assure their construction. The infrastructure

plans are reviewed in two parallel tracks:

- Public infrastructure, such as streets, sidewalks, water lines, public sewer lines, and public stormwater facilities are reviewed by the public works groups in the Portland Office of Transportation (PDOT), the Water Bureau, and the Bureau of Environmental Services (BES).
- Private infrastructure and on-site prep work such as site grading and retaining walls, erosion control, tree protection measures (fencing), private streets, private sewers, and on site stormwater facilities are reviewed by the private construction group of BES, as well as the Site Development and Planning and Zoning Review sections of the Bureau of Development services (BDS).

Under the current system, tree protection oversight is split between three disciplines: the Land Division Planner for the preliminary and final plat reviews (which can sometimes be conducted by two different planners), Planning and Zoning staff for Site Development Permit reviews, and the Urban Forester for public works permit reviews. This is problematic since each reviewer will have their own understanding of how the protection plan is supposed to work, none of the reviewers has a comprehensive overview over the whole process and site, responsibility for public and private trees is split between reviewers, and scrutiny of the tree protection is diluted by the large amount of other considerations on the site.

Coordinating the reviews to ensure the tree protection measures are consistent and sufficient proves to be a challenge. The Public Works permit and Site Development permit drawings are contained in two separate independent sets of plans, and are sometimes prepared by different consulting firms, depending on the size and complexity of the job.

Within each of the plan sets, site details will vary depending on the specific type of improvements under review. For private infrastructure (Site Development permits), the tree preservation information is typically shown on the site grading plan only. However, there is no consistent requirement that trees on private property designated for preservation be shown on the public works permit plans. Typically, tree protection for trees on private property is not shown unless the Urban Forester reviewing the public works permit deems it necessary.

For both public and private development permit applications, it is rare to receive a composite drawing that shows all the improvements, public and private, and tree preservation information on one sheet. Moreover, since the public and private permits are reviewed separately and by different groups of reviewers, both plans can be approved with elements that are in direct conflict with each other[1]. Nowhere in any of these plans are private utilities, such as phone, gas, cable, and electric identified (apart from their blanket public utility easement location). The private utility companies are typically not aware of the tree protection requirements, and may trench through a root zone, adding further stress to trees that was not contemplated.

If conflicts do arise and are discovered, there is no formal system of collaboration and no established priorities to resolve those conflicts. For example, one reviewer may require revisions to a sewer line or manhole location due to engineering requirements or constraints. The change may be reflected on the sewer page for instance, but not shown on the grading plan, although the change may have placed the excavation for the manhole within a root protection zone (RPZ). Since only one reviewer is responsible for that change, this encroachment into the RPZ would be missed since the other reviewers typically will not see the

[1] Spencer Meadows, LU 03-177491 and Site Development # 04-038395 SD- This site had a tree required to be preserved in the public stormwater facility and then a public works permit showed it being removed.

plans again after they have approved their part.[2] If such a change is found to impact another reviewer's approval, then additional time is spent routing the plans around and conflicting details in the plans are worked out through an ad-hoc conversation between reviewers, whose ultimate solution may impact yet another reviewer.

Review of a Site Development permit is prone to the same types of oversights as can occur with Public Works permit reviews. For example, the grading plan may require that a retaining wall be constructed within the root protection area, but unless the retaining wall is called out on the tree preservation plan, it is likely to be missed by the planner reviewing the preservation plan. Also, during site preparation, issues often arise in the field that were not anticipated on the plans, such as adjusting the location of an on site stormwater facility to account for unforeseen grading issues. The resulting field adjustments can adversely affect trees on site. These "on the fly" changes also cause concern and consternation for the public since they were not part of the public review process.

Finally, when the lots have been platted and prepared and the basic utility infrastructure has been installed, the trees to be preserved undergo one final test through the development phase: the building permit. During the building permit review, sometimes the applicant will omit the trees that are required to be preserved from the site plan. Often, trees to be preserved are shown in the wrong location (either due to inaccurate site plan preparation, or inaccurate information in the original land use application). The root protection zone may not be shown or may be shown inaccurately. Frequently, the root protection zones are set to the edge of buildings or driveways and don't account for the practicalities of construction and the excavation required to set foundation or flatwork forms. Utility conflicts with trees can also arise when the final connections to the house need to pass through a root protection zone. Also, if the initial building permit submittal does not show all the required utilities and/or the required root protection zones accurately, independent reviewers may redline these corrections on their copy of the plans, which can cause conflicts that may not be reconciled before the permit is issued. Where conflicts between the building or utilities and the tree preservation arise, the conflict is typically remedied by requiring the applicant to submit an arborist report explaining that the arborist has approved the specified methods of construction, and that the activities will be performed under his supervision. (This will be addressed in greater detail in the Tree Preservation topic papers)

SUMMARY

The infrastructure improvements proposed in conjunction with land divisions are reviewed in several stages, beginning with the preliminary land use approval, and followed by the final plat which establishes the location of utility easements and rights of way. Specific site and public works plans are submitted and reviewed concurrently with the final plat review. The final stage is the building permit review. Each stage of the reviews is performed by several different review agencies and personnel. At numerous points in that process a single inadvertent oversight, error or omission will lead to conflicts between trees to be protected and development. Construction issues that were not initially contemplated during the plan preparation or review can also harm trees that were required to be preserved. In those cases, the results are lost time, and lost trees.

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[2] Cambridge Creek Subdivision, LU 02-127947 PU EN AD, 00-00486 PU SU EN, and Site Development Permit # 20 01-144781 SD- there were other reviews that had to happen due to trees needing to be removed due to public sanitary/storm easements.

POTENTIAL SOLUTION CONCEPTS

The following criteria are intended to guide the design and evaluation of potential solution concepts.

Criteria for Solutions:

- Tree preservation planning and protections are efficient and effective.
- Tree preservation and utility/infrastructure planning should be optimized through early and creative site design.
- Site design and tree preservation plans should take into account the real impacts associated with construction and excavation.
- The plan and permit review process should be designed and coordinated to minimize unforeseen conflicts between utilities, infrastructure and trees at all stages of the process
- The solution should provide certainty to applicants and the public.
- The solution should improve coordination between infrastructure construction and tree protection.
- The solution should result in greater overall efficiency in timely reviews and downstream cost reduction.

The following is an initial list of potential solutions to address the issues described above. The intent of this section is to examine a range of possible solutions to help inform discussion with stakeholders and the development of staff recommendations and future decisions.

1. COLLABORATION MEETINGS

Hold collaboration meetings between public and private works permit reviewers to discuss major or complicated projects. The meetings would be set at regular intervals and the purpose would be to include all relevant reviewers in the discussion to resolve conflicts or raise concerns related to proposed methods of construction. The meeting room would include the necessary tools, codes, admin procedures and computer access for the reviewers to get their answers and approve the plans on the spot. Meetings could also serve as cross training opportunities if there were gaps in the meeting agenda.

Pros:

- Could be initiated currently with existing resources and minimal added cost.
- Provides a forum for the reviewers to share their interests and to discuss and resolve issues and utility conflicts. This also helps to prevent changes required by one reviewer that inadvertently impact another reviewer's requirements.
- Reduces time invested in running permits and corrections back and forth between reviewers.
- Reduces the potential for applicants to get conflicting direction from various city staff. Increases certainty for applicant.

Cons:

- Attendance on similar sorts of meetings has not been consistent. Without a means to compel a particular reviewer or group of reviewers to attend, the meetings are likely to be discontinued.
- If there are few issues to discuss, the meetings could be an inefficient use of staff time. Would need to be cognizant of developing a productive agenda.

2. ASSIGN A TREE SPECIALIST TO REVIEW PRELIMINARY AND FINAL PLATS

A staff person, familiar with the building and construction process, city requirements, and

tree health and mechanics should be involved in the preliminary land division and final plat review to ensure that proposed and required infrastructure improvements and easement locations will specifically not conflict with trees to be preserved. This reviewer could also be utilized in initial site assessment of preferred trees for preservation, and as a result would have on the ground familiarity with the specifics of the trees and other site constraints. This would enable quicker responses to situations that arise.

Pros:

- Assigning an internal reviewer who is familiar with city standards and requirements for infrastructure construction, private utility company practices, and tree issues early in the process will prevent unforeseen and inadvertent conflicts between tree preservation, and the location of utilities and other infrastructure facilities.
- If issues arise later, there is a single review authority who can respond to the problem, reducing delays in determining which reviewer will need to respond. Provides more certainty to both the public and applicant of how the issue will be resolved.
- Creates a single accountable person whose responsibility it is to look out for the tree preservation on site. This function is currently split between the land use planner for on site trees and the urban forester for street trees.

Cons:

- Assigning an additional reviewer requires staffing adding up front expense to the process.
- Does not, in itself, fully resolve conflicts during the permitting process (see next solution concept)

3. ASSIGN A TREE SPECIALIST TO THE PUBLIC AND PRIVATE CONSTRUCTION PERMIT PROCESS.

As an alternative to, or along with the solution concept above, a tree specialist would be involved primarily in the permit review stages. A single reviewer would assess the tree preservation plan for both public and private trees at the first and last stages of plan review, visit the site and sign off for both public and private works permits. The first stage of review would be to determine that the root protection zones are all shown in the correct location, and are sized correctly. The final stage would be to review all the changes that have occurred to all (i.e. BDS, PDOT, BES, Water, PGE, Gas, Phone, Cable, Power) sets of permits and reconcile any conflicts prior to permit issuance.

Pros:

- Ensures that conflicts between the parallel permit tracks are addressed early and resolved, and helps ensure that any revisions to site plans that occur through the review process do not create problems and delays in the field.
- Since the trees to be preserved are a fixed point on the site, resolving conflicts between proposed improvements and root protection zones requires an engineering solution to relocate the facility. Once those changes have been designed, the tree specialist can verify that the trees will not be impacted. This serves to maximize the tree preservation and minimize conflicts and associated delays during site preparation or development.
- Establishes a single contact for tree issues which will lead to quicker resolution of conflict, and a more comprehensive and specific evaluation of tree protection issues through the process.

Cons:

- This solution would typically require that the private and public works permits be issued simultaneously. In some cases, this could significantly delay permit issuance and construction work on the project if one permit is ready to go while the other still has unresolved issues. Alternatively, the permits could move independently, but with a single eye on the tree preservation aspect, i.e. through use of collaboration meetings as described later.
- Adds another step to the review process which means more up front time for review, but may be offset by time savings during construction and avoiding further reviews.
- Involving the tree specialist only at the permit stage may be too late, as some conflicts may be inherited by the initial site design reviewed during the preliminary plat phase.

4. DEVELOP COMPRENHENSIVE MANUAL TO GUIDE PLAN PREPARATION AND SUBMITTAL REQUIREMENTS.

Each bureau presently maintains its own list of submittal requirements for plan drawings. To assist applicants, these requirements would all be compiled into a single resource and updated in a coordinated fashion (PDOT currently has a similar manual for public works projects, BES maintains the Stormwater Manual, and BDS has a Tree and Landscape Manual for plant installation and Erosion Control Manual). The manual would likely be adopted through administrative rule rather than code, similar to other manuals in the city (e.g., Stormwater Management Manual, Erosion Control Manual). This would enable greater flexibility and ability to update over time. Any changes would be reviewed by all affected bureaus and stakeholders. A section on tree preservation and planting requirements would be included. The manual could also include minimum standards for trade permit submittals to address tree preservation issues.

Pros:

- Provides single source of information for applicants in preparing their site plans and permit drawings.
- Consolidating various bureau requirements would encourage greater coordination
- Could achieve greater consistency between plan submittals which helps speed reviews (less time spent trying to interpret plan symbols, or find particular information).

Cons:

- Unless actively updated and utilized, a manual would likely become obsolete and generally ignored by applicants and reviewers alike.
- Duplicates much of what is already available (but in various locations)

5. SHOW TREE PRESERVATION INFORMATION ON <u>ALL</u> PLANS AND PLAN SHEETS

Require tree preservation and protection details and root protection zones to be shown on each drawing page for all permit packages, public and private.

Pros:

- Would alert reviewers to presence of tree preservation priorities and tree protection areas and highlight construction conflicts in these areas.

Cons:

- Reviewers may not feel compelled to take notice of conflicts on their plan sheets, especially if they are reviewing for technical details like adequate pipe sizing and do not see tree preservation as one of their priorities.

- Tree preservation areas may not be shown consistently or accurately from one sheet to another.

6. COMPOSITE PLAN SHEET.

Require applicants for public works and site development projects to prepare a single composite plan sheet showing proposed work to occur on a site (including grading, public improvements, retaining walls, stormwater facilities, public and private utilities, private streets and driveways, etc.) and the required root protection zones all on a single sheet. This would indicate whether any work was going to occur in or adjacent to the root protection areas. This information is in addition to the plans already submitted.

Pros:

- Would help reduce or eliminate conflicts between one approved set of plans and another, as well as reduce or eliminate conflicts between different plan sheets for different types of infrastructure improvements.
- Indicates at-a-glance if any proposed work is to happen in root protection areas. This serves as a final check for an applicant prior to submittal, and a first check for staff before getting deep into the review process.
- For complicated sites this solution would require basic and early coordination between multiple consultants involved in the plan preparation.

Cons:

- Problems would likely continue to occur as reviewers require changes or redline corrections that change the location of certain elements unless new composite plan sheets were required as well.
- Could create a reliance on the composite plan on the part of staff to ensure that the root protection zones do not have encroachments. For example, if a layer of improvements (e.g. sewers) is left off the composite plan sheet but is reviewed and approved separately on the sewer plan sheet, and the sewer line runs through a root protection zone, then the existing coordination problem persists.
- There are additional costs to preparing this plan for applicants that don't produce plans using automated programs such as CAD, and for projects where multiple consultants are involved in the plan preparation (but such coordination may be even more essential in these cases)

5. CONSOLIDATED PUBLIC AND PRIVATE WORKS PERMIT SUBMITTAL.

Combine public and private permitting into a single permit package for review. This is a slightly different approach from the composite plan or single tree reviewer solution, whereby all the information for the entire suite of infrastructure improvements is represented in a single package rather than shown on a single sheet. The reviewers would only review and approve their particular area of responsibility, but would have all the information in one place for contextual reference. (Similar to current system of combined Site and Building Permits)

Pros:

- Reviewers would be more aware of other related improvements that would not be part of their normal purview.
- Reviewer responsible for tree preservation can cross reference proposed public and private works activities with tree preservation/protection plans to ensure that there are no conflicts with root protection zones.

Cons:

- This solution, in some cases, could create large and unwieldy set of plans. Since each reviewer would see the combined Site Development and Public Works plan sets, the amount of paper used in the plan sets is increased significantly.
- Reviewers may not use the information contained on the other sheets. In other words the additional cost is not leading to a direct benefit.
- Does not resolve the conflicts only makes them known. For instance, if a utility line is shown through a tree preservation or environmental resource area, what forum exists to resolve the conflict? Who specifically is charged with resolving the issue?

Citywide Tree Project

Policy Review and Regulatory Improvement

Issue Paper

DISCUSSION DRAFT

Overview of Tree Preservation Issue Papers

The following four issues papers consider existing regulations pertaining to tree preservation and development. Tree preservation is often a requirement of the Land Division process; is one option to meet landscaping requirements for new residential development; and can be required by the Urban Forester with regard to street trees adjacent to development sites. In a number of similar development situations, there are no tree preservation requirements. To neighbors and the building community, these differences between when tree preservation is required and when it is not can appear arbitrary. From the perspective of the development community, tree preservation requirements do not provide sufficient flexibility in the field. The existing tree preservation regulations do not foster innovative site designs that optimize and integrate tree preservation and development.

Issue Summary

While increasing the urban forest canopy through development is a goal of Portland's Urban Forestry Management Plan, the loss of trees associated with development has generated considerable public comment and controversy. Tree Preservation Plans emerge from land divisions and/or residential building permits and require tree protection measures. However, a number of inconsistencies and implementation issues have been identified that often result in the removal of significant groves of trees and large, native trees.. The current regulations fail to consider impacts from development on trees located off-site and can result in preservation of low-value ornamental trees while more desirable trees are allowed to be removed. Further, the required protection measures can add complexity and cost to the development of constrained sites, but are not effective at eliminating unintended harm to the trees.

When existing trees are preserved either through a land division review or through the building permit process, existing tree protection measures have proven to be inadequate to prevent harm from occurring to trees during the many construction-related activities that must be coordinated during the building process. However, because any damage that occurs during development may not result in immediate failure, when a tree designated for protection dies several years later it is difficult to determine if it is as a result of building activities, later actions by a homeowner, or another unrelated cause.

The attached issue papers consider each of the following specific topics in turn:

- Tree Preservation in Land Divisions
- Tree Preservation in New Single Family Residential Development
- Tree Protection Fencing Requirements
- Loss of Significant Trees

Citywide Tree Project

Policy Review and Regulatory Improvement

Issue Paper

DISCUSSION DRAFT

Tree Preservation in Land Divisions

ISSUE DESCRIPTION

Land division regulations in the Portland Zoning Code (Title 33) require tree preservation on sites that are to be divided. The regulations provide 5 options to preserve trees during development if feasible, and mitigation options for the loss of trees when it is not. Maintaining the City's beauty and natural history are cited in the regulation's purpose statement along with recognition that trees provide ecological services and increase property values. The purpose statement also emphasizes the value of large trees and native trees.

The overarching goal of the requirement is to address tree preservation within the context of site design and lot layout at the land division stage, before development begins. The land division application submittal must include a tree map, an arborists report and a tree preservation plan.

The current regulations do not direct an applicant to gather information about existing trees and preservation potential prior to designing their site. Tree preservation plans are instead produced in the context of preferred development. This focus on the presumptive development plan during the tree survey can also encourage the forgoing of preservation in favor of the mitigation option, or the broad interpretation of tree exemption criteria to reduce the number of trees subject to regulation.

Developers have expressed concern that the existing regulations and implementation require a greater cost than the benefits they provide, noting that extreme measures are required to save trees to meet the numerical standards of the tree preservation rules rather than the intended purpose of the Tree Regulations.

BACKGROUND

Tree preservation regulations were introduced with the Land Division Code rewrite project in 2002. Zoning code requirements already required tree preservation, planting, or payment into a fund at the time of single family residential construction (the T1 landscaping standard). Provisions were introduced into the land division regulations with the intent of ensuring that trees on the site are considered and addressed in the design and layout of the land division, including an allowance for a limited reduction in minimum density for the purpose of retaining trees. Mitigation options were also included to prevent conflicts between minimum density requirements or other service-related standards including street connectivity, and tree preservation.

Tree Preservation Process in Land Divisions

Tree preservation is required for land division proposals (except for the portion of sites within environmental zones[1]) where at least one "significant" tree[2] or a tree at least 6 inches in

[1] Sites within an environmental overlay zone are instead subject to the Environmental Overlay regulations of 33.430 which define a 'disturbance' area and a 'resource' area delimited by tree protection fencing.

[2] Significant Trees are listed in Table 630-1 which calls out threshold sizes by species, ranging from 2-inch diameter for the rare Pacific Yew to 18 inches for the Douglas fir and 20 inches for any species not listed as a nuisance or prohibited on the Portland Plant list.

diameter exists on a site. To meet the tree preservation requirements, a tree map, Arborist Report and Tree Preservation Plan are submitted as a part of the land division application along with a Preliminary Site Plan. The code does not require trees to be surveyed or rendered on a plan with the same precision as is required for the site plan. This can create incongruities between the Tree Preservation Plan and the Preliminary Site Plan that are not discovered until conflicts arise in the field.

Tree preservation requirements apply to all trees not deemed 'exempt' on a site. Trees are exempt if an arborist identifies them as dead, diseased or dangerous. In addition, a tree is exempt from tree preservation requirements if it is on a property line, on the nuisance or prohibited plant list, within 10-feet of a structure to remain, in an environmental zone, or is less than 6 inches in diameter and not listed as a significant tree (33.630.030). It is not unusual for a large number of the trees on a site to be exempt from the tree preservation requirements.

Current exemptions are broadly defined and some arborists have indicated that they consider the presence of proposed development when ascribing hazard status. In addition, because these exemptions are defined broadly, differing interpretations can result, and there are no clear mechanisms for resolving disagreements about the status of the trees if they arise. Review staff lack the expertise to identify hazard trees, and at best may consult with the city forester to verify such trees on a site.

The tree preservation requirements apply to non-exempt trees. Several options are provided to allow flexibility in site design. The first option, to preserve 35% of the total diameter at breast height (dbh), is the most commonly selected[3]. Additional options encourage the preservation of significant trees but are less frequently used. These options include preserving various combinations of significant trees and tree diameter on a site, or 35% canopy on the site if it is larger than one acre.

Smaller land division sites (15,000 square feet or less) frequently use a mitigation option that allows alternatives to tree preservation because preserving trees would impact the ability to provide a "reasonable building site" on each lot. It is important to note that the city allows single-family homes in areas zoned for multi-family development. Whereas multi-family or clustered site design might provide an opportunity to design with the existing trees, city staff has no authority to direct applicants in this manner if they choose to develop single-family homes on sites less than 15,000 square feet in area[4].

Because these tree preservation regulations are non-discretionary standards, the reviewing planner has little authority to request or require site design changes that would better meet goals for tree preservation (e.g., preserve the largest trees or a cluster of trees). Inspectors report that they frequently see marginal or unhealthy trees being protected, presumably because the trees are in a location where no development will occur.

POTENTIAL SOLUTION CONCEPTS

The following criteria are intended to guide the design and evaluation of potential solution concepts.

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[3] For example, if a site has four trees that are 10-inches in diameter, but one is on the property line and another is deemed a hazard by the arborist, the total non-exempt dbh would be 20 inches and the applicant could meet the standard of Option 1 by preserving 7 inches of dbh, which would be possible with one of the two remaining trees.

[4] 33.630.300 the Mitigation Option has three criteria: A. Preserve as many trees as possible; B. Submit a mitigation plan; C. Demonstrate that it isn't possible to meet tree preservation requirements and other service requirements, except for sites under 15,000 square feet which are allowed an easier finding to meet this criteria if a practical arrangement of lots isn't possible while meeting the tree preservation requirement.

Criteria for Solutions:

- The solution should promote the consideration of alternative site configurations to design with trees where practicable.
- The solution should facilitate the and improve the reliability of preservation for mature or healthy trees
- The solution should ensure that the city maintains adequate oversight throughout the land division process, and is accountable for effective implementation of the regulations.
- The solution should foster productive, professional relations with arborists.
- The solution should confirm and clarify city goals for tree preservation and mitigation.
- The solution should encourage urban forestry goals as a component of site design.
- The solution must be enforceable and discourage violations.
- The solution should not create an incentive to violate.
- The solution should include sufficient resources to be effective (avoid unfunded mandates).
- The solution should be easy to understand and communicate to professionals and lay people alike.

The following options represent an initial list of potential solutions to address issues outlined above. The intent of this section is to represent a range of options, each with different strengths and limitations, and to provide a starting point for discussion.

1. ESTABLISH RECOGNITION PROGRAM

Create a recognition program for builders/developers who successfully design around trees. The Arbor Day Foundation and the Oregon Community Tree Group have recognition programs for tree preservation and development design. This could be aided by a Portland-specific design competition highlighting possibilities for site design around existing trees using alternative development option such as common greens, tree tracts and courtyard housing.

Pros:

- *An incentive based program provides visibility for applicants who preserve trees and a means of publicizing techniques of designing to accommodate tree preservation.*
- *A 'peoples' choice' award could assist in developing good will between neighbors and the development community.*

Cons:

- *Uncertain impact on overall tree preservation*
- *Would not address the majority of developments and the cumulative loss from incremental tree cutting.*
- *Additional cost for unknown effect.*

2. CLARIFY 'EXEMPT' TREE CRITERIA

Provide greater clarity regarding the criteria used to determine if trees are exempt from tree preservation requirements. Goals of providing definitions would be to reduce uncertainty, provide standardization, and save trees while more clearly addressing hazard trees. This clarification might include:

- ~~Use ISA standards and definitions~~
- Require an 'Exempt Tree' Checksheet

- Require protection for adjacent off-site trees within a certain distance of the proposed development (which are currently exempt from protection)

Pros:

- *This solution would provide more guidance for planners, urban foresters, developers and arborists regarding the intention of the code with regards to conditions that make a tree exempt from tree preservation.*
- *The solution would broaden the application of tree preservation requirements to both on- and off-site trees*

Cons:

- *Revising the exemption standards might make the standard more complex and confusing, and harder to understand.*
- *Involving off-site trees could raise complicated ownership and access issues.*

3. REQUIRE PRE-APPLICATION TREE ASSESSMENT

Require a pre-development assessment for trees on a site to determine the status of existing trees and which trees or groups of trees would be best for preservation (The overarching issue of the role of the arborists in tree policy is addressed in another issue paper). At time of application, plans would need to show and describe how the site design optimizes tree preservation and development. Combined with Early Assistance Meetings this solution could help prevent problems, reduce uncertainty during the review, and would encourage the examination of alternate design options before development plans are set.

Pros:

- *An objective report of tree conditions and long-term viability would provide City staff with a starting point in working with applicants to design their sites with effective tree preservation in mind.*
- *More clarity around tree conditions and preservation possibilities prior to submitting a Land Use application would expedite the initial review and likely reduce subsequent Tree Reviews or Violations.*

Cons:

- *This would add a step and cost to the Land Division process.*
- *If person doing the pre-development assessment is different from the project arborist, there would need to be mechanisms to resolve disagreements or changes.*
- *Does not address tree preservation challenges for development other than land divisions, or tree protection issues that occur during construction.*

4. EXPAND REVIEWER ROLE FOR URBAN FORESTRY

Increase the role and participation of the Urban Forester in the review of land divisions (and potentially other types of reviews). The Urban Forester would provide comments on arborist reports, development plans and to do site visits.

Pros:

- *Arborist expertise resides with the Urban Forestry division of the Bureau of Parks and Recreation and could more consistently be brought to bear in development review.*

Cons:

- *This solution would also require a mechanism to resolve conflicts between the Urban Forester and the project arborist.*

- *This solution would require either an increase in funding for Forestry inspectors or an increase in fees to pay their costs.*

5. PROVIDE ARBORIST TRAINING FOR PLANNERS AND INSPECTORS

BDS planners and inspectors rarely are trained in tree identification, health assessment or protection techniques, which limits their ability to evaluate or critique arborists' reports and tree preservation plans.

Pros:

- *Such training would improve communication between city staff, applicants and their arborists, would help prevent conflicts, and result in more effective tree preservation plans.*

Cons:

- *Additional training will not make planners and inspectors into arborists.*
- *Currently, the lack of site visits by planners during and after construction, limits the ability of reviewers to know how well the effectiveness of protection methods are.*

6. ESTABLISH QUALIFIED STAFF "TREE REVIEWERS"

As a part of Land Use Reviews, designate a staff tree reviewer to provide technical expertise in a manner similar to Transportation's street review and Environmental Services' sewer review. Tree Preservation Plans and Arborist Reports would be reviewed alongside the other development plans (Site Plan, Clearing and Grading Plan, etc.) by a person with specific knowledge and expertise to assess potential conflicts and opportunities to preserve trees. Tree reviewers would provide comments on land divisions and provide consultation to planners if issues arise.

Pros:

- *Provides early and ongoing technical review of preservation and construction methods proposed by the applicant which would increase the city's accountability for achieving tree preservation goals.*
- *Would increase consistency in city reviews of arborists reports and tree preservation plans.*
- *Would improve city effectiveness in encouraging tree preservation through site configuration.*

Cons:

- *Would increase the cost of the review.*

7. INVENTORY AND DEVELOP AREA-SCALE TREE PLANS

Begin to map and track large stands of trees that will likely be affected by future land divisions and create a desired tree preservation plan (similar to PDOT's map of desired street improvements). This type of plan could foster preservation of tree groves that span several sites and owners. This approach could complement city efforts to protect important natural resources through restoration, willing-seller land acquisition, and regulatory programs (e.g., environmental overlay zone). Combined with a density transfer option, applicants could 'pool' their tree preservation and shift development away from significant groves.

Pros:

- *Would help address significant groves of trees that are often spread across several tax parcels.*
- *Preserving a stand at the corner of several Land Division sites can increase tree retention, while reducing the impact on development potential for singular sites.*
- *Begins to address the issue of the cumulative effect of small divisions on overall tree canopy.*

Cons:

- *Could create additional complexity in tree preservation and in determining development potential.*

8. STRENGTHEN MITIGATION CRITERIA

Limit use of the mitigation option, except as a means to reach minimum density and/or tighten the test for "practicable arrangement of lots."

Pros:

- *This solution would encourage applicants to configure sites using the full range of available housing types to preserve trees. (Discussions regarding this issue and others that arise regarding density and development can be passed onto the Portland Plan for further consideration.)*

Cons:

- *Limiting the ability to qualify for mitigation instead of meeting tree preservation requirements might hamper the ability of applicants to meet development potential on small lots.*

9. APPLY TREE PRESERVATION REQUIREMENTS AT THE BUILDING PERMIT STAGE

Allow only the removal of trees necessary for streets and utility construction at the land division stage and move tree preservation to the building permit stage. At the time of lot development, include tree preservation in menu of choices that relate to sustainability and environmental goals. Provide incentives (increased density, fee reductions) to encourage incorporation of tree preservation and other measures in the proposed development.

Pros:

- *This solution attempts to elevate the 'value' of trees within the development equation to make tree preservation a more meaningful exercise for owners and builders.*
- *Moving tree preservation to building permit stage would make review of preservation plans more tangible.*
- *The solution could tie in with other green building techniques and options*
- *The elimination of the land division requirement would simplify land division review.*

Cons:

- *Does not resolve the tension between tree retention and development on constrained sites*

10. POST SITES WITH APPROVED SITE PLANS, TREE PRESERVATION PLANS, AND CONTACT INFORMATION

Post sites with standard information. Include approved lot configuration, roads, and trees to be preserved and removed. Provide contact information for city staff, developer, contractor and/or arborist.

Pros:

- *Helps inform neighbors and prevents misinformation or confusion*
- *Helps inform contractors of requirements.*

Cons:

- *Time and materials costs.*

Questions or Additional Information Needed:

1. Generally, what is the breakdown in Land Division cases between sites that don't need to meet the tree preservation criteria, and those that use options 1-4 versus those that use the mitigation option?
2. What proportion of approved tree preservation plans are revised, and for reasons?
3. Why is the Land Division 35% tree preservation option chosen most frequently?
4. Does the LEED program provide points for saving large trees?

DISCUSSION DRAFT

Tree Preservation in New Single-Family Residential Development

ISSUE DESCRIPTION

New single family residential development is required to address trees by meeting the T1 landscape standards. These standards require either the preservation of existing trees, the planting of new trees, or payment into the city's Tree Fund[5]. However, in meeting T1 requirements, tree preservation is rarely chosen.

BACKGROUND

During the SW Community Planning process in the mid-1990s, citizens testified that sites were being cleared of all trees before houses were built. They felt that regulatory oversight was necessary to address trees as a part of development review. Concerns included increased erosion, loss of significant habitat, loss of privacy and negative impacts to neighboring trees and property values. Following the Southwest Community Planning efforts, a zoning standard (33.248.020.H, the T1 standard) was created to ensure new single dwelling development (houses, attached houses or duplexes) also includes tree preservation, planting or payment into the Tree Fund.

Tree Preservation Process to meet T1 requirements

New single family residential development is required to meet the T1 requirements of the landscaping chapter. The regulation can be met in one of three ways:

- Preserve existing trees
- Plant new trees
- Payment (in lieu of the first two options) into a tree fund.

The first option, to preserve trees, requires two inches of tree diameter per 1000 square feet of site area. The regulation allows an applicant to count trees that straddle their property lines as well as their neighbors' trees within 5 feet of a property line. No additional incentive is given to preserve large or native trees.

Existing trees count inch-for-inch toward the requirement, but must be protected from construction activities as a site is developed. A 6-foot high fence (plastic or chain-link) is required around the root protection zone, which is placed 1-foot away from the tree trunk (as opposed to the drip line) for every 1-inch of tree diameter. A 10-inch diameter tree would have a fence with a 10-foot radius around it.

The second option allows all trees and vegetation to be cleared from the site in preparation for building, and requires the planting of 2 caliper inches of tree per 1,000 square feet of site area.

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[5] Additionally, development that occurs within the overlay zones including the environmental and greenway overlay zones, and several Plan Districts and Natural Resource Management Plan areas also regulate tree cutting and require tree protection measures.

For a 5,000 square foot site, 10 caliper inches of tree must be planted; an exception is made for sites 3,000 square feet or smaller where 3 caliper inches are required. The minimum required size of a new tree is 1.5 inches in diameter – conifers are measured by height and must be 5 feet high. This option is the one most frequently chosen.

The third option allows the applicant to pay into a tree fund in-lieu-of preserving or planting any trees. Paying into the tree fund is currently set at $150 per required caliper inch.

Implementation Problems

Information from Bureau of Development Services (BDS) planners suggest that the majority of developers choose to plant new trees rather than save existing trees or pay a fee in-lieu-of preservation or planting. BDS staff estimates that approximately 90 percent of the new housing development they review includes new trees, with about 7-10 percent of new development choosing to preserve existing trees and less than 1 percent choosing the in-lieu fee.

In some situations, such as on smaller lots, valuable trees worth saving are located where the roots may be impacted by the development. In such cases, the applicant can hire an arborist to provide an alternate root protection zone that provides more room for development. The formula for the root protection zone (RPZ) was developed by an arborist and is a simplified application based on a more complex calculation that takes into consideration the tree height, species, and health. An arborist or landscape architect may propose an alternative, smaller protection area based on site-specific factors. The zoning code allows this flexibility in order to preserve trees on small or complex sites. However, the alternative option is rarely used because developers hesitate to spend the additional money and time required to bring an arborist to the site to seek a modified protection zone that the developer is then responsible for should a violation occur. In contrast, the expense of purchasing new trees is moderate, can be scheduled during the construction phase so it doesn't hold up the building permit, and there is little risk of violating tree-related codes. For an applicant, hiring an arborist adds cost and time to the building permit process and protecting trees can limit the house footprint and construction activity on the site.

Interviews with staff suggest that developers view the root protection requirements as a disincentive to preserving trees because they perceive the root protection zone as too large. Conversely, some arborists suggest that the root protection zone is not large enough to adequately protect the tree, and are concerned that trees are fatally damaged during the construction process. Arborists also say that the fencing requirement does not stop contractors from removing or running over the fence. Inspection staff regularly find the fence gone, on the ground during construction, or materials stockpiled within the RPZ.

Preservation of existing trees count inch-for-inch toward the requirement, and on the average city lot of 5,000 square feet only one 10-inch tree would need to be retained to meet the standard. Citizens have pointed out that this does not achieve any significant tree retention, since all the other trees can then be removed. Many of the trees being removed are 18 inches or larger.

The fee in lieu option is not frequently used since the fee is roughly equivalent to the cost of obtaining new trees. Also, depending on the species of tree, the fee may be greater than planting new trees. Generally, this option is considered only where the resulting number of trees is extraordinary and there is inadequate room to plant the required number of trees. Neighborhood advocates have pointed out the tree fund does not channel dollars for tree planting directly back to the neighborhoods where trees have been removed.

POTENTIAL SOLUTION CONCEPTS

The following criteria are intended to guide the design and evaluation of potential solution concepts.

Criteria for Solutions:

- The solution should foster the consideration of alternative site configurations to design with trees where practicable
- The solution should facilitate the preservation of mature or healthy trees or groups of trees
- The solution should allow the city to maintain adequate oversight and accountability
- The solution should confirm and clarify City-adopted goals for tree preservation and mitigation.
- The solution should be equitable, ensuring that in-lieu payments to the tree fund dollars are channeled to areas where trees have been removed or that are tree deficient.
- The solution should encourage urban forestry goals as a component of site design
- The solution must be enforceable and discourage violations
- The solutions should include sufficient resources and adequate tools to be effective (avoid unfunded mandates)
- The solution should be easy to understand and communicate to professionals and lay people alike.
- The solution should reflect and be able to achieve the intent stated in the purpose of the regulation, including preservation of existing trees and protection of the root zone, while also providing regulatory balance.

The following options represent an initial list of potential solutions to address issues outlined above. The intent of this section is to represent a range of options, each with different strengths and limitations, and to provide a starting point for discussion.

1. **LINK THE REPLANTING (LANDSCAPE) STANDARD TO THE TREES TO BE REMOVED**
   Require replanting of trees based on the number, size, and species of trees that were removed, not including the trees within the building footprint, species on the nuisance list, and 10 feet away from the building footprint. This option is similar to the environmental development standards and the tree standards within the Johnson Creek South Subdistrict and Floodplain Subdistrict.

   ***Pros*:**
   - *The option would better compensate for the loss of trees than the 2 inch per 1000 square feet of site area standard.*
   - *This option would serve as a disincentive to tree removal by requiring replacement for each tree that is removed, except for those in the area to be developed.*

   ***Cons*:**
   - *The remaining area after construction of the house may leave little area to replant trees based on the number, size and species of trees that were removed.*
   - *May encourage clearing of sites prior to building permit review.*

2. **PROVIDE INCENTIVES FOR PRESERVATION**
   Determine a value per tree based on species and size, and provide a credit or some other monetary reimbursement (in several possible iterations, SDC credits, etc) to the developer directly proportional to the size of the tree to increase the likelihood of tree preservation (i.e.,

make it too valuable to cut down). This solution would require additional follow-up to confirm that the tree remained.

***Pros*:**

- *The provision of a monetary incentive to preserve trees establishes a positive approach to tree preservation, in that it recognizes the value of the tree and attempts to "reward" developers who choose to retain trees on a site.*

***Cons*:**

- *This option would have to provide a high monetary incentive in order to prevent the removal of trees on a site.*
- *The credit or reimbursement would have to mirror shifts in land value. It could also lead to a reduction in city revenue if the credit comes out of other city fees, such as the SDCs.*

3. CREATE A TREE PRESERVATION REQUIREMENT FOR DEVELOPMENT

Eliminate T1 landscaping standard which allows applicants to choose between preservation and replanting, and replace with a requirement that a certain number/percentage of trees be preserved if outside the building or development footprint.

Pros:

- *This would require preservation and encourage planning with trees as an initial site design component.*

Cons:

- *Could encourage larger building footprints.*
- *Difficult to administer given the wide variety of sites that are available for development.*

4. ALLOW ZERO FRONT SETBACK TO ENCOURAGE TREE PRESERVATION

Similar to the environmental overlay zones, allow structures to be built closer to the front property line when there is potential to preserve trees in the middle or rear of the property. Also consider providing reduced (not to zero) side and rear setbacks on flag lots or in zones with 10 foot setbacks, and additional approval criteria for adjustments to further reduce side and rear property line setbacks, when the purpose is related to tree retention.

Pros:

- *This provision would allow some flexibility when locating structures on a site.*

Cons:

- *The flexibility is limited for small sites and may not be that useful.*
- *Adjustments require a fee and take a minimum of 8 weeks to process and property owners find the process too costly and time consuming.*

5. <u>EARMARK TREE FUND PAYMENTS TO AREAS WHERE TREE LOSS IS OCCURRING</u>

Add specific instruction to the administrative rules governing the tree fund (option three, pay into a tree fund in-lieu of preserving or planting trees for new single-family development) to direct funds to areas where the option is used (eg, trees are not being preserved or planted).

Pros:

- *This provision would recoup some of the tree loss in areas where preservation or planting is not occurring.*

Cons:

- *The tree fund option is not frequently used, so it may not help areas that are loosing trees for other reasons.*

Questions or Additional Information Needed:

1. Research tree preservation/root protection in other jurisdictions.
2. What are other possibilities for tree preservation associated with development?
3. Should tree preservation be expanded to include all base zones, not just residential development

DISCUSSION DRAFT

Tree Protection Fencing Requirements

ISSUE DESCRIPTION

Tree protection fencing is required for trees identified to be preserved through the land division process or single family development process (using option 1 for new SF development). The requirement has been problematic to implement and enforce as construction vehicles regularly run over the plastic fence and metal fences are moved away from the tree to allow construction vehicles by and to stockpile materials within the root protection zone. There is significant potential for harm to trees designated for preservation on a site and on neighboring properties arising from site preparation work and construction activity.

BACKGROUND

Implementation of tree preservation plans, whether developed as part of a land division, to meet T1 landscaping standards, or other land use reviews (environmental and greenway) consists of tree protection fencing[6] and in some cases, other measures required by the project arborist to achieve the goals of protecting the trees. These measures are stipulated as conditions of approval of a land division[7], environmental review[8], greenway review, or as a requirement of a building permit[9].

Implementation in the field

The present implementation of these measures in the field is not effectively serving the intended purpose. Title 33 requires placement of the fencing prior to any clearing, grading, or construction activity and that it remain in place until construction is complete. This is not verified in the field until the erosion control inspection as a part of a building permit is conducted. In practice, work often begins on a site before the tree protection fencing is in place – including demolition, clearing and grading, staging, excavation and soil stockpiling, etc. Further, the

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[6] 33.248.068 B. Construction fencing. - A construction fence must be placed around each tree at the edge of the root protection zone. The fence must be placed before construction starts and remain in place until construction is complete. The fence must meet one of the following:
1. The fence must be 6-foot high orange plastic and be secured to the ground with 8-foot metal posts, or
2. The fence must be 6-foot high steel on concrete blocks.

[7] 33.630.200.B. Tree preservation plan. - Trees that will be preserved on individual lots must be permanently preserved through a tree preservation plan, as specified in Section 33.248.065, Tree Preservation Plans. Trees to be preserved must be healthy and the tree, including the root protection zone, must be outside of areas proposed for structures, services, and utilities. For the purposes of this chapter, the tree preservation plan must be completed by an arborist or landscape architect.

[8] 33.430.240.B.2. Construction management plan. Identify measures that will be taken during construction or remediation to protect the remaining resources and functional values at and near the construction site and a description of how undisturbed areas will be protected. For example, describe how trees will be protected, erosion controlled, construction equipment controlled, and the timing of construction

[9] 33.248.020.H.1. T1, trees. Intent. The T1 standard is a tree requirement for new residential development. It encourages the retention of trees, minimizes the impact of tree loss during development, and ensures a sustained tree canopy in Portland.

plastic fencing is easy to ignore and push over, while the metal fence on cement blocks can be moved out of the way, resulting in premature removal of the protection measures for the tree and root zone. The plastic fence can and has been observed to end up under stockpiled materials or simply wrapped around the tree trunk.

Activities not allowed within the required root protection zone (RPZ), such as construction vehicle maneuvering, material stockpiling, and foundation excavations can occur as a result [10].

Additional impacts on trees can occur in conjunction with grade changes for storm drainage, public improvements, stormwater swales, or landscaping that are allowed prior to final plat or building permit approval. Trenching for sprinkler systems and private utilities such as cable, phone and gas may take place without addressing the RPZ. Finally, the staging or storage of materials and equipment during construction, or vehicle maneuvering can damage tree roots when tree protection fencing is either not in place or has been shifted.

Violations

Enforcement of tree protection requirements occurs primarily through site inspections connected to building or site development permits, or in response to complaints from the public. The remedy for majority of situations is replacement of the tree protection fencing in the appropriate location, sometimes after the tree has been damaged. In some cases, an arborist report may be required to document that the tree was not harmed. In the most severe cases involving the removal of protected trees, a tree violation will result in a mandatory land use review that will require alternative trees to be protected and/or require mitigation plantings. This topic is discussed in more detail in another issue paper: Violations and Penalties.

POTENTIAL SOLUTION CONCEPTS

The following criteria are intended to guide the design and evaluation of potential solution concepts.

Criteria for Solutions:

1. The solution should result in effective tree protection.
2. The solution should ensure city maintains adequate oversight and accountability
3. The solution should establish clear enforcement guidelines.
4. The solution should discourage violations and should not create an incentive to violate.
5. The solutions should include sufficient resources to be effective.
6. The solution should be easy to understand and communicate to professionals and lay people alike.

The following options represent an initial list of potential solutions to address issues outlined above. The intent of this section is to represent a range of options, each with different strengths and limitations, and to provide a starting point for discussion.

1. METAL TREE PROTECTION FENCING WITH SIGNS

Require metal fencing and signs around the root protection zone. The option for flexible plastic construction fencing contributes to the ignoring of root protection zones, particularly by sub-contractors or operators of heavy equipment. Signs on the fence might contain the

[10] 33.248.068.C. Development limitations. Within the root protection zone the following development is not allowed: 1. New buildings; 2. Grade change or cut and fill during or after construction; 3. new impervious surfaces; 4. Utility or drainage field placement; 5. Staging or storage of materials and equipment during construction; and 6. Vehicle maneuvering areas during construction.

tree protection plan and any alternative tree protection measures as well as contact information for the applicant and the relevant city numbers.

Pros:

- *Rigid fencing difficult to remove or walk and drive over would better establish the RPZ as clear boundary.*
- *Information for both contractors and neighbors about the tree protection plan could reduce encroachment into RPZ's and reduce the number of calls that aren't violations.*

Cons:

- *There will be some increase in costs to developers to rent and install the fencing and provide signs*
- *Rigid fencing does not conform to a site as well as plastic fence to account for slope, etc.*
- *Rigid fencing requires ground penetration which could harm tree roots*

2. EXPAND TREE PROTECTION OPTIONS

Explore additional options for root protection/tree protection requirements, such as placing bark chips and plywood over the top of the root zone, mandatory chain-link fence around root zone, etc. The options should only call for available materials and reflect techniques that have been used in other jurisdiction and/or are approved by arborists and tree experts.

Pros:

- *Having a broader menu of options for protecting trees and root zones, might encourage developers to preserve trees on-site.*
- *These techniques might reduce the construction-related damage to trees by construction.*
- *This option may provide additional flexibility in the field to accommodate construction activity.*

Cons:

- *Allowing multiple options for tree protection makes it more difficult for inspection staff (could be addressed by hiring more staff with tree-related expertise).*

3. RPZ BUFFER

Include a buffer area beyond the required RPZ to account for excavation and form setting (an additional 3 feet for construction access beyond the perimeter of the standard RPZ where buildings and other improvements cannot be located).

Pros:

- *The realities of construction are considered and addressed earlier in the process, and the fence can be kept in one place.*

Cons:

- *Would be just as difficult to enforce as the current RPZ*
- *The RPZ is already supposed to account for excavating, etc.*

4. Create a simpler enforcement process for RPZ violations.

Instead of a land use review, require a an arborist to assess the situation, identify remedies and provide a follow-up report after the remediation takes place. Hold further inspections on work until the remedies and/or penalties are approved.

Pros:

- *This could speed remedies on the site.*
- *Eliminate the use of the land use review process as a "punishment" (although it may be need to revise the tree preservation plan if trees are damaged enough to need replacement)*
- *The hold on inspections would delay completion of the project until the potential damage to the designated trees was addressed.*

Cons:

- *It may be difficult for arborists to assess whether damage has occurred, in part because damage may not be visible or predictable.*
- *The arborist is in a client relationship with the developer and may be uncomfortable having a role in delaying the project.*

5. BOND FOR PRESERVED TREES

Require a bond for trees slated for preservation or to address violations. After a set time period, the bond would be released after a follow-up inspection to confirm tree health. The bond would account for the value of the tree and costs of potential removal. If the trees are healthy, the bond may be released. If not, the city would claim the bond, remove dead or diseased trees, and replant or channel the bond into the tree fund. Note: the timeframe could be made the same as the warranty for other infrastructure a developer is responsible for such as public works items.

Pros:

- *This would provide an incentive to implement tree preservation plans.*
- *It places future health and viability of trees designated for preservation back into the hands of developers.*
- *This would increase the city's accountability for meeting the intent of the tree preservation requirements.*

Cons:

- *A range of impacts on trees can occur over time and it may be difficult to determine when to release or claim the bond.*
- *The measure would only work if true valuations of mature trees were used to create a significant disincentive for harming trees.*
- *Developers would be responsible for tree health beyond the point in time when they have sold the property. Impacts on trees may be caused by subsequent property owners*
- *It may be difficult or impossible to track down the developer years after the development is completed.*

6. TREE PROTECTION OUTREACH VIDEO

Develop a tree protection information outreach video targeted to developers, contractors and workers, similar to that done by the Texas Forest Service. Post it on-line and play it on the DSC waiting area television. Tree trimming, tree maintenance and regulatory information could also be disseminated via this outlet. This might be an appropriate project for PSU class or seminar

Pros:

- *Waiting area of the DSC already has a TV*

- *Video could be created and produced locally with distribution primarily via the internet*
- *Tie Oregon identity via natural beauty to home prices and trees as amenities that require observing preservation protocols*

Cons:

- *Production costs if professionally done*
- *Can become outdated as codes or implementation practices change*

7. ARBORIST OVERSIGHT AND REPORTING

Require arborist to remain present on-site, and sign-off for each stage of ground disturbance (utility installation, clearing and grading, foundation work, landscaping work). A program analogous to the BDS Special Inspection Program could serve as a model. Arborist reports could be required before certain building inspections can be requested. Tracking preserved trees through the permitting and inspection process requires greater coordination than currently exists, but is also the subject of projects and improvement initiatives within BDS.

Pros:

- *Increases accountability and makes greater use of arborist expertise*

Cons:

- *This would generate additional steps for land use and permit approval processes requiring additional staff time to check the arborist reports.*

DISCUSSION DRAFT

Loss of Significant Trees

ISSUE DESCRIPTION

Options within the tree preservation requirements of the land division regulations are intended to recognize and encourage retention of large trees and priority tree species. However, significant trees are not always identified correctly in the field, nor included in tree preservation plans. Landscaping standards that are applied at the time of development do not provide any additional incentive for preserving large trees. Significant trees are not addressed by any other city regulations. The result is a continued loss of significant trees.

BACKGROUND

Large trees are symbolic of the Northwest region and contribute to the neighborhood character of Portland neighborhoods. While the T1 landscaping standard does not include a discussion of significant trees, the tree preservation requirements of the land division code specifically call out threshold sizes by species, ranging from 2-inch diameter at breast height (dbh) for the rare Pacific Yew to 18 inches for the Douglas fir and 20 inches for any species not listed as a nuisance or prohibited tree on the Portland Plant list.

Tree preservation options allow the reduction of the percentage of dbh to be preserved on a site if an increasing number of significant trees are designated for preservation. The following table compares the options when significant trees are present as provided under 33.630.100.A.

Tree Preservation Option	Total dbh to preserve	Proportion of Significant Trees to Preserve
Option 1	35%	None
Option 2	30%	Half
Option 3	25%	Three-quarters
Option 4	20%	All

While meeting Option 1 requires the preservation of at least 35% of the non-exempt tree diameter on the site, Option 2 reduces that percentage to 30% if at least half of the significant trees on the site are retained. Option 3 further reduces the total preservation to 25% if three-quarters of the significant trees are preserved. If all the significant trees on a site are designated for preservation, Option 4 requires only 20% of the total dbh to be retained.

In practice, these alternative options are rarely chosen. Significant trees are often perceived as presenting a larger obstacle to development (due to large root protection zones) than as a benefit in meeting preservation standards despite the alternate options built into the existing code to encourage their retention. Significant groves of mature trees do not provide any numerical flexibility that would create an incentive to retain the largest trees.

The rare trees that are listed as significant at a smaller size can be difficult to identify in the field and look like non-native species which are on the nuisance plant list. The Bitter cherry[11] and Black hawthorne[12] are examples. If identified as the invasive variety, the tree is removed from the dbh calculations for preservation requirements. Establishing a tree as significant is only helpful in meeting the tree preservation requirements if there are only a few amid a large number of non-significant trees. Then Options 2-4 provide significant benefits to retaining a majority of the significant trees.

POTENTIAL SOLUTION CONCEPTS

The following criteria are intended to guide the design and evaluation of potential solution concepts.

Criteria for Solutions:

1. The solution should facilitate the preservation of mature, healthy trees and significant tree species.
2. The solution should ensure the city maintains adequate oversight and accountability
3. The solution should clarify City-adopted goals for preservation of significant trees.
4. The solution needs to be enforceable and discourage fewer violations
5. The solution should be easy to understand and communicate to professionals and lay people alike.

The following options represent an initial list of potential solutions to address issues outlined above. The intent of this section is to represent a range of options, each with different strengths and limitations, and to provide a starting point for discussion.

1. INCREASE INCENTIVES TO PRESERVE SIGNIFICANT TREES

Provide greater incentives for retaining (healthy) significant trees on site. This could include new formulae for calculating tree preservation that place greater emphasis on significant trees. This could include taking advantage of alternative development options and modifications to other standards achieved through the tree preservation criteria.

Pros:

- *This would encourage developers to take advantage of the opportunity to design with the best trees on the site.*

Cons:

- *Large trees are not always the most desirable for preservation.*

2. ELIMINATE SIGNIFICANT TREES DISTINCTION

Remove definition and options around 'significant' trees from the land division code

Pros:

[11] Prunus avium (Sweet cherry) is listed on the nuisance list and is exempt from tree preservation requirements, while the native Prunus emaginata (Bitter cherry) is designated as significant at 10-inches dbh

[12] Crataegus (Hawthorn) is listed on the nuisance list and is exempt from tree preservation requirements, while the natives Crataegus douglasii and Crataegus suksdorfii (Black hawthorn) are designated as significant at 8-inches.

- *This would simplify the land division tree criteria calculations and findings, reducing the need for planners to check arborist species identification*

Cons:

- *Fails to recognize cultural and ecological importance of large and rare trees.*

3. APPLY MORE SOPHISTICATED 'SIGNIFICANCE' CRITERIA INSTEAD OF STANDARDS

A tree review process could potentially provide a holistic assessment of significant trees on a site. Decisions could be based on criteria that recognize site-specific conditions and conditions of the surrounding neighborhood, similar to the review criteria the Urban Foresters use for tree cutting permits.

Pros:

- *This could incorporate a more nuanced understanding of significance and allow planners to provide applicants greater flexibility than tree preservation standards to induce them to keep rare or large trees.*

Cons:

- *It is unclear if applicants would choose the uncertainty of a review over the objectivity of standards*
- *Land Division planners do not have expertise in arboriculture or forestry and would need to draw on the expertise of the Urban Forester.*

4. MITIGATION DIRECTION

Provide better direction on mitigation for the loss of high value trees.

Pros:

- *Tie mitigation standards to additional variables (size, species, etc.) instead of just the current inch-to-inch ratio of tree diameter. Changing the value of large trees in mitigation equations would come closer to fulfilling the purpose of 'mitigating' for their loss. Because tree preservation Option 1 requires only 35% of site dbh to be retained, mitigation for a single large tree is only for 35% of the tree's size. Currently, mitigation for removing a 36-inch diameter Doug fir is to plant six 2-inch caliper trees of unspecified species (although staff sometimes requires native species). Ideally, mitigation assigned via Title 33 should match that assessed by the Forester via Title 20*

Cons:

- *Determining high value or significant trees cannot be reduced to a simple formula but is based on multiple factors including species and context.*

5. ESTABLISH REQUIREMENTS TO ADDRESS SIGNIFICANT TREES THROUGH OTHER LAND USE AND PERMIT PROCESSES IN ADDITION TO THE LAND DIVISION PROCESS

Significant trees would be identified and considered for protection or alternative protection measures during the regular permit review process, or other land use review processes such as design review, conditional use review, etc. If through a land use review process, the review could include significant mitigation options to replace the greater environmental value larger trees provide, to reflect the environmental loss.

Pros:

- *The importance of significant trees would be elevated and likely result in more trees being preserved or at least considered for preservation prior to development.*
- *The environmental functions that larger trees provide would be preserved or mitigated.*

Cons:

- *More complication for site development review.*
- *Could create an incentive to cut trees before development submittal*

Questions or Additional Information Needed:

1. Does the LEED program provide points for saving large trees?
2. How does Forestry operationalize its findings on tree cutting permits regarding neighborhood character, etc.
3. How might significant groves of trees that span 2 or more properties be identified and addressed through the land division process?

Citywide Tree Project

Policy Review and Regulatory Improvement

Issue Paper

DISCUSSION DRAFT

Development Processes That Lack Tree Preservation Regulations

ISSUE DESCRIPTION

There are development processes and activities that have the appearance of a land division but are not actual land divisions, so there are no tree preservation regulations and no restrictions on tree cutting. This causes confusion for both property owners and neighbors since it is not apparent which sites or which activities are subject to tree regulations. These situations also highlight an inconsistent and inequitable approach to tree preservation in City codes.

BACKGROUND

Existing tree preservation rules apply when land is proposed to be divided into additional lots or when a planned development review is requested through the land division process. The tree preservation requirements apply in all zones – single family, multi-family, commercial, and industrial. However, there are several other methods for creating additional building sites that are not subject to the land division process. These situations appear to be the same as a land division because they each result in additional buildable sites.

For example, through the "lot confirmation" process, properties that consist of multiple smaller historic lots (see example on page 3) may have one or more plat lines "acknowledged" and thus create additional building sites. In some cases, restoring the older plat line creates a lot that is very small or oddly shaped. The lot confirmation process is processed administratively, therefore, no land use review or neighbor notification process is required.

Some development proposals also look like subdivisions, but are in fact "multi-dwelling developments" comprised of individual separate houses or duplexes. In this situation a group of individual structures are approved but the land underneath the structures is not divided into separate lots. This development type is allowed by right in multi-dwelling zones and commercial zones and can be initiated with a building permit.

Tree preservation is not required in any of these situations unless the site also happens to be in the environmental overlay zone or within one of several plan districts that limits tree cutting (however, these areas comprise about 17% of the land area in the city, not including several large parks). The limits of the environmental zone and plan districts will be explored further in the Code Complexity Issue Paper. The lot confirmation and multi-dwelling situations are discussed in more detail below.

Lot Confirmation Process

The lot confirmation process appears to create new lots, but actually verifies the legality of a lot that was part of an historic plat. These plats were created, in some cases, more than 100 years ago when individual land owners who owned large acreages wanted to encourage development. The plats were laid out on a grid pattern and created uniform blocks and lots in sizes ranging (most commonly) from 25 X 100 to 50 X 100 feet. The individual lots were not intended to be developed, rather, potential owners were encouraged to purchase multiple lots to design their own size property. Many areas now zoned R7 (7000 square feet per dwelling unit),

R5 (5000 square feet per DU) and R2.5 (2500 square feet per DU) were originally platted as individual 25'x100' lots sold in packages of 2, 3, or more lots.

The lot confirmation process "confirms" that these lots are buildable – usually 25 feet by 100 feet – in developed residential neighborhoods; occasionally a smaller or larger lot may be confirmed depending on the original plat and any changes that may have occurred since[1]. In some cases, a lot line is confirmed, then moved using the property line adjustment process to create a slightly larger lot or to reshape the lot. The end result is the building of single-dwelling structures that are 10-25 feet wide and cover the majority of the lot. Often these developments take place in neighborhoods with older homes and large, established trees or groves of trees. In general, most lot confirmations in R5 are taking place in inner North, Northeast, Southeast and more recently Southwest Portland.



Confirmed lot with tree

The lot confirmation process is a popular alternative for residential development because in many cases it provides an additional lot when the original property would not be dividable under the current land division density standards of the Zoning Code. Even where a property is dividable, using the lot confirmation process also results in more buildable lots but avoids the time-consuming and costly land division review and associated neighborhood notification process. Lot confirmations are processed as an "administrative" procedure and do not require neighborhood notice and cannot be appealed to a local body.

Tree preservation is not required in conjunction with lot confirmations or property line adjustments. Additionally, in cases where the original property is not eligible for a land division, Title 20 does not apply either since those regulations apply only to lots that are dividable. Unless the property is in one of the Zoning Code overlay zones or plan districts that includes some sort of limit on tree removal, all trees can be removed without mitigation.

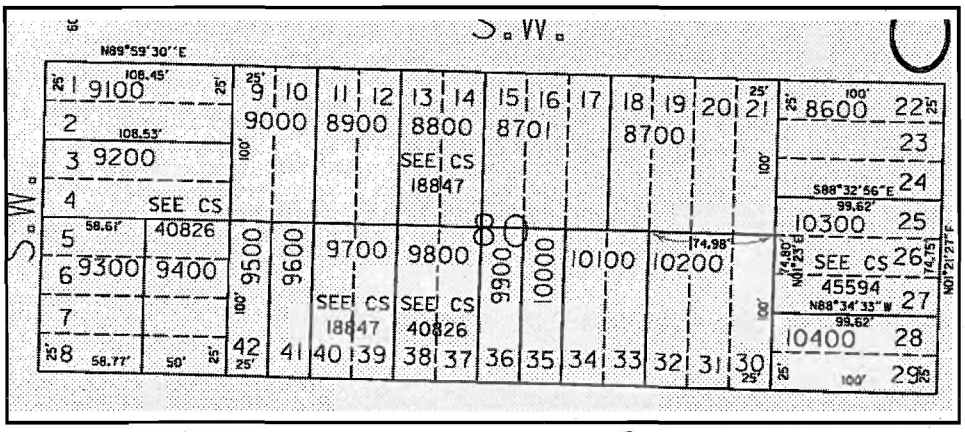
Potential lot confirmations are illustrated in the tax map below, which shows an entire block in SW Portland. The solid lines show where current property lines exist, and the dashed lines show original plat lines. Through the lot confirmation process, a dashed line can be restored as a solid line (eg, the lot is "confirmed") if the proposed lot can meet ONE of the following four criteria (in the R5 zone):

- Be at least 36 feet wide, measured at the minimum front building setback line, and be at least 3000 square feet;
- Have been under a separate tax account from abutting lots or lots of record on November 15, 2003;

[1] There are 2 areas in Portland where the lot confirmation process may not result in lots smaller than base zone maximum density allowances (eg, R5 = 5,000 Sq Ft lots). In the West Portland Park Subdivision, lots in the R5 zone must be a minimum of 5,000 square feet and lots in the R7 zone a minimum of 7,000 square feet due to infrastructure constraints. In the Linnton Hillside area, lots may not be smaller than base zone density allowance for all single family zones due to infrastructure constraints and land slide hazards.

- Have had an application filed with the city before November 15, 2003 to authorize a separate tax account and have been under a separate tax account from abutting lots by November 15, 2004; or
- Have not had a dwelling unit on it since September 10, 2003, or for at least five years, and not have any portion in an environmental overlay zone.

In some cases where a house may be on the property line that is to be confirmed, the applicant may apply for a property line adjustment to move the line from under the house. This is allowed as long as the "new" lot is not going to be smaller than the minimum size regulated by the Zoning Code.



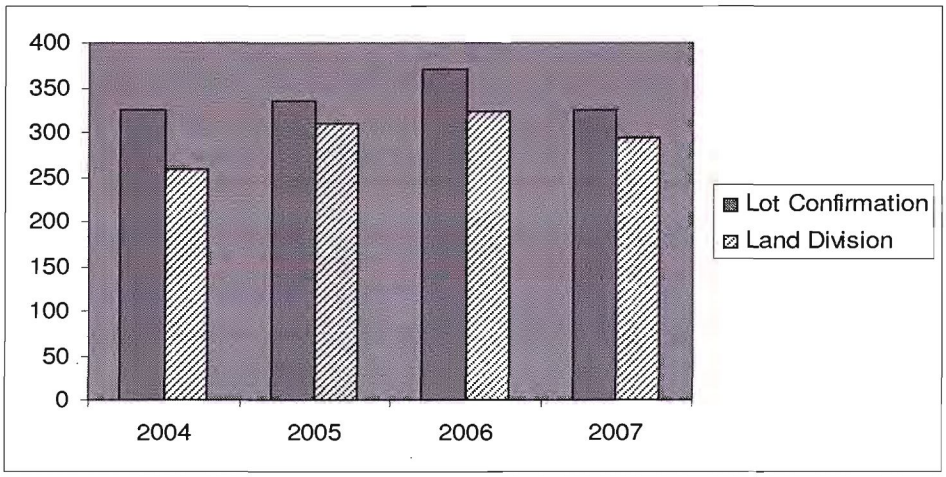
Tax map showing historic platting pattern



Aerial view of tax map

To explore the frequency of the lot confirmation process, staff conducted research on the city's permitting and process database – TRACS. For purposes of comparison, the number of lot confirmations in a year and the number of land division applications for the same year are presented. A lot confirmation application may include more than one lot line re-establishment; the land division applications are for all land divisions, which include partitions (2 or 3 new lots) and subdivisions (4 or more lots), although it should be noted that 2-lot partitions far outnumber

any other land division (by 3.5 to 1). The table highlights the popularity of the lot confirmation process and also illustrates that the number of lot confirmation applications to "create" buildable lots exceeds the number of land division applications (although the exact number of lots resulting from the lot confirmation process may be slightly smaller than those created through the land division process).



Lot Confirmations and Land Divisions, 2004-2007

The process of confirming a property line has been allowed for many years as an administrative process. The regulations have changed several times over the past few years as citizens have complained about the smaller lots and the impacts to neighborhood appearance and livability. Recent complaints about the lot confirmation process have highlighted some key tree issues including how to comply with city infrastructure, utility, and building code regulations on small sites and retain one or more trees without negatively impacting the roots or trunk, and how to provide adequate screening and privacy between properties.

Developers typically find the smaller lots attractive to build affordable houses for first-time buyers. Although there are no tree preservation requirements when a lot is confirmed, the T1 standard does apply at the time of development. However, many large trees that are removed in these cases are not replaced in kind – they are usually replaced with species that can fit the smaller space. On lots 3,000 square feet or smaller, a minimum of 3 inches of tree are required to be preserved or planted. Because of the smaller-sized lots, it is difficult to build a house and meet all of the utility and infrastructure requirements and still preserve one or more trees.

The Citywide Tree Project is focusing on the lot confirmation process as it relates specifically to trees. Issues that arise from the lot confirmation process include a net loss of tree canopy, impacts to neighboring trees (overhanging canopy, roots), and inequitable application of tree preservation requirements to new building sites.

Multi-Dwelling and Non-residential Development

The Zoning Code does not require tree preservation for development in multi-family, commercial or industrial zones unless a land division application is filed. Non-residential development types are allowed in commercial and industrial zones, and residential structures of any type are allowed in multi-dwelling and commercial zones. Density limits apply in the multi-dwelling zones, but commercial zones place no constraints on density or – for land divisions - lot size.

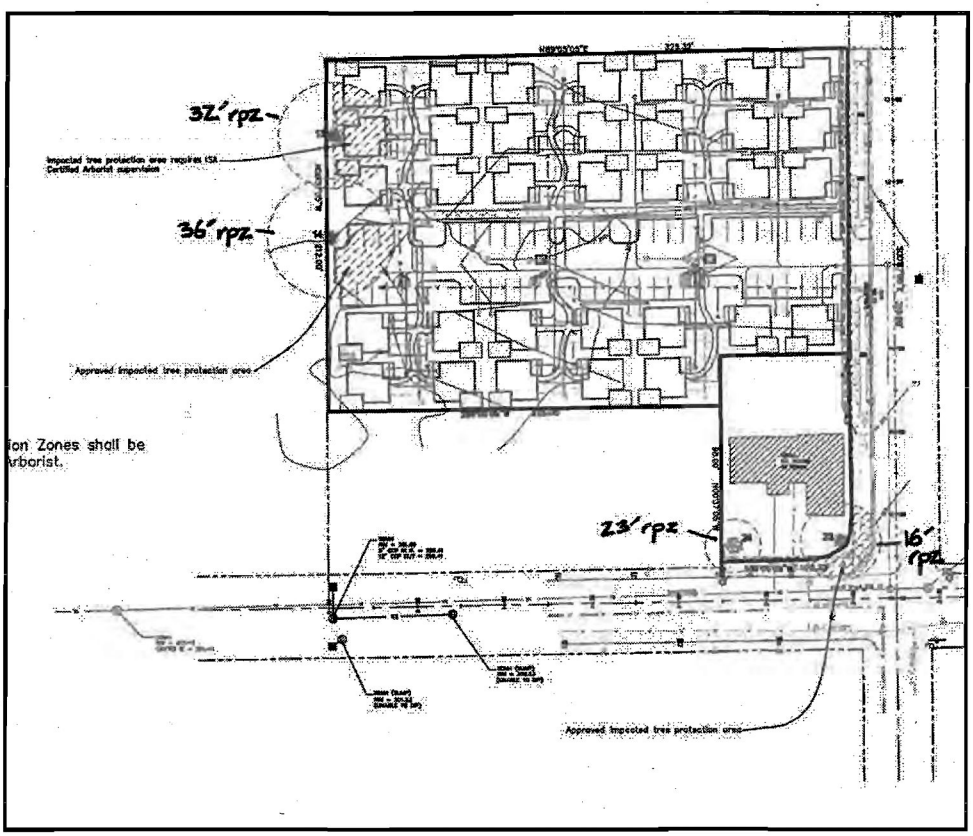
When single-family style development occurs in multi-family or commercial zones, the structures can be rented, or later converted to "condominiums" and sold individually. A developer can apply for a land division during construction or after construction is complete to create a separate lot under each structure, and then sell the units. Commercial or industrial type development could also take place initially and a land division application submitted later. In each case, there are no tree preservation regulations that apply to the development as there would be in a land division situation. The developer may apply for a building permit, and the permit allows clearing, grading, and vegetation removal. There are no limits on tree removal, or mitigation requirements for replacement of trees. The Zoning Code requires a certain percentage of site landscaping (including trees, shrubs and groundcover) at the time of development and although existing trees are allowed to count toward the landscaping requirement, this provision is rarely used. In these situations, trees are allowed to be, and are, removed. When a land division application is submitted after the development has taken place, tree preservation requirements would apply but there may be few or no trees remaining to preserve. An example of condo-style development is shown below, with the land division tree plan on the next page.



Subdivision-like development in the multi-dwelling zone.

The 2006 aerial photograph on the left shows the site prior to development. The parcel is roughly 1.75 acre. A 2007 building permit approved 33 free-standing condominium units, shown partially completed in the photo on the right. Much of the site was cleared and construction started before a land division application was submitted to separate the original house (southeast corner of the site) from the larger portion containing the condominium development. Construction near the few trees that had been retained to meet landscaping requirements weakened their ability to withstand high winds and several fell in a wind storm. The final tree

preservation plan for the site preserves two trees on the very edge of the site and two trees in front of the original house, identified by the root protection zone ("rpz") below.



Land Division Tree Preservation Plan

In summary:

- Tree preservation and mitigation is not required for development where no land division is proposed but additional building sites are created.

- Land division tree preservation requirements are avoided where development occurs first through a building permit process and a land division is submitted later after the trees have been cleared. The only potential limits to tree cutting occur if the site is within one of the overlay zones or plan districts identified in the zoning code.

POTENTIAL SOLUTION CONCEPTS

The following criteria are intended to guide the design and evaluation of potential solution concepts.

Criteria for Solutions:

- The solution needs to be enforceable
- The solution should not create an incentive to violate
- The solution should allow the city to have adequate oversight
- The solutions should encourage urban forestry goals as a component of site design
- The solutions should include sufficient resources to be effective (avoid unfunded mandates)
- The solution needs to be simple, easy to understand and implement.
- The solution should consider scale of impact and apply regulations accordingly and equitably.
- The solution should clarify City-adopted goals and why they apply to tree preservation and mitigation.
- The solution should provide certainty to applicants and the public.
- The solution should be consistent and equitable, treating like situations consistently.

The following is an initial list of potential solutions to address the issues described above. The intent of this section is to examine a range of possible solutions to help inform discussion with stakeholders and the development of staff recommendations and future decisions.

1. **INCLUDE TREE PRESERVATION AS A PART OF BUILDING PERMIT REVIEW**
   This solution could be designed to apply to some or all types building permits (including plumbing, residential, commercial, zoning, site design, or other activities involving trenching or soil disturbance). It could also potentially include removal or modification of trees preservation requirements in the land division process. Building permit applications would be required to show trees on a site plan (for some permits, the site plan would be a new requirement). Depending on the permit, the process could be designed to ensure that no trees are impacted by the development (eg, plumbing/trenching permits), OR, to identify trees to be preserved per a standard to be determined (new SF residential or commercial permits), removed and/or mitigated. The tree preservation rules could be similar to land division regulations, or could be revised to apply to a wide range of situations, development types, and zones. In cases where the minimum number of trees/canopy/tree inches cannot be preserved, a mitigation option/tree planting standard could apply. Alternatives to the mitigation standard could require tree review.

   Pros:

   - *This option would close the process gap that allows clearing of a site first and application for land division after a site has been cleared and developed per an approved building permit.*
   - *It would apply tree preservation policies to new buildable sites and lots established outside of a land division process.*
   - *This option would improve consistency in the city's tree preservation rules by applying the policy to a broader range of development types and uses.*
   - *Would reduces confusion as to when tree preservation is or is not required.*

Cons:

- *This option would add a step (staff + time) in the permit review process. Overall, there would probably be some net increase in the amount of time needed to review permits..*

2. **ALLOW AUTOMATIC "ADJUSTMENTS" TO SOME BASE ZONE DEVELOPMENT STANDARDS IN EXCHANGE FOR PRESERVING A TREE/TREES**
On some sites, the desire to retain one or more trees can make it difficult to meet basic development standards such as front lot line setbacks or minimum building coverage, especially if the tree is large or the site has size or dimensional constraints. Although modifications to a development standard can be requested through the adjustment process, the time and cost of the review discourage use of the process and the tree(s) is usually removed. In the environmental overlay zone, several of the development standards (e.g., front setback) are more flexible to encourage development designs that avoid encroaching into natural resource areas, This option would allow development standard to be modified to promote and assist in preserving trees. The tree(s) would need to be noted in a recorded deed specifying that the tree is to be preserved and replaced when it dies, with a similar tree or a significant tree species. Examples of development standards that could be modified under this approach include reducing minimum lot coverage (mainly in commercial zones), reducing transit street or front setback, allowing a taller structure if the footprint is reduced to preserve trees, waiving the on-site parking requirement in residential zones.

Pros:

- *Would provide an incentive to retain trees without the need to go through the adjustment process.*
- *Allows greater flexibility in preserving trees.*
- *Could result in higher property value.*

Cons:

- *This solution option might create some problems with the root protection zone in some situations.*
- *May be more complex to administer, and has the potential to encourage development standard "abuse"..*
- *Because the solution is optional, it may not, by itself, lead to more preserved trees.*

3. **PROVIDE FREE LOT CONSOLIDATION LAND USE REVIEW FOR PROPERTY OWNERS WHO WISH TO PRESERVE TREES.** Current regulations require a land use review and processing fee ($1,356) in cases where property owners wish to consolidate multiple lots in their ownership (eg, eliminate interior property lines). The consolidation process removes the underlying plat lines and creates one lot. In situations where minimum density would not be affected and there are existing significant trees that would otherwise be affected by development, a free lot consolidation process could be offered to property owners as a way of ensuring that future buildable lots would not be created through the lot confirmation process. Protecting the tree(s) into perpetuity (eg, design a planting replacement plan to be recorded as a deed) can be at the discretion of the property owner.

Pros:

- *Provides an incentive for a current property owner to have input or influence over what future owners can do with the site.*
- *Allows those unique neighborhood tree 'landmarks' to have a greater chance at being retained.*

Cons:

- *Property owners will still need to pay a significant amount for the survey and other county fees to accomplish the consolidation.*
- *This solution will impact only those situations where a land division in the single family zone is precluded, between 40-60% of the cases, and could potentially have a moderate fiscal impact on BDS.*

4. **PROHIBIT TREE REMOVAL UNLESS THERE IS AN IMMINENT HAZARD OR UNLESS DEVELOPMENT IS PROPOSED; INCLUDE TREE PRESERVATION REQUIREMENTS AT THE TIME OF DEVELOPMENT (AS IN #1 ABOVE).** This option could be limited to apply to removal of trees 6 inches or larger (or another size) and include the usual exceptions for dead, diseased, hazardous trees, OR it could prohibit any size tree from being removed and include a longer list of exceptions and/or allow removal of trees with mitigation.

Pros:

- *This option would significantly reduce tree removal prior to development and/or prior to a land division.*
- *This option would provide more consistency and equity for all development. How?*

Cons:

- *This option would be difficult to enforce unless the number of appropriately-trained code enforcement staff were increased, and/or the violation fees were increased.*

5. **ADD STANDARDS TO THE LOT CONFIRMATION PROCESS TO ADDRESS TREES** Applications for lot confirmation would identify and show tree(s) on the site. One option might be to require approval of the lot confirmation through a land use review if trees of a certain size or species, or tree groves, would need to removed in order to develop the lot. Other options might be to allow an additional dwelling unit in another location on the site where the tree(s) would not be impacted; require alternative development options (smaller footprint, reduced setbacks, etc) to avoid impacts to the root zone; or require mitigation/payment into a tree fund for the loss of the trees.

Pros:

- *This option would reduce the number of trees that are removed through the lot confirmation process.*
- *This option would treat lot confirmations, where additional building sites are created, on par with land divisions.*
- *This option could reduce impacts on neighborhood character associated with lot confirmations and subsequent development and loss of trees.*

Cons:

- *This option would not be popular with the development community or property owners, and could discourage lot confirmations.*
- *This solution alone would not, in itself, resolve the issue of people potentially removing trees before they apply for a lot confirmation.*

Questions or Additional Information Needed:

- What is the future potential for continuing lot confirmations – are most of the available lots already developed, or are we only 25% of the total?
- What are the legal ramifications, if any, of reducing the potential for a lot confirmation?

Citywide Tree Project

Policy Review and Regulatory Improvement

Issue Paper

DISCUSSION DRAFT

Regulations for Tree Removal in City Titles

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The various city codes and processes that address trees do so in an inconsistent and uncoordinated manner. A key purpose of the Citywide Tree Project is to identify, evaluate, and assess code language within the City regulatory structure associated with trees, and identify potential solutions that will clarify and streamline the regulations to help achieve compliance with the Urban Forestry Management Plan and related City policies and goals.

City regulations address trees in one of several ways: through tree preservation requirements, or via limits to tree removal, before, during, or after development. Previous issue papers covered regulations that address tree preservation, mainly through the land division process. This issue paper covers tree removal regulations found in city codes and includes information about the particular city code and purpose of the regulation.

ISSUE DESCRIPTION

City codes contain language that explicitly or implicitly regulates tree removal and/or tree pruning. Various bureaus oversee the implementation, inspection, and enforcement of their own or other bureau regulations, with no single bureau in charge. In addition, real and/or perceived gaps and conflicts may arise between city regulations and special district, state or federal regulations. The question "can I remove a tree on my property" can not easily be answered. The public, other agencies, arborists, developers, and city staff find the multiplicity of regulations confusing and difficult to explain or understand.

BACKGROUND

City Code Titles 16 – Vehicles and Traffic, 17 – Public Improvements, 20 – Parks and Recreation, 24 – Building Regulations, 31 – Fire Regulations, and 33 – Portland Zoning Code, regulate tree removal differently depending on location, size, species, land use zone (or development type), and development proposed. The regulations were developed over a number of years to meet various city policies such as the *Comprehensive Plan* and the *Urban Forestry Management Plan*, and this is reflected in the different approaches they take. On a single piece of property, variations in the:

- size of the property,
- size of trees or amount of canopy,
- type of zoning,
- whether it is public land or privately-owned,
- what type of development is proposed (if any),
- if there is existing development,
- whether the tree is in the right-of-way, and
- whether the property is subject to land use conditions (e.g., tree preservation)

are just some of the factors that determine which city codes apply and whether a permit or other review is necessary for tree removal.

Due to the complexity of City code and programmatic responsibilities, it is difficult for citizens and staff to understand and explain which regulations apply to specific situations, and which bureaus have authority. People do not know if or when a permit is required to plant or remove trees and neighbors do not have a consistent point of contact for getting information. In addition, permit processes vary depending on who is applying for a permit, which bureau issues the permit, and where the tree removal is occurring.

The city codes that regulate tree removal, a brief description of how trees are regulated, and any related issues are described below.

Title 16, Vehicles and Traffic

This title addresses vegetation that obstructs the visibility of or for drivers, bicyclists, or pedestrians, or presents a safety hazard, and allows the city traffic engineer to require such vegetation to be pruned or removed. Section 16.70.800 assigns the adjacent property owner responsibility for maintaining visibility and preventing safety hazards. The section also states that in case of conflict with other sections of City Code, the stricter provision applies. Property owners may be unaware of their responsibilities until informed by the city. And when they are told about city requirements, it isn't clear if they are receiving complete information, such as whether the tree is also regulated by the Zoning Code or other city codes, or how to prune the tree, or what to replace the tree with it if has to be removed.

Title 17 – Public Improvements

Title 17 addresses city infrastructure including streets, sidewalks, sewer and stormwater systems. For new public streets, requirements include right-of-way widths for vehicles, pedestrians, and planting strips, or improvements to existing substandard public streets. Private street standards are regulated by an administrative rule (see information under Title 24, below). None of the infrastructure chapters address trees or how to resolve conflicts when significant trees may be in the location of a future street or other utility element, or when improvements or repairs are made to existing infrastructure. One chapter addresses maintenance responsibilities for utilities and streets, including the removal of tree roots that interfere with infrastructure operation (17.52) but does not address issues related to the health or safety of the tree (such as how to properly trench around roots, etc).

When changes occur to existing infrastructure or new infrastructure is installed and tree roots become damaged, the negative impacts to tree health may not show for several years, and then the damaged or dead tree becomes a liability and responsibility for the property owner. In addition, new property owners often do not know where on-site sewer and other utilities are located and may plant trees that later interfere with the utilities that results in tree removal and utility damage. Street tree maintenance and care is the responsibility of adjacent property owners, so any damage causes a tree to die becomes the property owner's problem. Awareness of this issue is increasing, but there is currently a lack of process or code to address the issue.

Title 20, Parks and Recreation

The Urban Forestry division of the Bureau of Parks and Recreation regulates tree cutting on public and private land. The authority to regulate trees on public land and in the right-of-way (20.42) were given to Portland Parks and Recreation in 1972 and the first City Forester was hired in 1974. The purpose of the regulation is, in part, to manage, conserve, and enhance the trees in the city's public spaces. Regulations for cutting trees on private land (20.42) were adopted in 1995 and the purpose is to preserve the wooded character of the City and to protect the urban forest. The two code sections are described in more detail below.

Chapter 20.40, Street Tree and Other Public Tree Regulations, specifies tree cutting permit requirements to remove any tree, regardless of size, on public land including in the right-of-

way (improved and unimproved), parks, and natural areas. Urban Forestry permit review staff apply approval criteria to determine if the permit may be approved. Mitigation/replanting requirements apply inch for inch but the forestry staff can use professional judgment in the field to modify the requirement. There are no exceptions, including for the removal of trees on the Portland nuisance plant list. This sometimes causes inconsistency with Zoning Code environmental and greenway provisions that exempt nuisance plant removal from zoning review. There is some regulatory overlap in unimproved rights-of-way where environmental regulations also limit tree removal, although the environmental rules address disturbance area and trees 6-inches or larger.

Chapter 20.42, Tree Cutting, requires a permit to cut or remove trees over 12 inches in diameter on property where tree cutting is not regulated by other city titles (except for clearing and grading regulations in Title 24), in the following situations:

- Vacant land in any zone,
- Developed property in any zone that does not have a house on it and is not uses for single-family use, and
- Developed single-family residential land that can be further subdivided.

Trees are not regulated by Chapter 20.42 when a building permit application has been submitted, when another city code regulates tree cutting, when the removal of trees is reviewed and allowed through a land use review, or for the lot confirmation process or development resulting from a lot confirmation (unless the site is considered "dividable" prior to the lot confirmation or development).

The ordinance was first adopted in 1995 to eliminate wholesale clearing of lots prior to application of a development permit (Ordinance 168486). If the property is developed with a single-family dwelling in a single-family residential zone and cannot be further subdivided, it is not subject to the tree cutting regulations of Chapter 20.42.

For those situations where a tree cutting permit is required, the regulation cites the following criteria that must be met before the tree cutting permit will be approved:

- Trees must be considered dead, dying, or dangerous by the city forester.
- If the tree is healthy, the removal must not have a significant negative impact on erosion, soil stability, water quality, and health of adjacent trees. Mitigation plans are considered when making this determination. Mitigation is provided on an inch-per-inch basis; for example, the removal of a 12-inch diameter tree requires a tree or trees totaling 12-inches to be planted. In general, the optimal mitigation plan will include canopy replacement or improvement with a mix of species as mitigation.
- If the tree is healthy, the removal must not have a "significant negative impact on the character of the neighborhood". Mitigation plans are considered when making this determination.

The permit process includes posting the site for 14 days and identifying the trees to be cut. The permit request can be appealed. The following data is provided by the Urban Forestry staff.

Estimated Average Annual Tree Cutting Permit Processing

Total requests for information	750

A. Calls where Chapter 20.42 permit is not required	450
B. Calls where Chapter 20.42 permit is required	300
B.1. Tree removal request part of land use review	100
B.2. Tree removal application mailed to property owner	200
C. Total cases processed - permit applications and violations	100
C.1. Typical permit applications processed	80
a. Permit applications to remove 1 tree	63
b. Permit applications to remove 2 to 5 trees	13
c. Permit applications to remove more than 5 trees	4
C.2. Emergency permits issued (for 1 tree)	5
C.3. Violations processed	15
Violations resolved with Planner help	4
Violations resolved by Urban Forestry only	9
Violations not resolved – require legal action	2
D. Total applications where permit is denied	16
D.1. Permit denied due to negative impacts to neighborhood	8
D.2. Permit denied due to missing or lack of sufficient mitigation	8
E. Total applications where permit is approved	64
E.1. Permits approved because tree is dead, dying, or dangerous	45
E.2. Permits approved due to damage to building and no recourse	13
E.3. Permits approved for healthy trees with full mitigation	6

As identified above, mitigation is required for healthy tree removal. The mitigation requirement is inch for inch – if the tree being removed is 24 inches in diameter, 24 inches of trees must be planted.

Title 24, Building Regulations

Title 24 regulates the design, construction, quality of materials, use, and occupancy of all buildings, structures, and land to provide the minimum performance standards to safeguard the health, safety, welfare, comfort, and security of the residents of Portland. Title 24 also includes standards related to energy conservation, technique, materials, devices, and modern methods of construction.

Chapter 24.70 Clearing ,Grading, and Erosion Control (*note: the title of the chapter is as specified, but erosion control regulations are now under Title 10. This chapter focuses on clearing, grading, and tree removal.*)

Clearing, grading, and tree removal activities are necessary to prepare a site for development. The regulations apply in the following situations:

- A Grading permit (called an SD, or Site Development, permit) is required for all grading operations except for the following:

- Grading in an area, where in the opinion of the Director, there is no apparent danger, adverse drainage, or erosion effect on private/public property, or inspection is not necessary;
- An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit.
- Cemetery graves.
- Refuse disposal sites controlled by other regulations.
- Excavations for wells or tunnels.
- Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate, or clay where established and provided for by law.
- An excavation which
  -Is less than 2 feet in depth, or
  -Which does not create a cut slope greater than 5 feet in height and steeper than 1-1/2 horizontal to 1 vertical.
- A fill less than 1 foot in depth, and placed on natural terrain with a slope flatter than 5 horizontal to 1 vertical, or less than 3 feet in depth.

- A Clearing permit (called an SD permit) is required in environmental and greenway zones, Natural Resource Management Plan areas (Forest Park, Smith & Bybee Lakes, Pen I, and East Columbia Neighborhood), Johnson Creek Plan District, and the Tualatin River sub-basin (a small portion of SW Portland) and any property larger than 5 acres. Clearing is any activity that removes vegetation and exposes soil.

- A tree cutting permit (also called an SD permit) for the removal of more than 5 trees 6-inches in diameter or larger on slopes – in whole or in part – that exceed 25%. "Removal" includes root grubbing. This permit is required in addition to the Title 20 tree cutting permit described above, however, no mitigation is required.

The regulations in Title 24.70 were adopted in 1992 for several reasons, including to comply with erosion control provisions in the City's Clean River Program. Program goals encouraged activities to improve water quality in rivers and streams; since 1992 the Program has been modified several times and has evolved into the City's Erosion Control regulations. In 1999, erosion control regulations were updated and became Title 10 as a joint effort between the Bureau of Development Review, the Bureau of Environmental Services, the Bureau of Water Works, and the Office of Transportation. The intent of the updated regulations was to assist the City in meeting compliance requirements of the National Pollutant Discharge Elimination System Permit, Metro's Title 3 Stream and Floodplain Protection Plan, and the requirements of the Endangered Species Act. Although Title 10 does not regulate the removal of trees, it maintains a link to Title 24 and other tree removal regulations by requiring erosion control measures for the soil disturbance that occurs when trees are removed.

Chapter 24.55. Demolition Permits. Title 24 requires a permit to demolish a structure; in most cases, a simple site plan is included in the application and only the structure to be demolished is shown on the site plan. Once a structure is demolished, a building inspector visits the site to ensure that all materials are removed from the site and any other requirements have been met. However, inspectors are finding that clearing and grading or tree removal sometimes occurs with the demolition even though no permit was obtained for that level of work.

Title 31 – Fire Regulations.
Title 31 exercises the police powers of the City to preserve and protect the public health, peace, safety and welfare of the citizens by regulating (in part) fire hazards in structures or on public or private property.

Chapter 31.30.010 Fire Chief Authorized to Establish Access Standards. The Fire Regulations are part of the City's safety regulations, and gives the Fire Bureau the authority to request new street widths, during the land division review process, with "unobstructed" access for fire apparatus as part of a land division. But "obstructed" is not defined and there is no direction for situations where "unobstructed access" requirements conflict with tree preservation requirements or other City requirements. This kind of conflict occurs frequently at the end of the land division review process when the developer has worked closely with city staff to meet other land division design requirements.

Title 33, Zoning Code
The Portland Zoning Code is the major implementation tool of the City's Comprehensive Plan and must be consistent with the land use designations and provide the definitions and standards for implement the Comprehensive Plan. The Zoning Code includes provisions to limit tree removal in certain areas of the city. The chapters or regulations that apply are:

Base Zone Chapters 33.110, 33.120, 33.130, and 33.140 have landscaping requirements that apply when a property is developed or modified. The landscaping standards are described in Chapter 33.248. Other base zone chapters in the 33.200 section may require additional landscaping for special uses, such as for drive-through facilities or cell towers. Plants shown on a site plant to meet the requirements, including trees, are required to be maintained and kept healthy by the property owner, and if any plant dies must be replaced. The landscaping provisions allow existing trees to count toward the total landscaping requirement for a site. In zones that allow 100 percent of a property to be covered with a building, no landscaping requirement applies. However, if surface parking is developed, there is always a landscaping requirement to buffer the parking lot. In addition, stormwater management requirements (Title 17) apply to impervious surfaces greater in area than 500 square feet, and allow vegetated swales to be used to manage stormwater in a parking lot and under many other circumstances. Any tree planting required for other City codes can be used to meet landscaping requirements.

Chapter 33.420, Design Overlay Zone. The purpose of the City's Design Zone is to promote the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. Design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area.

While trees are not always explicitly identified in design guidelines as an element that relates to design review, landscaping is one of many factors considered during the review process. Landscaping and significant trees are frequently cited by applicants or staff as important elements that relate to neighborhood character. However, most design guidelines and standards lack description and guidance regarding neighborhood character related to trees and don't provide applicants or staff with enough of a link between the two to foster meaningful dialogue or inform the review.

Chapter 33.430, Environmental Overlay Zone. The purpose of the environmental overlay zone is to protect resources and functional values that have been identified by the City as

providing benefits to the public. The regulations encourage flexibility and innovation in site planning and provide for development that is carefully designed to be sensitive to the site's protected resources.

The regulations of Chapter 33.430 limit tree removal of all trees 6 inches in diameter or more, in all zones with or without a building permit application but only in the resource area. The transition area, which is the first 25 feet within the environmental zone boundary, does not limit tree removal or disturbance area, and Title 20 does not apply in the transition area or in the environmental zone.

The development standard limits tree removal of trees 6-inches and larger to a maximum of 225 inches with replanting requirements based on the size of the tree(s) removed. When no development is proposed on a property with existing development, tree cutting is treated as the creation of additional "disturbance" and follows a maximum disturbance limit, with mitigation to replace the trees. Removing trees listed on the city's nuisance plant list does not count toward disturbance and/or trigger replanting requirements, but care must still be taken to limit disturbance area. The removal of trees under 6-inches is considered "disturbance", there is no tree replacement mitigation required but the disturbance area needs to be replanted if not covered with a structure. The mitigation requirement allows several options for replanting, including a combination of trees and shrubs to replace cut trees. Nuisance trees are exempt from the environmental regulations but are still regulated by Title 20 if the trees are on public land.

Development standards for utility installation, resource enhancement projects, stormwater outfalls, and public recreational facilities allow trees no larger than 10-inches to be removed, with a mitigation requirement of 3 new trees for every one tree removed. The standards for limited right-of-way improvements regulates trees 6-inches or larger and limits the maximum removal to 225 inches with mitigation of 3 trees for each one removed.

Chapter 33.440, Greenway Overlay Zone. The purpose of the Greenway Overlay Zone is to protect, conserve, enhance, and maintain the natural, scenic, historic, economic, and recreational qualities of lands along the Willamette River. The greenway zone limits tree removal generally by requiring a greenway review if trees or other native plants are proposed to be removed. There is no specific size limit and no mitigation requirement, but the greenway regulations include a planting standard that is applied to all building permits and greenway reviews. Nuisance trees and plants are exempt from review, but not if the trees are on public land where Title 20 regulates tree removal. The Greenway regulations currently do not include specific development standards for projects such as resource enhancement, public recreational facilities, or other limited-types of disturbance such as those found in the environmental zone chapter where limited tree removal is allowed and mitigation is required. In the greenway, all such projects require a greenway review.

In both the Greenway and Environmental overlay zones, there are currently no standards for tree removal for wildfire purposes. The environmental rules have limited exemptions for tree limbing and plant removal within a certain distance of a structure, but for more extensive tree removal an environmental review is required. The city is currently working with wildfire management experts and will be considering options for removal of specific species with mitigation to help reduce wildfire threats on private property.

Chapter 33.445 Historic Resource Protection Overlay Zone. Similar to the Design Overlay Zone, the Historic Overlay Zone protects historic resources such as structures, sites, trees,

landscapes, historic landmark trees, or other objects in the region and preserves significant parts of the region's heritage.

Similarly, the Urban Forester maintains a list of trees identified as Heritage Trees that are to be preserved under Title 20. According to BDS staff, during development and land use review, coordination between the development review bureaus and Urban Forestry is lacking and there is the potential for damage or accidental removal of a heritage tree. In addition, historic design guidelines and standards lack description and guidance regarding neighborhood character related to trees, and don't provide applicants or staff with enough of a link between the two to foster meaningful dialogue or inform the review.

Chapter 33.465 Pleasant Valley Natural Resources Overlay Zone. The purpose of the overlay zone is to protect and conserve significant natural resources in Pleasant Valley, facilitate restoration and enhancement of forests, protect upland habitats, recognizing that existing houses and other existing uses will continue and limited new development will occur in the zone. The regulations include the same limits to tree cutting as the environmental zone but the mitigation option is different – the replacement requirement is based on the area of disturbance and is a 2:1 ratio of replacement to disturbance, so it is not specific to tree removal.

Chapter 33.480 Scenic Resource Overlay Zone. The purpose of the Scenic Resource Zone is to protect Portland's significant scenic resources, enhance the appearance of Portland to make it a better place to live and work, and improve Portland's economic vitality by enhancing the city's attractiveness to its citizens and to visitors. The Scenic Resource Zone includes view corridors and scenic corridors. Within the scenic corridors, the regulation requires trees larger than 6-inches to be preserved unless they meet one or more of seven possible exemptions. Removal of trees that are not exempt require approval through a Tree Removal Review, as described in Chapter 33.853. Nuisance trees are not identified as exempt from the regulation.

Chapter 33.508 Cascade Station/Portland International Center Plan District (CS/PIC), and *Chapter 33.515 Columbia South Shore Plan District* contain distinct environmental regulations separate from Chapter 33.430 Environmental zones. The purpose of Plan Districts, in general, is to address concerns unique to an area when other zoning mechanisms cannot achieve the desired results. The area in the Columbia Corridor from NE 82nd to the eastern boundary was originally part of the Columbia South Shore Plan District (CSS), adopted in 1993. The purpose of the CSS Plan District is to provide an area-wide approach for conservation of significant natural resources and preservation of resource values in the CSS, a portion of the historic flood plain of the Columbia River in NE Portland.

In 1999 the portion of the Plan District between NE 82nd and the Interstate 205 Freeway became the CS/PIC Plan District to better address the needs of a growing mixed use center located at the intersection of two key transportation corridors – Portland International Airport and Airport light rail. Although the environmental regulations for both plan districts are the same, the landscaping standards for CS/PIC (outside environmental zones) include specific plant species that are not favored for habitat in order to discourage nesting birds. A plant list was adopted for the plan district to help the airport comply with the safety regulations of the FAA. The Portland International Airport has a Wildlife Hazard Management Plan which restricts the number and species of trees, requires minimum spacing, and also allows tree removal to protect the runway approaches and eliminate wildlife conflicts with the airport.

Chapter 33.537 Johnson Creek Basin Plan District. The purpose of the Plan District is to provide for the safe, orderly, and efficient development of lands which are subject to a number of physical constraints, including significant natural resources, steep and hazardous slopes, flood plains, wetlands, and the lack of streets, sewers, and water services. Restrictions are placed on all new land uses and activities to reduce stormwater runoff, provide groundwater recharge, reduce erosion, enhance water quality, and retain and enhance native vegetation throughout the plan district. Chapter 33.537 regulates removal of trees greater than 6-inches diameter in the 100-year Floodplain and South Subdistricts on sites that are within and outside of the environmental overlay zones. Johnson Creek Basin regulations apply in combination with environmental regulations. Trees can be removed within utility easements or when they are within 10 feet of a proposed structure or 5 feet of a paved surface.

Tree retention and special landscaping requirements also apply to sites that abut the Springwater Corridor. The Springwater Corridor trail, an old railroad bed converted to a pedestrian and bike trail, is identified as a transportation, recreation, and scenic amenity and is also part of the region's 40-Mile Loop Trail system. The regulations for the Springwater Corridor allow tree removal within utility easements and proposed roadways

Chapter 33.563 Northwest Hills Plan District. The Northwest Hills area of Portland was the subject of the first study in the city to examine development and land uses within the context of land suitability and the "carrying capacity of the land". In 1982, City Council was faced with questions about the impact of new development on existing neighborhoods and the natural environment, its impact on congested transportation systems, adequacy of fire protection, and lack of sewer service as they considered rezoning for portions of the area. The Council directed the Planning Bureau to undertake a comprehensive study of the Northwest Hills area and recommend an appropriate land use plan to the Planning Commission and City Council. Results of the study eventually resulted in the Northwest Hills Plan District which has been modified several times since it was adopted in 1991.

Although much of the NW Hills area includes environmental overlay zoning, there are additional restrictive rules that apply to trees in the Balch Creek Subdistrict. On sites in this subdistrict that are also within the environmental overlay zone, 90% of the portion of the site in the environmental zone must be retained or established in closed canopy forest at the time of development. On sites less than 30,000 square feet, up to 3,000 square feet of the site may be unforested.

Chapter 33.570 Rocky Butte Plan District. The purpose of the regulations for Rocky Butte are to preserve and enhance the forested areas of the butte, views from the butte, historic architectural elements, and the natural scenic qualities of the butte. Tree removal regulations require that "every effort should be made to locate buildings, easements, parking strips, sidewalks, and vehicle areas to preserve the maximum number of trees" on a site. Trees are allowed to be removed if it is located within or 5 feet from the footprint of a proposed building, is within a utility easement or proposed roadway, or is dead or diseased. Regulated trees are those greater than 6-inches in diameter.

Chapter 33.580 South Auditorium Plan District. The purpose of the Plan District is to protect the unique character of former South Auditorium urban renewal district, with its high-rise buildings, generous setbacks and landscaping, including trees. The Plan District includes regulations for all trees, public and private, although the majority are in the right-of-way or in

parks. Tree removal is processed through design review, and the chapter stipulates that removed trees must be replaced at the site or within the plan district.

Other Processes or Situations

Administrative Rule TRN-8.06 – Private Rights-of-Ways (Streets, Alleys, Common Greens, and Pedestrian Connections). Development of public streets is regulated by the design standards adopted by PDOT and Title 17. Public street improvements are required to include street trees where feasible per Title 20.40.130 of the Parks and Recreation Code. However, private streets (proposed in conjunction with new land divisions) are not public infrastructure and are therefore reviewed by the Bureau of Development Services under the "Private Street" administrative rules. The current rules, adopted in 2002, address stormwater, pedestrian connections, fire access, and construction methods, but did not include requirements for street trees. The Bureau of Development Services is embarking on an update to these rules which would include street trees. One added complication of these administrative rules is how to process waivers, variances, appeals, or adjustments to rule requirements.

City codes that conflict with special district, state, or federal rules. While more difficult to monitor and control, there are situations when tree removal mandated by another agency may seem to conflict with city regulations intended to fulfill other mandates. An example is the conflict with city regulations limiting tree removal in environmental zones on the levees of the managed floodplain in the Columbia Corridor, and the US Army Corps of Engineers requirement to remove trees to protect the levees from damage during a flood event. FEMA insurance requires compliance with Army Corps standards, but two city codes seemed to prevent the removal of the trees – Chapter 33.430 of the Zoning Code, and Chapter 20.40 Street Tree and Other Public Tree Regulations. Currently the City has an agreement with the flood district to waive Zoning Code rules and allow tree removal so that property owners can obtain flood insurance, but when zoning regulations are waived Title 20 regulations apply. The City Forester is working with the flood district and impacted neighborhoods to achieve some level of mitigation for the tree removal.

Issue Discussion

Despite what seems like an excess of tree regulations resulting from the numerous overlay zones and Plan Districts, the overall land area within the city affected by any of the zoning regulations is 27%, including some large tracts of public land such as Forest Park and Smith and Bybee Lakes Natural Area. The attached map indicates the areas in the City subject to Zoning Code tree removal regulations identified above. Chapter 20.42 applies to approximately 70% of the city unless a building permit application is submitted, and the other city code tree removal regulations apply based on the situation.

It is clear from the descriptions of the various zoning regulations that trees play a significant role in the city's environmental, economic, historic, scenic, aesthetic, and cultural landscape. However, regulating tree removal on only a quarter of the city's land area limits Portland's ability to meet canopy goals (even considering that roads and street trees make up 10% of the land area of the city with some overlap of the areas within overlay zones and Plan Districts).

Several of the regulatory tools described above may serve as models for areas of the city that lack limits to tree removal, with exceptions that recognize more intense development areas such

as city and town centers, transportation corridors, and industrial areas, and can allow for appropriate mitigation options for those more intense development areas.

Key Issues Identified

The following issues emerge from the descriptions of City tree regulations:

- Several permit processes do not address trees that may be within the area where work is to occur, resulting in damage or destruction of trees. Examples include utility and infrastructure permits, demolition permits, and street improvements.

- The lot confirmation and property line processes are not regulated by Title 20 unless the lots to be confirmed can also be subdivided. Subdividable lots that create new buildable sites through the lot confirmation process are no longer subject to Title 20 if the new size conforms with the density of the base zone.

- Tree removal is occurring with demolition permits.

- Applicants can obtain site development permits for site preparation, including tree removal, before required land use reviews that have tree protection requirements are submitted.

- Tree removal is not included in the Title 24 Site Development permit if the slope of the site is less than 25%, or if 5 trees or less are being removed.

- "Neighborhood Character" as described in various design guidelines lacks information about neighborhood trees and fails to provide direction to staff when reviewing development proposals.

- Urban Forestry regulations on private property cross-over to land use and geotechnical arenas by addressing neighborhood character and slope stability.

- City regulations address different sizes of trees. The various sizes include: 6-inches or larger, larger than 6-inches, larger than 10-inches, 12-inches or larger, more than 12-inches, and 95% closed forest canopy. Other size thresholds are identified for specific species listed on the "significant tree list" in 33.630.

- Regulations for tree removal overlap in several situations:
  - urban forestry and zoning regulations in rights-of-way
  - urban forestry and building code tree removal permits with clearing and grading activities
  - urban forestry and zoning regulations for public land (environmental and greenway zones and nuisance tree rules)

- Regulations for trees fall short in several situations:
  - transition area of the environmental zone
  - trees affected by lot confirmations

- General lack of coordination:
  - Multiple city codes address tree cutting but the purpose for many of the regulations is related. No one bureau is in charge of implementation, inspection, or enforcement, and knowledge and skills of staff vary.

  - Heritage Trees are regulated by the City Forester. Coordination with the Bureau of Development Services is a challenge to ensure development does not harm Heritage Trees. City-wide tracking of Heritage Trees is necessary so their protection is considered during land use reviews and development permit reviews.

  - Street trees are also required for land divisions under 20.40.110, which requires coordination between the Office of Transportation engineer and BDS planning staff.

  - Utilities on narrow lots usually need to be placed under, or next to, driveways to allow for tree planting. Coordination with other bureaus, such as the Water Bureau and Bureau of Development Services is required but rarely occurs.

- Perceived conflicts between city tree regulations and other agency tree regulations surface from time to time. There is no process in place to help address the conflicts and guide resolution toward optimal solutions.

- Multiple objectives that could be met with tree preservation or planting, such as for stormwater requirements, street tree planting, and zoning code landscaping requirements, are not occurring in an integrated manner; rather, developments are meeting each requirement separately.

- The Administrative Rule that guides private street development is administered by building code officials, who must also process waivers, variances, appeals, or adjustments to rule requirements. So for those instances where street trees are not practicable, who should decide what is reasonable, and what sort of process should be used?

POTENTIAL SOLUTION CONCEPTS

The following criteria are intended to guide the design and evaluation of potential solution concepts.

Goals and Evaluation Criteria for good solutions

- Solutions should result in regulations that achieve City policies without conflicting or overlapping on a single property.
- Solutions should advance the City's Urban Forestry goals, including enhancement of tree canopy.
- Solutions should address gaps, loopholes and duplication in tree removal-related regulations.
- Solutions should establish regulations that are understandable, equitable and as consistent as possible.
- The solution should consider scale of impact and apply regulations accordingly and equitably.

- The solution should be compatible with other regulations, especially development regulations, and not create conflicts.
- Solutions should include creative and flexible approaches to encourage tree protection through development design.

Citywide Tree Project

Policy Review and Regulatory Improvement

Issue Paper

DISCUSSION DRAFT

Tree Inspections

ISSUE

The City's development inspection programs are not currently set up to effectively address tree protection. As a result, trees that are intended to be protected may be damaged through development or violations of City code. In addition, since most inspectors come with backgrounds in construction and not necessarily arboriculture, tree plantings that may not be consistent with approved mitigation or landscape plans are not always corrected.

The Bureau of Development Services (BDS) and the Parks and Recreation Bureau (Parks) Urban Forestry program are the two primary bureaus responsible for tree permitting and inspection. The Parks inspectors are trained in arboriculture but lack a computerized permitting program and are not actively involved in the inspection process for most new development. The Forestry inspectors serve a much different function than BDS inspectors. BDS does not specifically employ tree specialists and its permitting and inspection program is designed for construction related needs and not tree issues. BDS inspectors have a heavy workload as well. As a result tree inspections are infrequent, and trees do not always receive the highest priority.

Meeting landscaping and mitigation requirements has long been the responsibility of the applicant. Landscape concepts are reviewed during the land use review stage. Approved permits reflect land use review decisions and existing regulations. Often, the applicant is responsible for verifying compliance with the approved plans, using their design experts (including arborists, landscape architects and landscape contractors) to address any changes or problems that arise through the construction stages. However, once a project is finalized, there is no standard system in place to monitor the long term performance of these landscape plans.

BACKGROUND

BDS and Parks share responsibility for ensuring compliance with the City's tree regulations through code administration, inspection and enforcement. Each bureau must deal with complicated regulations and implementation / procedural challenges. The Compliance Services and Land Use Services sections of BDS collaborate with the Urban Forestry division of Parks for some tree related questions and violations. This paper will focus primarily on the procedural challenges associated with tree protection, mitigation, street tree and landscaping inspections. (Related enforcement and code complexity topics are addressed in separate issue papers.)

Parks Bureau Urban Forestry Tree Inspection Issues

Parks is responsible for regulating street and public parks trees, and trees that are subject to City regulations outside of the land use review and building permit purview. These responsibilities include permitting tree removal on private property when no development is proposed, with the exception of tree removal on non-dividable already developed single family lots. Parks' tree inspectors are experienced and knowledgeable arborists. A key issue for the Parks inspectors is that their permitting system is out of date. They currently receive and track permit requests, inspections, tree work, and permits by telephone, paper forms, and paper files.

Parks inspectors have explicit criteria in the code for reviewing private property tree removal permit requests and violations. Conversely, the public tree code clearly requires permits and

authorizes penalties, but does not incorporate explicit removal permit review criteria. Tree removal criteria is handled through internal policy guidelines, essentially allowing for the removal of "dead, dying, dangerous or diseased" trees only. The avoidance of codified criteria is intended because a degree of subjective latitude is needed. Other bona fide circumstances and case by case rationale are often significant considerations in decision making. Since policy criteria is less strict and more difficult to communicate than codified criteria, property owners occasionally feel that decisions are inconsistent, too subjective and sometimes personal. Another issue Urban Forestry inspectors are challenged with is the long term performance monitoring of replacement street trees.

Parks employs four "area inspectors" that respond to street tree and park tree issues, and four "development inspectors" that work with BDS and the Office of Transportation (PDOT). The four area inspectors issue street tree pruning, planting, root cutting, and removal permits. They also respond to emergencies, such as tree failures in City rights-of-way and parks. These inspectors are also responsible for reviewing park development plans and projects. The area inspectors write park work orders and manage interagency agreements for tree maintenance on other City properties, such as golf courses, fire stations, water tanks, and sewer pump stations. Public tree violations are almost always complaint driven via phone calls from the public, and are not tracked separately from other permit requests. The four area inspectors inspected 7,050 sites last year and approved 561 removals.

The four development inspectors review development plans. One inspector works with PDOT on public works projects, including sewer and water projects in public rights of way, and three inspectors review about 3,500 residential and non-residential development plans and sites per year. The purpose of the reviews is primarily to address street tree protection and planting, but also protection of the 285 Heritage Trees in the city. Two of the inspectors review private tree cutting permits and violations of Chapter 20.42 which restricts cutting of 12" and larger trees on developable properties. Of about 100 of these cases a year, approximately 10 percent are violations. The development inspectors also manage the Heritage Tree program and respond to tree emergencies after hours and on weekends where a public tree has become an imminent hazard or has failed/fallen.

Parks has also entered into an inter-bureau agreement with BDS to provide a half time arborist position to provide technical assistance with land use reviews, specifically land division applications. These development inspectors also help with Environmental Reviews, Clearing and Grading permits, reviewing violations of Chapter 24.70 (Clearing and Grading), and general tree permit questions.

For Parks, the main challenges include:

- **Deficiencies in permit tracking technologies.** While Parks is presently exploring options for a computerized permit system, such a system is not currently in use. This means that permit records are kept in paper form, and are subject to damage, loss, or destruction. They are difficult to query and in turn make it more difficult to manage resources. Responding to citizen inquiries of whether a property owner has obtained a permit is difficult and can be further hampered if the area inspector is not available. Since permits are administered through the Urban Forestry Office in Delta Park in North Portland, the office is not centrally located or convenient to many Portlanders. As a result, a majority of the applications are handled through the mail.

- **The lack of clarity in code responsibility.** Title 20.40, Public Trees, is not specific in establishing the responsibilities or liabilities of property owners and the City for street tree maintenance, hazard remediation, clean-up of failures or vandalism, replacement, and establishment care. The code does require property owners to maintain trees to meet clearance requirements over streets, sidewalks, and street signs. It also allows the City Forester to remedy many safety deficiencies and requires property owners to obtain permits if they wish to prune or plant street trees. However, the code is not clear on the issue of routine maintenance for tree safety and tree replacement.

- **Lack of a standardized procedure, particularly for street tree removal permit requests.** Under the present system, a property owner or contractor will call to have an application mailed, or obtain the application form online and print it. The application is then returned by mail or hand delivered to the Delta Park location for processing. An inspector will inspect the tree, however, unless the tree is hazardous or diseased, there are no clear criteria as to when removal would otherwise be allowed[1]. In terms of determining mitigation requirements the code provides considerable discretion. While the code authorizes the Urban Forester to require tree replacement, there is no clear mitigation standard[2] for street tree replacement. This is in contrast with the standard found for private tree removal[3] although both codes lack direction as to appropriate replacement species or stature.

- **Increasing oversight responsibility for private tree removal without a corresponding increase in inspection staff.** When the land division code rewrite was adopted in 2002, many more parcels fit the descriptor of "dividable" property, and are thus subject to Title 20.42. Rather than regulating large, subdivision-sized parcels, regulations are more often applied to lots 10,000 sq. ft. or less in size. All corner lots are considered to be potentially dividable and many residential neighborhoods have been zoned for higher density. With increased applicability came increased demand on staff time and resources but no additional funding to accommodate the increase.

- **Lack of interagency permit coordination.** The current record-keeping system is not coordinated with other development activities in the City. As a result, staff from other bureaus do not have access to information on what other types of review or enforcement activities related to trees are occurring on particular properties.

Bureau of Development Services Tree Inspection Issues:

The Zoning Code requires tree preservation for sites undergoing land division, activities in the environmental, greenway, and scenic overlays, in some historic areas, and for development in Johnson Creek, Rocky Butte and the South Auditorium Plan Districts. In some instances, an applicant may also opt to preserve existing trees to meet landscaping requirements for building permits.

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[1] Section 20.40.090 stipulates the criteria for removal, including infection or disease that could infest other trees, interference by roots into sewers or water lines, and trees that extend into the public right of way that are of "age, disease or other debilitating cause, death, insecure root system or any other condition which, in the opinion of the Forester, causes its continued existence to be detrimental to the public interest."

[2] Section 20.40.090 "The approval of a [street] tree removal by the Forester may be conditioned on replacement with a new tree of approved variety if the Forester finds the replacement necessary to maintain an ornamental tree system on the street, block or portion thereof."

[3] Section 20.42.100 "Tree replacement shall be determined according to the DBH of the tree to be removed. The total DBH of the replanted trees shall equal the DBH of the tree to be removed."

When trees are required to be preserved, the protection methods listed in Section 33.248.068 must be shown on the development plans prior to land use review approval and/or permit issuance. The Zoning Code specifies two options for tree protection to prevent damage during site preparation and development[4]. However, feedback from citizens, arborists, and inspectors indicates that current tree protection measures are not always followed, may not function properly, or are not being continuously maintained by developers and property owners during development. Failure to follow or maintain required tree preservation measures may result in damaged or destroyed trees[5].

In addition to requiring tree preservation in conjunction with certain types of development, the zoning code also requires tree planting as part of required landscaping for many types of development or as part of a mitigation plan approved through certain types of land use reviews or plan checks. The tree planting is verified with the final inspection. Sometimes, trees are not planted, planted in the wrong location, or are the incorrect species or size.

The issues surrounding inspections for tree planting and for tree protection differ for several reasons. Only one inspection is required to verify that trees have been planted, but tree protection inspections require repeat site visits to ensure the existing trees are not damaged throughout the development process. Newly planted trees are easy to replace if they are not correct, and in that sense they are "fixable". Existing trees that are to be protected cannot be readily replaced, only mitigated for. Finally, whereas tree planting can follow a fairly rigid and simple set of standards, tree protection is often an art that requires a great deal of specialized knowledge and discretion.

Two groups of inspectors within BDS respond to tree-related issues in addition to other construction or development-related duties:

- Site Development inspectors oversee site preparation and building permit-related construction (including construction management measures, pre-construction erosion control, tree protection fencing, landscaping and permanent erosion control measures) and private infrastructure construction.

- Code Compliance inspectors respond to a wide variety of zoning code infractions including (but not limited to) tree cutting, violations in environmental zones, building code issues, and other work without permits.

When a development application is reviewed, staff will verify that the plans show the required information to demonstrate compliance with various City requirements, including tree protection measures or landscaping requirements. After the permit is issued, but before actual work begins on a site, the developer is required to install erosion control and tree protection measures (when applicable) and request an initial "pre-construction" inspection by the Site Development inspector. Throughout the development, additional inspections by various building inspectors are requested by the developer, but typically these inspections only relate to structures. If a site-related complaint is received, the Site Development inspector will return to the site to investigate. If a site complaint is deemed to be a violation of a zoning requirement, the case is referred to the Code Compliance inspectors. The Site Development inspector returns to the site at the end of the project to conduct a final erosion control and landscape inspection.

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[4] 33.248.068 sets a specific standard for the required tree protection area along with a list of activity that is prohibited within the protection area. As an alternative, the applicant's arborist or landscape architect may specify other measures, if such measures will afford the same level of protection for the tree.

[5] Nelda Matheny and James R. Clark, *Trees and Development*, (Champaign, IL International Society of Arboriculture 1998) p. 115

In lieu of city inspections, certain permit applications may use a self certifying method of compliance called "Third Party Certification". This applies to sites where more than 8 trees are to be planted or preserved or when there is more than 5,000 square feet of landscaping. However, the third party certification process was designed for plant installation, and not specifically tree protection, requiring only that the landscape contractor or arborist certify that "the landscaping at this site was installed according to the approved plans."[6] Even so, the Third Party Certification can be used to verify tree protection on sites with more than 8 trees[7].

Key challenges relate to the timing and sequencing of tree inspections, staff expertise in tree issues, staffing resources generally, complex and sometimes ambiguous nature of the regulations, and protocols for corrective action.

Timing and Sequence of Inspections:
In development situations, tree protection measures are inspected when the pre-construction erosion control inspection occurs. Installation of the tree protection and erosion control measures (e.g., tree fencing, silt fencing, etc.) is supposed to occur prior to any other work on the site. According to Site Development inspectors who are specifically charged with the initial tree protection and erosion control inspection, work often begins on a site such as a foundation digout or clearing before the erosion control inspection is requested. This can occur when contractors bypass the initial erosion control inspection. When an inspection is requested, the City's automated inspection system will alert the caller that they have not obtained their required pre-construction erosion control inspection. However, the caller can still proceed to request the other inspections after the message has played.

If damage appears to have occurred to the trees that are to be protected, the Site Development inspectors will check with the Land Use Services staff who reviewed the application to verify requirements, and often require the applicant's arborist to perform an inspection of the tree and furnish a report. In cases where a tree that is supposed to be protected has been removed, the case is referred to Compliance Services who will investigate the site and confer with the project planner before instituting corrective action against the responsible party.

In order to be more effective, tree inspections should take place at multiple, often unpredictable stages during development. Site Development inspectors visit the site at the initial pre-construction erosion control inspection and do not return to the site until the final permanent erosion control inspection, unless a complaint is filed. Other building inspections (foundation, framing, electrical, etc.) are triggered by a phone request and are required for a contractor to proceed with the next phase of the building. If the inspection is not approved, problems are noted as corrections and a reinspection is typically required. Conversely, tree protection is an on-going performance requirement, and is not dependent on any stage of construction other than prior to the initial site preparation. Depending on the work that will occur on a site, tree protection fencing may need to be temporarily moved (e.g. to set forms or locate a pier foundation). Once that work is completed, the fencing must be reestablished so that additional impact to the tree does not occur. This is frequently where problems arise because either a) the temporary disturbance was not approved by the project arborist, or b) the protection fencing is not put back. Also, land use conditions of approval often specify that encroachment into the root protection zone (RPZ) may occur under the supervision of a certified arborist. However, there are no means for verifying that the arborist is actually present when needed or that any of

[6] Bureau of Development Services, *Landscape Certification Form*, rev 01/10/06
[7] Ref: 07-105055 SD.

the arborist's recommendations or requirements are implemented in a timely manner. Random or more frequent planned inspections throughout the development process could improve compliance with the root protection requirements.

Inspector Tree Knowledge

BDS is responsible for inspecting trees to be protected during development of private property located in certain plan districts (Rocky Butte, Johnson Creek, and South Auditorium), overlay zones (environmental, greenway, and scenic), and where trees are addressed through land use or building permit reviews. BDS also has responsibility for inspecting general landscaping requirements of the zoning code. The BDS Site Development inspectors that are responsible for checking tree protection measures, tree planting, and other tree and landscaping requirements on private property typically come from backgrounds and training specific to building and construction practices, not tree and plant specialties. For large or complex planting and preservation permit related requirements, the Third Party Certification process is required instead of the Site Development inspector documenting the plantings have been installed. While this process allows for review by more knowledgeable tree and plant experts, the City has relegated some of its oversight and accountability for initial compliance. Moreover, the process only requires certification of proper plant installation and does not specifically address tree protection throughout the development process. It relies on the signoff at the end of the process that the tree is still standing.

As the City has established more tree and other site and landscaping requirements over the years, the number of items that inspectors are expected to verify on a site has also increased. This requires more of their time and specific knowledge sets. For tree protection, the inspectors generally rely on Land Use Services or Urban Forestry staff and the applicant's expert to determine proper root protection zone areas and assess degrees of damage that may be inflicted on a tree. A lack of tree-specific knowledge can lead to inadvertently missing situations, such as washing out concrete near the base of a tree, or stockpiling dirt on roots, that if left uncorrected may result in severe detrimental impact to the tree.

Similarly, the BDS code enforcement staff responsible for responding to Zoning Code violations also lack tree-specific expertise. There are no certified arborists or landscape architects within BDS' inspection staff. BDS does however have an agreement with Urban Forestry to consult with an Urban Forester on Land Use Reviews, permit reviews, inspections, and complaint investigations. These complaints are responded to by a Senior Planner with expert knowledge of the Zoning Code requirements for trees and tree protection. The Senior Planner works with Land Use Services and the Urban Forester for tree-specific information as well as working with the responsible party and /or their design team and arborist.

Staff Levels and Funding

Four BDS Site Development inspectors are responsible for approximately 900 inspections per month, or an average of approximately 10 inspection sites daily for each inspector. That limits the time available at each site to do the necessary inspections, as well as the associated time to investigate complaints and time back in the office to enter the inspection results in the permit database system. Given the multitude of requirements that must be inspected on a site and the demands on the inspectors' time, the time involved in investigating complaints and the limited resources available, priority is given to the most glaring problems and those with direct life and

safety implications[8].. Thorough inspection of street tree planting for proper species and installation quality routinely does not occur.

The Code Compliance section is comprised of 5 Zoning Code inspectors and a Senior Planner who respond to complaints as well as conduct inspections of "zoning" permits (i.e. permits to cover Zoning Code requirements where a building permit is not required, including landscaping and mitigation requirements). In 2007 there were 1517 total code compliance complaints plus 335 zoning permits. In the same period, there were also 15 tree review and 5 tree violation cases, as well as 5 environmental zone violation cases.

Complex and Ambiguous Regulations

Tree protection requirements are inconsistent between different jobs (arborists may specify varying protection programs), between different sites (many sites do not have regulated trees as discussed in prior issue papers), between different trees (some may be protected as regulated while others are retained voluntarily) and between public and private development (protection standards for right of way trees and trees on public property don't always receive the same level of protection required of private developments). The result is that inspectors may not always know what to expect on a job site when they observe encroachments into a root protection zone. While a copy of the approved plans is required to be on a site, this may not always be the case. In some cases even the plans themselves are not clear as to what the protection requirements are, including references to arborist reports or not clearly specifying fencing materials or protection distances from trees. Another issue that complicates the inspector's job is when the root protection zone is modified without the inspector's knowledge. This often occurs when a problem arises in the field (such as an over-excavation, or other unapproved intrusion into the RPZ), and the project arborist submits a report justifying the action after it has occurred. Since the code allows the project arborist or architect to submit a statement that the arborist/architect plan provides the same level of protection as the standard protection requirements, this can be processed as a revision to the approved permit. A copy of the approved revisions is also required to be on-site and available for the inspector to review. However, the revised plans often do not make it to the job site, which creates confusion in the inspection process. When the revised plans are presented to the inspector, there is frustration at receiving a report that sanctions the encroachment after the fact. Inspectors can also be frustrated if the revised plans do not make it to the site because they may then ask for corrections that are unnecessary.

Protocols for Corrective Action

If a problem is discovered with the tree protection measures outside the normal inspection process (i.e. after the initial pre-construction erosion control inspection), it can take a long time to assess a situation, contact and work with the responsible party, educate him or her on what needs to be done, and ultimately get the corrections made, and then reinspect the site for

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[8] From the BDS Employees Handbook:
9.2 PRIORITIES
Inspectors get requests for inspection from different sources and with different levels of urgency. The following is a list of bureau-wide priorities for inspection, from most to least important. It is provided as a general guideline, but supervisors or senior inspectors may assign different priorities as circumstances require:
1. Life safety or health issues that create an imminent danger to public health or safety.
2. Called Inspections, Hearings Officer/Code Compliance referrals, and referrals from the Office of the Commissioner, Mayor, or BDS management.
3. Referrals stemming from fire damage or zoning inquiries.
4. Any other complaint investigations that do not involve immediate life safety or health issues.
5. Backlogged inspections, including violation cases.
If you don't have enough called inspections to fill the workday, assist other staff who may have too many requests or make inspections lower on the priority list. Talk to your senior inspector or supervisor for advice on determining priorities or handling difficult cases.

compliance. If the problem relates to potential damage, such as boring utilities through the RPZ, then this activity is not allowed to occur until the project arborist assesses the situation, approves the work, and submits a revision to the permit if this was not already approved. Minor infractions, such as removing debris from the RPZ are usually corrected in a timely manner.

The site development inspectors generally perceive themselves to be quality control experts, and not enforcement authorities. This perception favors a customer friendly, problem solving approach to mistakes made on jobsites. This is largely desirable, except that tree damage cannot be easily corrected once it occurs. In addition, current practices may give contractors and their sub-contractors the impression that the City does not place great importance on tree protection. Also inconsistent application of the rules may cause contractors to feel singled out when inspectors pursue violations or impose penalties.

Optimally, tree inspectors should focus on early communication, preemptive education, and problem solving before the fact. However, the regulations, inspection, and enforcement processes must be strong enough to deter violations and impose appropriate consequence when violations do occur. The degree of consequence can vary based on severity or frequency of violations, but is necessary to reinforce the importance of observing the protection requirements. Site Development and Compliance Services staff have been working on a better protocol to deal with tree preservation infractions during the development process. The new guidelines will provide better information to the responsible party, hold them responsible for continued violations, and better respond to citizen concerns regarding alleged and/or confirmed violations.

Citywide Tree Project

Policy Review and Regulatory Improvement

Issue Paper

DISCUSSION DRAFT

Violations, Enforcement, and Penalties

ISSUE SUMMARY

Under the current regulations, once a tree violation has occurred, the City struggles with how to remedy the problem. Unlike other code violations where the damage or non-compliant structure can be rebuilt or removed, once a tree has been damaged or removed, there is no simple solution to restore it. The current enforcement process is lengthy, with sometimes disproportionate penalties, and requires a lot of staff time. Also, because trees can be removed quickly and because the current regulatory structure is complex, it often is not clear whether a violation has in fact occurred. Sometimes the complaints that are reported do not always rise to the level of a violation. Enforcement staff must consider the extent of an infraction, determine whether the damage is real or superficial, and determine the proper recourse. Consequently, infractions of the various tree regulations are not always reported, or tracked as violations.

BACKGROUND

How violations are reported

Tree related violations are discovered either during a staff site visit or through public complaints. The majority of the BDS Compliance Services Section and Parks Bureau enforcement work is primarily the result of public inquiries and complaints. The Urban Forestry inspectors will also take notice of street trees that have been removed, since they are familiar with their particular area to know whether a permit has been issued. The BDS Site Development Inspection staff can also discover violations during an associated inspection of erosion control measures. This is often the result of work beginning on a project prior to the pre-construction site inspection. Site Development Inspectors will also respond to and investigate public complaints during the project. Compliance Services Inspection staff will respond to public complaints and cases that are referred by the Site Development section. Complaints from and enforcement by non-Urban Forestry, Site Development and Compliance Services inspection staff[1] for tree related matters is uncommon.

Determining what is a violation

Technically, a violation of the tree protection requirements occurs when activities damage or remove a tree that is required to be protected or is otherwise regulated by Title 20 (Parks and Recreation) or Title 33 (Zoning). However, it is often challenging to determine which actions that constitute "damage" are violations; the following situations illustrate the complexity of the issue:

- Extreme pruning - Under Title 20, pruning a street tree without a permit is a violation. Utility companies prune trees in the right of way under a general blanket permit. Under

[1] The Bureau of Development Services has several inspection groups including Electrical, Plumbing, Structural/Mechanical within the Commercial Classification, "Combo" Inspectors for Residential Class structures, and Facilities, Special and Major Projects Inspectors for specific permit types. Site inspections are handled by Environmental Soils inspectors and Site Development inspectors The Compliance Services Section includes inspectors to investigate and enforce construction code violations (where there is no active building permit), zoning violations, and noise complaints. The Neighborhood Inspection Section includes inspectors to investigate and enforce Title 29-Property Maintenance Regulations relating to housing and nuisance violations. There are a total of 93 inspectors within BDS.

Title 33, it is a bit more complicated: it may be a violation if such pruning occurred in an environmental zone and did not meet specific exemptions. "Topping," a severe form of tree crown reduction, is also prohibited for trees that are protected (i.e. tree preservation) or required (i.e. planted landscape or mitigation trees) by the zoning code. However, there are exemptions to this prohibition for pruning actions to remove safety hazards, dead or diseased materials, or avoid overhead power lines. Additionally, there is no further guidance within the zoning code or landscaping manual as to what level of pruning constitutes a violation.

- Knocking the bark or a large limb off a tree - Like the pruning situation, for a regulated tree, it depends on the extent of damage. Under Title 20 this action may constitute a violation, since "cutting" means "felling or removal of a tree, or *any procedure in which the natural result will lead to the death or substantial destruction of a tree.* Such acts include but are not limited to the severe cutting back of limbs to stubs larger than three inches in diameter; and damage inflicted upon the root system of the tree." However, under Title 33, it's even less clear. Title 33 prohibits the following development within the protection area: new buildings; grade change or cut and fill during or after construction; new impervious surfaces; utility or drainage field placement; staging or storage of materials and equipment during construction; and vehicle maneuvering areas during construction. There is nothing specific about prohibited actions within the protection area, such as bark abrasions, that may harm the tree itself.
- Driving construction equipment next to a regulated tree - For trees that are subject to preservation and protection requirements – it is a violation to drive or store equipment within the required root protection zone without the project arborist's approval and supervision. However, for trees not subject to a land use condition or building permit preservation requirement this is not a violation. Adding to the confusion, on a work site where tree preservation requirements are in effect trees retained voluntarily are not subject to the same degree of protection required for the trees that are required to be preserved.
- Stockpiling of soil or materials in the root protection zone of a regulated tree - The zoning code specifically notes that staging or storage of materials or equipment during construction in the root protection zone is not allowed. However, as noted, it's not always apparent which trees are subject to root protection zone requirements. Also, Arborists may specify alternate root protection areas for trees and this additional information may not always be forwarded to inspectors who might then erroneously believe that an encroachment violation has occurred. When a root protection zone has been violated, the applicant's arborist is called in to assess the level of damage to the tree, and recommend corrective measures. If the tree is found to be viable and the soil or materials are moved, then the violation is typically not pursued further.
- Cutting major roots on a neighbor's tree - If a tree is on a common property line or is in a neighbor's yard, it is exempt from the City's preservation requirements for land divisions. However, the root system of these trees may extend well into the project site. Impacts to neighbors trees through crown or root pruning activity is not addressed by the zoning code. These issues are not addressed as code violations but rather as civil matters between property owners[2].

[2] **ORS 105.810 Treble damages for injury to or removal of produce, trees or shrubs; costs and attorney fees; limitation on liability of contract logger.** ...whenever any person, without lawful authority, willfully injures or severs from the land of another any produce thereof or cuts down, girdles or otherwise injures or carries off any tree, timber or shrub on the land of another person, or of the state, county, United States or any public corporation, or on

- Digging for a drywell or other utility in the root protection area of a tree that is to be preserved - This situation is specifically prohibited by Title 33. However, conflicts and confusion may arise because at times the drywell is shown on the approved plans within the root protection zone (as described in the Utility/Infrastructure Permit Coordination issue paper). And in some cases, the project arborist may allow these limited encroachments, subject to his or her specific recommendations and supervision.
- Obviously, removing a tree when a review or permit is required is a violation, but as noted in the Code Complexity issue paper, establishing when a permit or review is required is not always straightforward, and can vary based on a property's use, location, underlying zone, and past land use history. Also, in some cases, trees may be removed and their stumps ground leaving no physical evidence behind, making it very difficult to establish whether the tree was in fact a regulated tree.

Based on the complexity inherent in the current set of tree regulations, it is often difficult for staff to advise the public and applicants about universally allowed and prohibited actions. Also, there isn't adequate information on the site for the general public to know when a violation is occurring.

When a suspected violation is reported, City inspection staff will verify with planning staff any time there is any question or uncertainty about the applicable regulations. These issues are complicated and require a high level of discretion to determine the degree of real or potential damage. There are many factors and degrees of damage, and not all tree preservation infractions will result in permanent damage. Enforcement staff works with the project arborist and the City's Urban Forestry arborist to assess these situations and make informed and responsible enforcement decisions.

Enforcement Options

There are three primary means of addressing violations of the tree regulations: civil citations (including the possibility of criminal penalties), plan check processes for limited environmental zone violations, or land use reviews. When an inspection clearly reveals that a tree had been damaged or removed, concluding that it was regulated would be the first task, and then establishing which set of regulations apply would follow. With that information, the proper procedural route to remedy the violation can be determined. While the enforcement staff is very familiar with the various zoning code processes and requirements, the complexity of these rules can frustrate an unknowing violator, neighborhood associations, and the general public who are unfamiliar with the system.

It is an easier circumstance from an enforcement standpoint to address the situation where a tree has been illegally removed. The existing recourse options are monetary penalties (fines), time penalties (delays), and restitution (replanting). The equation becomes more complicated when a tree has been damaged but not removed, and it is not clear that it's future viability has been compromised. For example, trenching beside a tree or soil compaction within the critical root zone won't cause the tree to decline immediately. The consequences of inflicted damage may not be apparent until years after the incident. However, unless the tree is removed, there may not be adequate room for planting replacement trees, although equivalent payment into a

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the street or highway in front of any person's house, or in any village, town or city lot, or cultivated grounds, or on the common or public grounds of any village, town or city, or on the street or highway in front thereof, in an action by such person, village, town, city, the United States, state, county, or public corporation, against the person committing such trespasses if judgment is given for the plaintiff, it shall be given for treble the amount of damages claimed, or assessed for the trespass.

tree fund or planting off site might be an option. And since the tree is not dead, assessing the same penalty as if the tree *had* been removed might be excessive, and requiring the tree to be preemptively removed would be onerous unless the tree was determined to pose a hazard.

If the tree that was damaged or removed is under the purview of the Parks Bureau, Urban Forestry inspectors will notify the responsible party and reference the Title 20 code requirements and require mitigation and/or payment of a penalty. Pursuing crown reconstruction is usually the response to address street tree pruning violations, whereas requiring a mitigation fee for tree replacement is often the response to address illegal public or private tree removal. Most violations are resolved in a cooperative manner, thus avoiding the need for punitive penalties or legal action.

For trees that are regulated by the zoning code (Title 33) and enforced by BDS, a land use review process is utilized to handle most tree-related violations. Within the environmental overlay zone, some violations may be addressed through a relatively quick process using clear and objective standards. The process to correct a violation is identified in the applicable set of regulations. For example, a tree that was cut but required to be preserved through a land division would go through a Tree Violation review to correct the situation As indicated in Table 1, there are as many as 15 different land use procedures to address tree situations. The cost for each varies considerably, as does the timeframe to complete the review.

One of the perceptions of this present system is that it is the process itself that becomes the punishment more than the required restoration or payment. The negative impact of such a system is that it is time consuming and delays mitigation. With unwilling applicants, the quality of the applications tends to require greater scrutiny and more correction, and getting responses and additional required information from applicants is hampered. This demands more staff time to get these cases resolved and completed, and in turn staff capacity to deal with other development applications. To date, BDS has not faced a situation where an applicant's proposal could not be approved through the application of numerous conditions of approval. However, if this were to happen, the Hearings Officer would be asked to act on the application, and if denied, the case would likely be referred back to compliance services to pursue fines and potentially place liens on the property.

Penalties

Three types of penalties exist within the Parks Bureau Code (Title 20); civil penalties, civil remedies, and criminal penalties[3]. The civil penalties process authorizes Urban Forestry to send

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[3] **20.40.210 Criminal Penalty.** (similar penalties are repeated in 20.42 for non public trees)
Any person, firm or corporation violating any provision of this Chapter shall, upon conviction, be fined a sum not exceeding $1,000 or shall be imprisoned for a term not exceeding 6 months or shall be punished by both such fine and imprisonment.
20.40.215 Civil Penalties. (similar remedies are provided for in 20.42)
Any person who cuts or removes any tree that is subject to the provisions of this Chapter, or who contracts for, pays for or otherwise allows or suffers such cutting or removal, if such cutting or removal is undertaken without a permit as required by this Chapter or in non-compliance with any term, condition, limitation or requirement of such permit, shall be subject to a [$1,000] civil penalty...each tree shall constitute a separate violation, and each day that the person fails to obtain a permit or remains in non-compliance with a permit shall also constitute a separate violation.
20.40.220 Civil Remedies. (There is no equivalent provision for private trees in 20.42)
In addition to the remedies provided by any other provision of this Chapter, the City shall have the right to obtain, in any court of competent jurisdiction, a judgment against any person removing or causing damage to any tree in violation of this Chapter. In any such action, the measure of damages shall be the actual replacement value of the damaged or destroyed tree(s).

a letter requesting up to $1,000 per public or private tree violation, but violators may contest the finding before a hearings officer. In assessing the violation, the hearings officer may consider: the nature and extent of the responsible party's involvement in the violation; the benefits, economic, financial or otherwise, accruing or likely to accrue to the violator as a result of the violation; whether the violation was isolated and temporary, or repeated and continuing; the magnitude and seriousness of the violation; the City's cost of investigation and remedying the violation; or any other applicable facts bearing on the nature and seriousness of the violation. This is the most common type of violation penalty used. The civil remedies process is unique to public tree regulations and provides in addition to the other remedies in Title 20, a judgment against any person illegally removing or causing damage to any tree. In these cases, the restitution is the actual replacement value of the damaged or destroyed tree(s). These cases typically are in egregious situations where the violation was flagrant and the lost tree is exceptional. Finally, criminal penalties are punishable by up to $1,000 fine and/or six months in prison for illegal removals of either public or private trees, but they require a conviction by the District Attorney. This type of penalty is not generally used, but serves as an additional tool, if so warranted. In addition to the penalties, mitigation replanting is also required.

The zoning code (Title 33) has procedures in place for pursuing other types of code violations through Chapter 3.30 (Establishment of Enforcement Priorities and Remedies), Title 22 (Hearings Officer Procedures), or Section 33.700.040 (Reconsideration of Land Use Reviews). However, for resolving tree related issues, the zoning code and Development Services have instituted land use review and plan check processes. Only when these processes are not successful are additional remedies such as fines or liens necessary. Within the zoning code there is a wide range of fees and procedures represented within the different land use reviews used to address tree issues. The Bureau typically does not institute monetary penalties, but instead treats tree violations as an "alteration" to a site that requires a land use review, unless corrective action can be taken to resolve the situation (for instance replacing or planting a required landscape tree).

This means that two similar trees could have different costs and procedural types associated with their illegal removal. Under today's regulatory system, it can be confusing since a like-zoned, similarly-sized properties may have no requirements for obtaining tree permits, while the tree on the adjacent property is subject to a preservation condition from a prior land use review. It is also possible (though not common) for two trees on the same property to be regulated by different codes, and therefore their illegal removal prosecuted in two separate courses of action[4].

A proportionate and equitable response is important, for overall public support as well as general belief in the system. Consider for instance these two scenarios:

1) A 4-lot land division site (with a portion in a landslide hazard area) contained four trees, two were dead, and the remaining two were mediocre quality 14" diameter shore pines. The developer preserves one of the two viable trees to meet the 35% preservation option. The house has been built and the new owner is creating a landscape plan that includes native trees, shrubs, and groundcovers. The shore pine tree does not fit with the concept. He chats with his next door neighbor (who incidentally is not in the land division site) who says

[4] For example, such a situation could occur on a commercially zoned parcel with scenic overlay zoning. Removal of the trees outside the scenic overlay are subject to Title 20 and assessment of penalties, otherwise they would be subject to Title 33 and a Tree Review process..

that he called the City to see if he needed a permit to cut a very large Doug fir tree on his lot, and he didn't, so the owner cuts down the shore pine tree that is required to be preserved.

Since the land division site was reviewed through a Type III review process and the size of the tree cut was greater than 12", the owner will need to apply for a Pre-Application Conference ($2,791), and a Type III Tree Violation Review ($4,644), prepare an application that addresses the approval criteria, draw up plans, attend a hearing before the Hearings Officer, and plant 5 trees. The whole process will take between 12 and 16 weeks, during which the owner will likely not want to move forward with his landscaping plans until a final decision has been rendered on his mitigation plan.

2) An 8-lot land division site is being cleared for the new houses. The grading excavator knocks over the protection fencing and removes a stand of 12 large Douglas firs that comprised the tree preservation tract. In this case, the land division application was reviewed as a Type IIx (since it was not within a landslide hazard area). As a result, the responsible party will be required to apply for a Type II Tree Violation Review ($1,908), revise his previous application and plans that addressed the approval criteria. There is no public hearing. In the end, the applicant will preserve 12 alternate trees on site and will not need to replant. This process will take between 8 and 10 weeks, during which other construction on the project can continue unabated.

Note that in these two scenarios, the violation process is a function of the procedure the initial land use review went through and in the case of the Type III Land Division review, the size or cumulative size of the tree(s) cut. However, there is no distinction between removing small, medium, or large canopy trees, or even between non-native and significant trees.

These hypothetical situations illustrate the potential for disparity between penalties, and that penalties are often unrelated to the degree of the violation and the value of the lost tree resource.

Conclusion

Enforcement, while a critical component in the success of any regulatory system, is challenging. There is no way to ensure that applicants, contractors, and owners will continually abide by the City's rules. Part of this is due to the public not knowing what the rules are, or not knowing how to follow them. This aspect of the problem could be addressed through improved public education and outreach. Part the problem is due to the complicated nature of the current codes. This can be addressed, at least in part, by making the codes consistent and more understandable.

Enforcement programs should include criteria and provisions to help prioritize appropriate timeliness, degrees of response, and imposition of penalties.. While adherence to regulations is paramount, discretion is also a hallmark of a responsible enforcement program.

Enforcement is still largely dependent on an active reporting program (i.e. an informed and involved citizenry) and also relies on having sufficient funding and staff resources to respond to those complaints.

In addition to the complicated current rules, the reliance on land use reviews as an enforcement process tends to further hamper speedy resolution and the options to rectify tree violations are limited.

TABLE 1. SUMMARY OF LAND USE REVIEW TYPES TO ADDRESS TREE VIOLATIONS.

Type of Review (Typical Timeframe[5])	Applies to:	Cost of Review[6]
Tree Review – Type II (8-10 week review)	Trees (6" dbh and larger) in the scenic corridor overlay zone "s" that are not in "c" or "p" zone (33.480.050) Trees (6" and larger at 5' above ground) in the Rocky Butte Plan District that are not in "c" or "p" zone (33.570.040) Violations to other tree preservation requirements of "this Title" – notably, the Johnson Creek PD, South Auditorium PD, Historic Landmark Trees, but not EN or GW zones	$972
Tree Preservation Violation Review – Type II (8-10 week review)	Violations to tree protection and preservation requirements of Land Division reviews outside of EN zones.	$1,908
Tree Preservation Violation Review – Type III (15 week review)	Violations to tree protection and preservation requirements of Type III Land Division reviews when more than 12" have been removed outside of EN zones.	$4,644
EN Zone Violation-Option 1 Plan Check (2 weeks) minimum	Illegal removal of up to 12" of trees in the "c" or "p" resource area (with additional restrictions for smaller significant trees)	$557 + zoning permit fee[7]
EN Zone Violation-Option 2 Plan Check (2 weeks) minimum	Illegal removal of more than 12" of trees in the "c" or "p" resource area (with additional restrictions for smaller significant trees)	$557 + zoning permit fee
EN Zone Violation-Option 3 Type II (8-10 week review) Type III (15 week review)	When the standards of Options 1 or 2 cannot be met, violations to tree regulations in the "c" or "p" resource area must go through an environmental review process	$2,364 type II $7,842 type III
EN Zone Violation-developed SFR undividable lot Option 3 - Type III (15 week review)	When the standards of Options 1 or 2 cannot be met, and the site is occupied by an SFR and is not large enough to divide, and a Type III EN review would be required per 33.430.230.	$3,859
EN Zone Violation-Columbia South Shore Plan District - Type II (8-10 week review)	Removal of non-nuisance non-hazard trees (any size) in the "c" or "p" zones, including transition areas, within CSSPD.	$3,427

[5] Timelines are typical, based on complete application submittal. For land use reviews, an applicant has 6 months to make their application complete. For zoning permits, there is no time limit, however, code enforcement staff will typically identify timeframes to correct the violation, before penalties are levied.

[6] Fees are as of September 10, 2008, and subject to change. The fees do not reflect any other additional mitigation costs that may be imposed such as payment into the Tree Fund or costs of purchasing and planting required mitigation materials.

[7] The zoning permit fee is based on the value of the work to be performed, but is typically in the $175-$300 range.

EN Zone Violation-CSSPD w/ developed SFR undividable lot - Type II (8-10 week review)	Removal of non-nuisance non-hazard trees (any size) in the "c" or "p" zones, including transition areas within CSSPD on a site occupied by an SFR and is not large enough to divide.	$1,360
Pleasant Valley Violation Process-Option 1 (2 weeks)	Illegal removal of up to 12" of trees listed in the *Portland Plant List* in the Pleasant Valley Natural Resources "v" overlay (with additional restrictions for smaller significant trees)	$557 + zoning permit fee
Pleasant Valley Violation Process-Option 2 (2 weeks)	Illegal removal of more than 12" of trees listed in the *Portland Plant List* in the Pleasant Valley Natural Resources "v" overlay (with additional restrictions for smaller significant trees)	$557 + zoning permit fee
Pleasant Valley Violation Process-Option 3 Type II (8-10 week review) Type III (15 week review)	When the standards of Options 1 or 2 cannot be met, violations to tree regulations in the "v" overlay area must go through a Land Use review process	$1,879 type II $6,521 type III
Greenway Review Residential - Type II (8-10 week review)	Although the Tree Review chapter (33.853) specifically excludes greenway zone violations, there is no specific procedure assigned to address violations within the greenway zone. Instead, a retroactive greenway review is required. - Non-nuisance non-hazard trees (any size) in greenway overlay zones "n" "r" "g" "i" "q"	$1,587
Greenway Review Non-residential - Type II (8-10 week review)	Non-nuisance non-hazard trees (any size) in greenway overlay zones "n" "r" "g" "i" "q"	$4,378
Adjustment – Type II (8-10 week review)	When tree removal standards cannot be met, i.e. Johnson Creek, or Land Division preservation standards.	$680 SFR, $836 non SFR $1,177 non residential
Amending Conditions of Approval	Violations to Trees that are required to be preserved by a specific condition of approval that are not part of a Land Division.	Fee based on type of initial land use review.

Appendix K

Fiscal Impact Analysis Detail

Fiscal Impact Summary
Fiscal Impact Tables and Budget Summaries

Citywide Tree Project Land Use Review Costs

Summary of Changes to Draft Proposal per PC/UFC direction:

- Remove criterion for AD, CU, DZ cases
- List tree preservation along with other factors in CU and DZ cases
- Remove code requirement for preliminary tree assessment for Type III LD cases
- Scale back level of UF review from all LU cases with tree requirements to "as needed" consultation

Summary of Changes to Staffing Needs (based on changes noted above):

- Remove costs associated with AD cases (no requirement)
- Remove costs associated with CU and DZ cases. It is acknowledged that there may be some additional staff time to address trees in these reviews, however it is expected to be negligible. These changes can be supported with current service levels.
- Remove costs associated with additional TR reviews. The # of reviews are not longer expected to increase because specific tree plans will not be required for additional reviews.
- Remove costs associated with early tree assessment
- Reduce # of counter/phone questions and time spent on EA/pre-application appointments based on reduced scope of proposal.
- Reduce total amount of UF tree expert consultation time for LU cases.

Revised Fiscal Impact Summary Based on average 2000-2008 case volumes*

Function	November 2010 Estimates (Add'l FTE)	April 2010 Estimates (Add'l FTE)
Early Assistance (phone/counter, appts, pre-app). Expected to be primarily regarding LD requirements	0.05	0.25
Review		
CU, DZ	Current service level	0.15
LD (BDS Planner), ~ 206 cases impacted	0.35	0.35
Tree Expert Consultation for LU cases ~104 cases @ 4 hrs per case (~35% of total volume expected to have tree preservation concerns)	0.20	0.7
Total add'l staffing	**0.6 FTE**	**1.45 FTE**
Cost per land use case		
Land Division (includes EA and Review avg across 242 cases)	**$289 per case** ($223 BDS ($54,000/242) + $66 UF)	
Other: CU, TR, EN, GW (includes UF cost for consultation avg across 357 cases, incl LD cases)	**$66 per case** (UF: $23,700/357)	

* Initial staffing needs are expected to be lower based on lower case volumes.

How this staffing is indicated in the proposed budget table:
Tree Expert Consultation 0.2 – Translates into 0.2 Tree Inspector (Land Use Reviews)
NOTE: this position is combined with 0.3 Tree Inspector (CIP/PW) to make 0.5 position.
Early Assistance .05 + BDS Planner .35 – Is rounded up and reflected as 0.5 City Planner II (Land Use Reviews).

Citywide Tree Project - Building Permit Review Costs

Summary of Changes to Draft Proposal per PC/UFC direction:

- Simplify Preservation with Mitigation –
  - Exempt lots <3,000 s.f.
  - Exempt lots >90% building coverage
  - Apply 35% threshold to trees 12" and larger (from 50% of 20" and larger)
  - Pay out if standards not met.
  - Exempt lots that qualify for homeowner tree permit (e.g. most RS additions)
    Note: The PC/UFC did not specifically direct this change, however, by instituting the homeowner provision in non development situations, a large loophole would be created around the preservation standard for RS additions. We proposed this change to re-align the development and non development requirements.
- Remove inspection requirements from code, rely initially on 10% spot checking
- Remove Optional Tree Review
- Simplify Tree Density requirements for greater ease in implementation

Summary of Changes to Staffing Needs (based on changes noted above):

- Reduced time to review simplified preservation standard/
- Eliminate inspections at preliminary, in process, and at final, substitute with 10% spot check of all cases with tree requirements (preserve or plant)
- Reduced frequency of cases where preservation would occur (reduces protection review and preservation review time)
- Spot check inspection time (1 hour) reflects independent inspection (not piggybacked to other inspections)
- Added some additional staffing to respond to complaints
- Added some additional staffing to coordinate spot check program

Revised Fiscal Impact Summary Based on average 2004-2008 permit volumes*

Function	November 2010 Estimates (Add'l FTE)	April 2010 Estimates (Add'l FTE)
Communication (phone/counter).	0.1	0.1
Plan Review**	0.94	1.7
Inspections 10% of ~5000 permits***	0.65	4.2
Complaint Response	0.37	(Included with inspection time)
Total add'l staffing	**2.4 FTE** (s,b,oh = $262,791)	**6 FTE** (s,b, oh = $813,500)
Cost per permit (across 5530 permits)***	**$47**	**$147**

* Initial staffing needs are expected to be lower based on lower case volumes.
** Plan Review functions consist of the following tasks: Tree preservation, protection, and density review and writing checksheets. Of the 5,535 permits subject to either tree preservation and/or tree density review fee, 5,000 will require a check (the other ~500 will not have trees to protect or preserve)
***Inspection is based on: 10% spot check inspection of permits with tree requirements. Portion of time spent to evaluate RPZ arborist reports.

How this staffing is indicated in the proposed budget table:
Plan Review – 1.04 Communication and Plan review translates into 1.0 City Planner II
Inspections/Complaint Response – 1.02 Translates into 1.0 Tree Inspector

Citywide Tree Project - Private Tree Removal Permit Costs

Summary of Changes to Draft Proposal:

Tree Condition	Mitigation	Appeal
Dead, Diseased, Dangerous	1:1	Applicant only
Nuisance Species		
Within 10' of building		
4 trees 12-20"/year		
Homeowner sites ≥20"		
≥20"	Up to inch for inch	Applicant and Public
≥5 trees		

- Simplified regulated tree size threshold
  - Applies to all properties at 12" and greater, except:
    "Special areas" subject to 6" tree size
    Homeowner sites subject to 20" tree size
  - Removed 6" oak and madrone provision
- Simplified mitigation requirement
  - 1:1 mitigation for D,D,D,N, trees w/in 10' of buildings, and removal of up to four 12<20 inch trees
  - 1:1 mitigation for homeowner sites
  - Up to inch for inch mitigation for removal of ≥20 inch trees or removal of ≥5 trees larger than 12"
    Note: the PC/UFC did not include specific direction to substitute the 3:1 replacement requirement, however, in conferring with the Forester, this change is consistent with the direction to simplify the requirements.
  - Forester retains discretion to reduce mitigation based on specific considerations
- Public appeals for healthy trees ≥20 inch trees or removal of ≥5 trees

Summary of Changes to Staffing Needs (based on changes noted above):

- Reduced inspection time to address trees impacting foundations with 10' from building.
- Reduced inspection time to address removal of nuisance species trees.
- Reduced inspection time to address removal of up to 4 trees <20 inches
- Reduced review and decision time to address homeowner sites.
- Reduced instances of public appeals (the proposed definition of "homeowner sites" removes ~20,000 lots that are currently subject to 20.42 permits, tree size threshold subject to public appeal raised from 12 to 20").

Revised Fiscal Impact Summary based on projected number of permits*

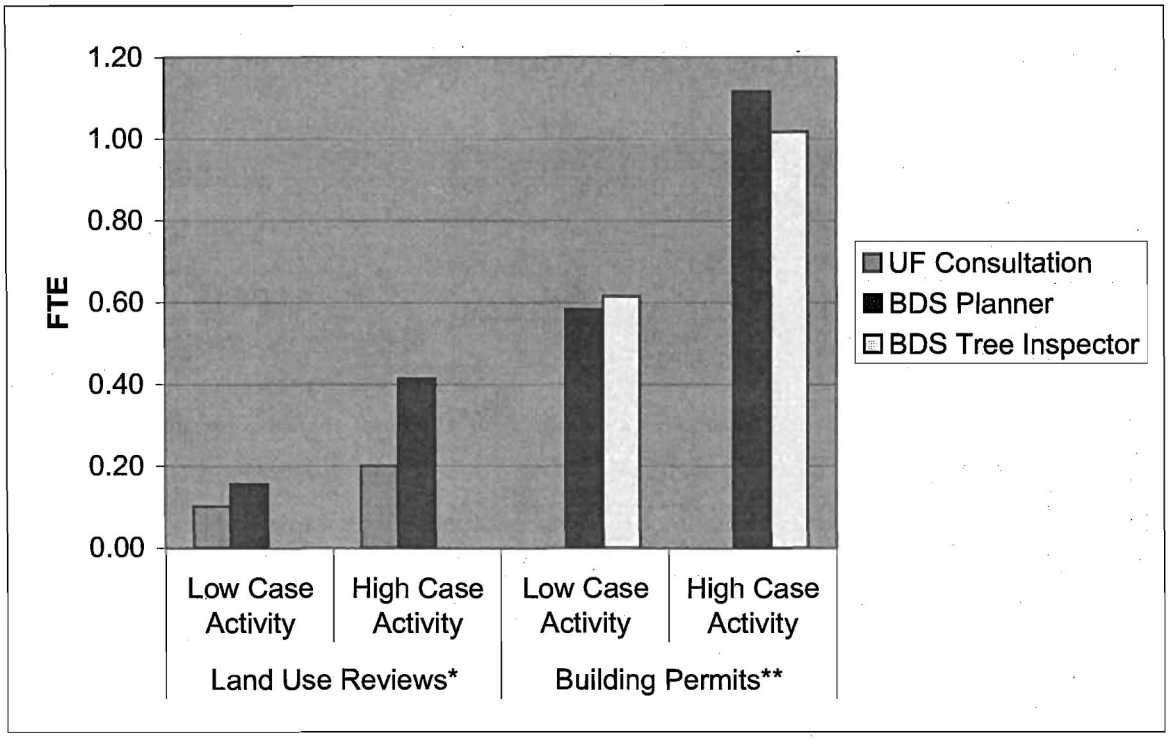
Function	November 2010 Estimates (Add'l FTE)	April 2010 Estimates (Add'l FTE)
Communication	0.07 FTE	0.19 FTE
Permit Review/Inspection/Issuance	0.51 FTE	0.55 FTE
Appeals	0.27 FTE	0.16 FTE
Complaint Response	0.11 FTE	0.42 FTE
Total add'l staffing	**0.96 FTE**	**1.32 FTE**

* The estimated number of permits used existing permit activity (120) and projected to account for added lots. These numbers were then doubled (523 total permits) to account for greater awareness of permit system based on universal application of the requirements and reflect an anticipated higher end of activity.

How this staffing is indicated in the proposed budget table:

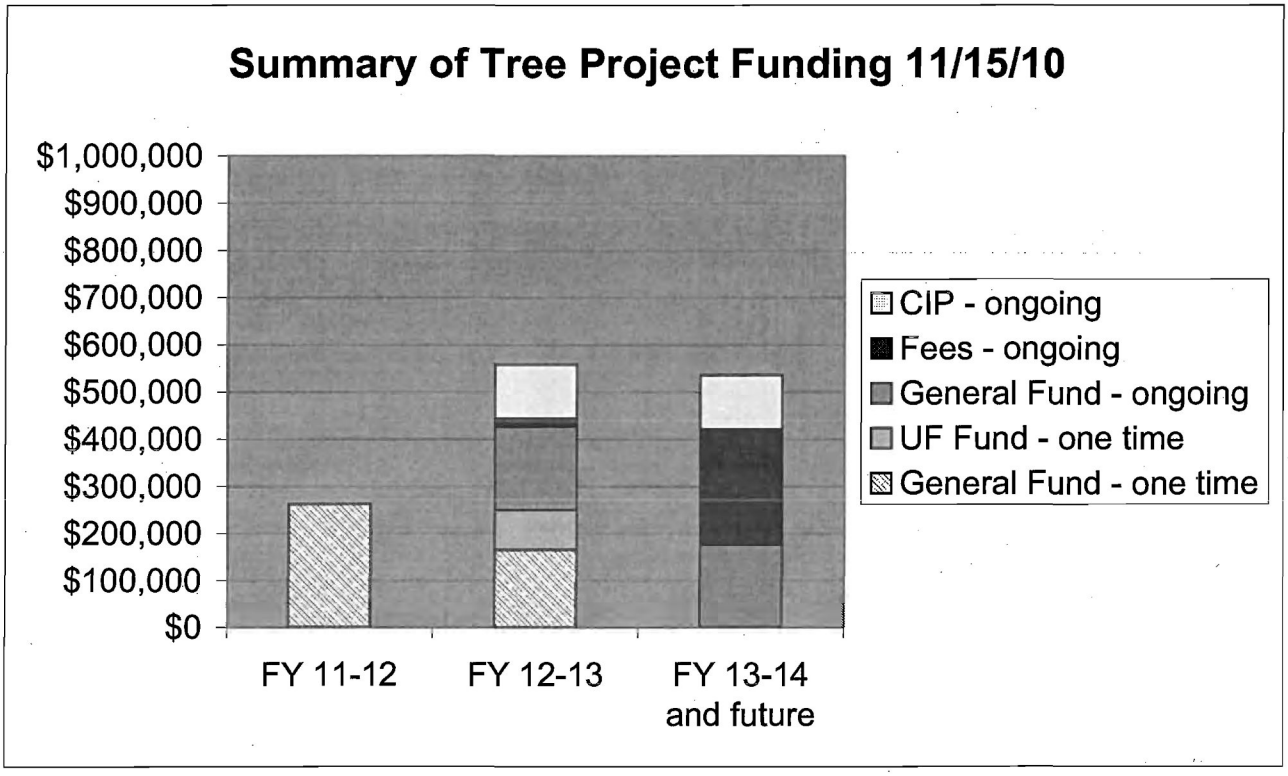
Communication – is combined with Single Point of Contact duties.

Permit review/inspection/appeals/complaints - .89 is rounded up to 1.0 Tree Inspector



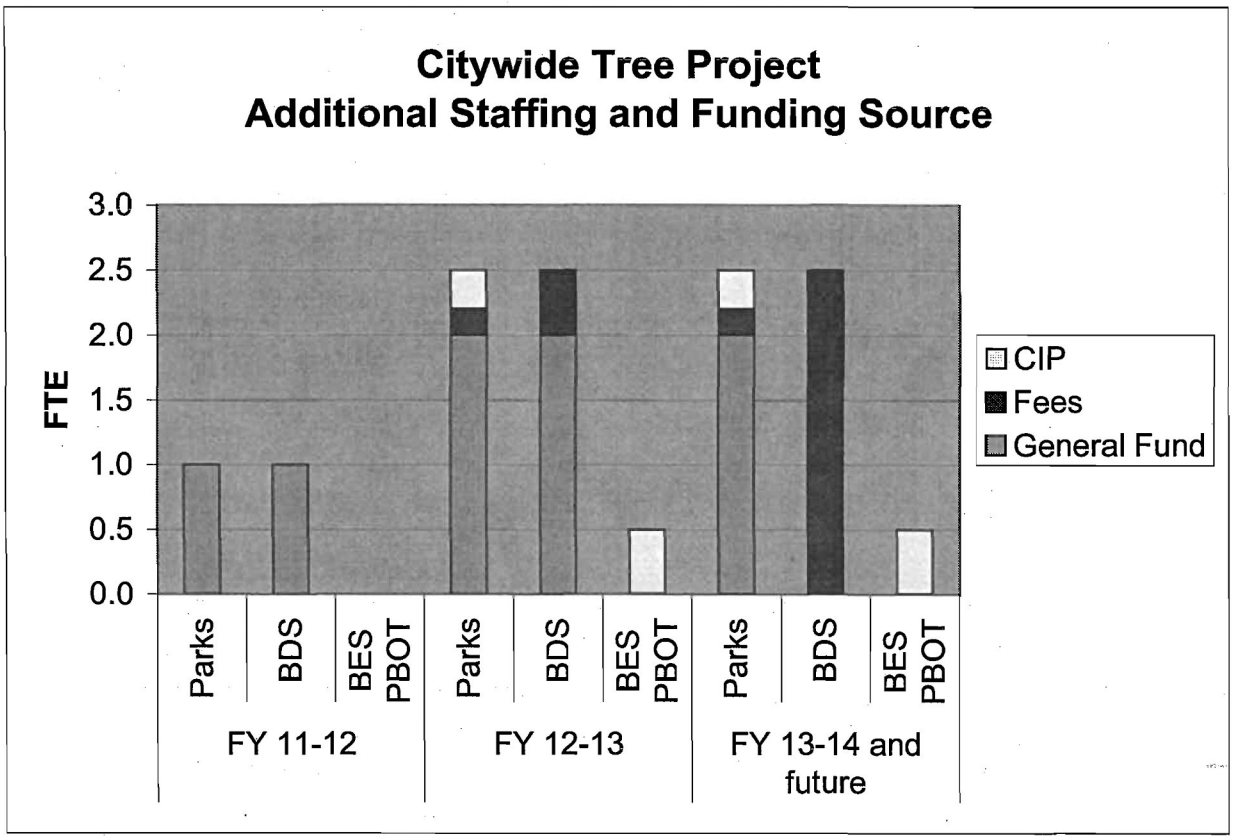
* Building Permit low end case activity is based on average of FY 09-10 permits, hi end activity is based on FY 04-09 permits. Uniformaly applied fees range from $50-60.

** Land Use Review low end case activity is based on average of calendar years 09-10 cases, hi end is based on average of calnedar years 00-08. Uniformly applied fees (across all LURs) range from $60-70. If applied only to Land Divisions, would range from $300-$420.



Summary of Tree Project Funding - 11/15/10

		One Time		Ongoing			TOTAL by year
FY period	**Bureau**	**General Fund**	**UF Fund**	**General Fund**	**Fees**	**CIP**	
FY 11-12		**$262,000**	**$0**	**$0**	**$0**	**$0**	
	Parks	$168,000					**$262,000**
	BDS	$94,000					
FY 12-13		**$165,000**	**$85,000**	**$176,000**	**$17,000**	**$115,000**	
	Parks	$30,000		$176,000	$17,000	$25,000	
	BDS	$125,000	$85,000	$0	CSL	$0	
	BES	$10,000				$21,000	**$558,000**
	PBOT					$17,000	
	Water					$52,000	
FY 13-14 and future		**$0**	**$0**	**$176,000**	**$244,000**	**$115,000**	
	Parks			$176,000	$17,000	$25,000	
	BDS				$227,000	$0	
	BES					$21,000	**$535,000**
	PBOT					$17,000	
	Water					$52,000	



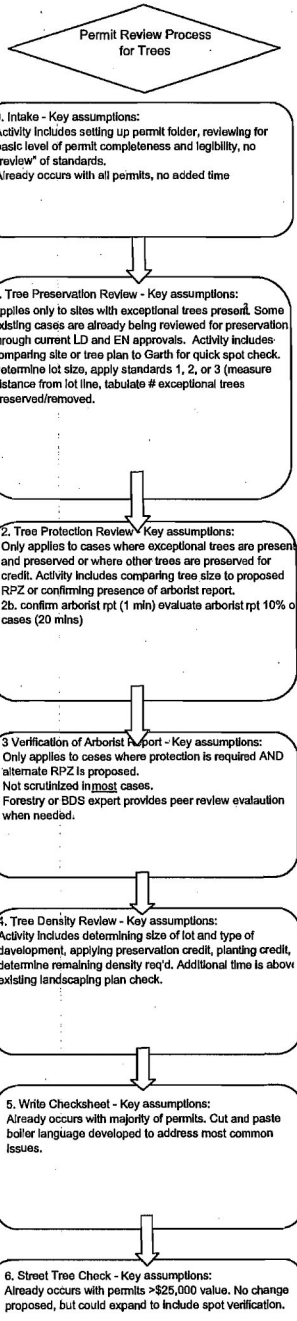
Summary of Tree Project Staffing - 11/30/10

FY period	Bureau	General Fund	Fees	CIP
FY 11-12	Parks	1.0		
	BDS	1.0		
	BES			
FY 12-13	Parks	2.0	0.2	0.3
	BDS	2.0	0.5	
	BES			
	PBOT			
	Water			0.5
FY 13-14 a	Parks	2.0	0.2	0.3
	BDS		2.5	
	BES			
	PBOT			
	Water			0.5

Building Permits (RS, CO, MG, SD, and ZP) FY 04-09 Average BPS DRAFT 11/1/2010

Density plus Preservation

	Tasks	Current	Activity	Add'l hours per case	% of cases	# of Cases	Total add'l time	Changes from May 24, 2010
1	Communications	Ongoing outreach to public and applicants	INCLUDED W/START UP COSTS Add list of "qualified tree professionals" to include in outreach	0.0		0	0.0	
		a. Update: - handouts, examples and brochures periodically	INCLUDED W/START UP COSTS - plan submittal requirements to include tree information. - handouts to include new tree preservation, protection, planting req's - sample Final Tree Plan.	0.0		0	0.0	
		b. Events - brownbags, remodeling shows	INCLUDED WITH START UP COSTS: - tree specific brownbags to outreach events (building permit, land use, tree protection, planting and care)	1.0		12	0.0	
		c. Counter question/answer	Add:- time to discuss tree regs	0.2		1040	208.0	
	TOTAL		Total communications time				**208.0**	
2	In-take and Review		*task 0 applies to all permits (no added time)*	*0.0*		*10435*	0.0	
	a. Residential (RS) Cases				% of cases	impacted cases	add'l time	
	1929	(New) - identify applicable regs, prior land use approvals etc, verify presence of site plan and elevations	task 1 (some existing cases already reviewed for trees through current LD)	0.3	43%	829	248.6	Task 1 reduced from .4 to .3 to reflect simplified preservation standard.
			task 2 - Protection Review	0.1	30%	579	48.2	
			task 3 - Arborist Report Review	0.3	10%	193	64.3	
			task 4 - Tree Density Review	0.2	100%	1929	385.6	
			task 5 - Add Trees to Checksheet (75% of task 4 cases)	0.2	75%	1447	241.1	
	1485	(Add'n) - identify applicable regs, prior land use approvals etc, verify presence of site plan and elevations	task 1 (most RS additions will be on sites exempt from preservation)	0.2	10%	149	29.7	time per case 0.4 to 0.2, reduced cases 40% to 10% to reflect SFR
			task 2 - Protection Review	0.1	5%	74	7.4	30% to 5% to match task 1
			task 3 - Arborist Report Review	0.3	0%	0	0.0	reduced to 0%
			task 4 - Tree Density Review	0.2	75%	1114	222.8	
			task 5 - Add Trees to Checksheet (100% of task 1 cases)	0.2	5%	74	12.4	
	478	(Demo) -identify applicable regs, prior land use approvals etc, verify presence of site plan	task 1 (fewer cases where exceptional trees present than vacant sites)	0.2	65%	311	62.1	time per case 0.4 to 0.2
			task 2 - Protection Review	0.1	30%	143	12.0	
			task 3 - Arborist Report Review	0.3	10%	48	15.9	
			task 4 - Tree Density Review	0.2	0%	0	0.0	
			task 5 - Add Trees to Checksheet (75% of task 1 cases)	0.2	49%	234	38.0	reduced to 49% (3/4 task 1)
	2119	(Alt) - identify applicable regs, prior land use approvals etc, verify presence of site/floor plan and elevations	*No change (preservation and planting do not apply)*	*0.0*	*0%*	*0*	*0.0*	
	13	(Move) - identify applicable regs, prior land use approvals etc, verify presence of site plan and elevations	*No change (preservation and planting do not apply)*	*0.0*	*0%*	*0*	*0.0*	
	65	(Fire Repair) - confirm Fire Damage folder, no further action.	*No change (preservation and planting do not apply)*	*0.0*	*0%*	*0*	*0.0*	
	RS SUBTOTAL	**RS where no tree plan review occurs = 2,197**	***Number of RS permits with added tasks/total added time***			3353	1389.6	
	6089							
	b. Commercial (CO) Cases				% of cases	impacted cases	add'l time	
	816	(New) - identify applicable regs, prior land use approvals etc, verify presence of site plan and elevations	task 1 - Preservation Review	0.3	65%	530	159.1	time per case 0.4 to 0.3
			task 2 - Protection Review	0.1	25%	204	17.0	
			task 3 - Arborist Report Review	0.3	10%	82	27.2	
			task 4 - Tree Density Review	0.3	100%	816	244.8	
			task 5 - Add Trees to Checksheet	0.2	25%	204	34.0	
	265	(Add'n) - identify applicable regs, prior land use approvals etc, verify presence of site plan and elevations	task 1 - Preservation Review	0.2	40%	106	21.2	time per case 0.4 to 0.2
			task 2 - Protection Review	0.1	25%	66	5.5	
			task 3 - Arborist Report Review	0.3	10%	27	8.8	
			task 4 - Tree Density Review	0.3	100%	265	79.5	
			task 5 - Add Trees to Checksheet	0.2	75%	199	33.1	
	109	(Demo) -identify applicable regs, prior land use approvals etc, verify presence of site plan	task 1 - Preservation Review	0.2	65%	71	14.2	time per case 0.4 to 0.2
			task 2 - Protection Review	0.1	25%	27	2.3	
			task 3 - Arborist Report Review	0.3	10%	11	3.6	
			task 4 - Tree Density Review	0.3	0%	0	0.0	
			task 5 - Add Trees to Checksheet (75% of task 1 cases)	0.2	49%	53	8.9	reduced to 49% (3/4 task 1)
	1766	(Alt) - identify applicable regs, prior land use approvals etc, verify presence of site/floor plan and elevations	task 1 - Preservation Review	0.2	0%	0	0.0	
			task 2 - Protection Review	0.1	0%	0	0.0	
			task 3 - Arborist Report Review	0.3	0%	0	0.0	
			task 4 - Tree Density Review (all NCU's)	0.3	12%	212	63.6	
			task 5 - Add Trees to Checksheet	0.2	12%	212	35.3	
	1	(Move) - identify applicable regs, prior land use approvals etc, verify presence of site plan and elevations	*No change (preservation and planting do not apply)*	*0.0*	*0%*	*0*	*0.0*	
	31	(Fire Repair) - confirm Fire Damage folder, no further action.	*No change (preservation and planting do not apply)*	*0.0*	*0%*	0	0.0	
	CO SUBTOTAL	**CO where no tree plan review occurs**	***Number of CO permits with added tasks/total added time***			1364	758.2	
	2988	32						
	c. Major Projects (MG) Cases				% of cases	impacted cases	add'l time	
	50	(New) - identify applicable regs, prior land use approvals etc, verify presence of site plan and elevations	task 1 - Preservation Review	0.2	65%	33	6.5	time per case 0.4 to 0.2
			task 2 - Protection Review	0.1	30%	15	1.3	
			task 3 - Arborist Report Review	0.3	10%	5	1.7	
			task 4 - Tree Density Review	0.1	100%	50	4.2	
			task 5 - Add Trees to Checksheet	0.2	5%	3	0.4	
	1	(Add'n) - identify applicable regs, prior land use approvals etc, verify presence of site plan and elevations	task 1 - Preservation Review	0.2	40%	0	0.1	time per case 0.4 to 0.2
			task 2 - Protection Review	0.1	30%	0	0.0	



		task 3 - Arborist Report Review	0.3	10%	0	0.0	
		task 4 - Tree Density Review	0.2	100%	1	0.2	
		task 5 - Add Trees to Checksheet	0.2	5%	0	0.0	
	0 (Demo) -identify applicable regs, prior land use approvals etc, verify presence of site plan	task 1 - Preservation Review	0.2	40%	0	0.0	time per case 0.4 to 0.2
		task 2 - Protection Review	0.1	25%	0	0.0	
		task 3 - Arborist Report Review	0.3	10%	0	0.0	
		task 4 - Tree Density Review	0.2	0%			
		task 5 - Add Trees to Checksheet	0.2	5%	0	0.0	
	4 (Alt) - identify applicable regs, prior land use approvals etc, verify presence of site/floor plan and elevations	task 1 - Preservation Review	0.2	40%	2	0.3	time per case 0.4 to 0.2
		task 2 - Protection Review	0.1	30%	1	0.1	
		task 3 - Arborist Report Review	0.3	10%	0	0.1	
		task 4 - Tree Density Review (assume all>NCU)	0.2	100%	4	0.8	
		task 5 - Add Trees to Checksheet	0.2	5%	0	0.0	
	0 (Move) - identify applicable regs, prior land use approvals etc, verify presence of site plan and elevations	*No change (preservation and planting do not apply)*	*0.0*	*0%*	0	0.0	
	0 (Fire Repair) - confirm Fire Damage folder, no further action.	*No change (preservation and planting do not apply)*	*0.0*	*0%*	0	0.0	
MG SUBTOTAL	**MG where no tree plan review occurs = (**	***Number of MG permits with added tasks/total added tim***			55	15.7	
	55						
d. Other Permits	**TOTAL Number of Other Cases - 1,172**			% of cases	Impacted cases	add'l time	
	85 (SD - RS) Site Development, Residential	task 1 - Preservation Review	0.4	43%	37	14.6	
		task 2 - Protection Review	0.1	40%	34	2.8	
		task 3 - Arborist Report Review	0.3	10%	9	2.8	
		task 4 - Tree Density Review	0.1	0%	0	0.0	
		task 5 - Add Trees to Checksheet	0.2	5%	4	0.9	
	41 (SD - CO) Site Development, Commercial	task 1 - Preservation Review	0.3	43%	18	5.3	time per case 0.4 to 0.2
		task 2 - Protection Review	0.1	40%	16	1.4	
		task 3 - Arborist Report Review	0.3	10%	4	1.4	
		task 4 - Tree Density Review	0.1	0%	0	0.0	
		task 5 - Add Trees to Checksheet	0.2	5%	2	0.3	
	218 (ZP - RS) Zoning Permit, Residential	task 1 - Preservation Review	0.2	65%	142	28.3	time per case 0.4 to 0.3
		task 2 - Protection Review	0.1	40%	87	7.3	
		task 3 - Arborist Report Review	0.3	10%	22	7.3	
		task 4 - Tree Density Review	0.1	0%	0	0.0	
		task 5 - Add Trees to Checksheet	0.2	5%	11	1.6	
	31 (ZP - CO) Zoning Permit, Commercial	task 1 - Preservation Review	0.2	40%	12	2.5	time per case 0.4 to 0.2
		task 2 - Protection Review	0.1	30%	9	0.8	
		task 3 - Arborist Report Review	0.3	10%	3	1.0	
		task 4 - Tree Density Review	0.1	0%	0	0.0	
		task 5 - Add Trees to Checksheet	0.2	5%	2	0.3	
	23 (MI) Manufactured Dwelling on individual lot	task 1 - Preservation Review	0.3	65%	15	4.5	time per case 0.4 to 0.3
		task 2 - Protection Review	0.1	30%	7	0.6	
		task 3 - Arborist Report Review	0.3	10%	2	0.8	
		task 4 - Tree Density Review	0.1	100%	23	1.9	
		task 5 - Add Trees to Checksheet	0.2	5%	1	0.2	
	904 (FA) Facility Permits	*No change (preservation and planting do not apply)*	0.0	*0%*	0	0.0	
OTHER SUB 1,172	Other permtis where no tree plan review occurs = 904	***Number of OTHER permits with added tasks/total added tim***			231	86.7	
	4569 Total number of cases with Tree Density rev fee						
	5535 Total number of cases with Tree Density + Pres rev fe	**Total Number of Permits with added tasks/total added time**			**5004**	**2250.1**	
Field Confirmation	City arborist conducts site visit to evaluate arborist reports	50% sum of Task 3	1.0		203	202.5	
4 Spot Check	No current program to spot check	a. Create Program b. Track new permits c. 10% Sample (all impacted permits) d. Site Verification (ranges from drive-by to measuring trees)	*1.0*		500	500.4	
	Add for spot checking program set up	Adminstration for spot checks (determine sample pool and arrange for Insepctions)=0.25 FTE				520.0	
5 Initial Inspections	Delete inspection program	DELETE	*0.3*		0	0.0	
6 Complaints	a. research complaint, site visit, follow-up site visits	20% of sites with tree protection (ie 20% of task 2)	3.0		253	758.5	0.65
7 Interim Inspections	Delete inspection program	DELETE	0.5		0	0.0	0.36
8 Final Inspection	Delete inspection program	DELETE	*0.3*		0	0.0	

Results based on averaged FY 04-09	Tree Insp	CPII	
TOTAL TIME	2116.3	2323	4439.5
TOTAL FTE	1.02	1.12	**2.13**
Annual Cost:salary plus benefits Tree Insp=60,570 + 40%; CPII = 67,642 +	$86,280	$105,769	**$192,048**
Fully loaded (OH) BDS = 42.28%	$122,758	$150,488	**$273,246**
Cost per permit where requirements apply (fully loaded			$49.37

Updated salary to FY10-11 $'s and classification

Changed FTE split between UF/BDS to split between Tree inspection services and planner review services

proposed, but could expand to include spot verification.

Inspection/ complaint Process

7. One random spot check. Includes staffing to set up spot check "to do" list. Involves a check during the construction for tree portection situations, or a check at the final for tree planting situations. ~10% of all permits with a requirement.

8. Complaint Response - Key assumptions: Occurs for ~20% of cases involving tree protection

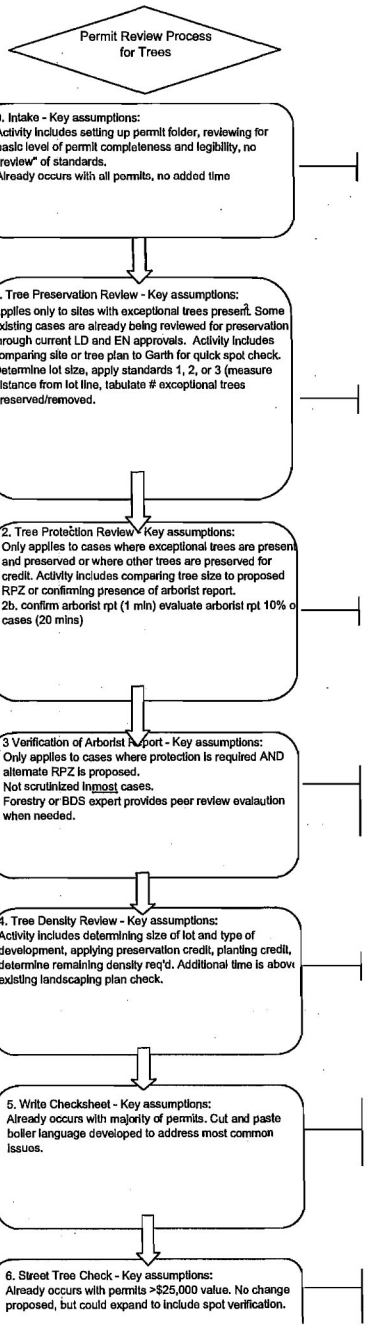
9. Final Site Inspection - Not required

	cases	time
Sum of Task 1	2254	597.3
Sum of Task 2	1264	106.6
Sum of Task 3	405	135.0
Sum of Task 4	4414	1003.5
Sum of Task 5	2446	407.8

Building Permits (RS, CO, MG, SD, and ZP) FY 09-10 BPS DRAFT 11/9/2010

Density plus Preservation

Tasks	Current	Activity	Add'l hours per case	% of cases	# of Cases	Total add'l time	Changes from May 24, 2010
1 Communications	Ongoing outreach to public and applicants	INCLUDED W/START UP COSTS Add list of "qualified tree professionals" to include in outreach	0.0		0	0.0	
	a. Update: - handouts, examples and brochures periodically	INCLUDED W/START UP COSTS - plan submittal requirements to include tree information. - handouts to include new tree preservation, protection, planting req's - sample Final Tree Plan.	0.0		0	0.0	
	b. Events - brownbags, remodeling shows	INCLUDED WITH START UP COSTS: - tree specific brownbags to outreach events (building permit, land use, tree protection, planting and care)	1.0		12	0.0	
	c. Counter question/answer	Add:- time to discuss tree regs	0.2		1040	208.0	
TOTAL		Total communications time				**208.0**	
2 In-take and Review		*task 0 applies to all permits (no added time)*	0.0		*10435*	0.0	
a. Residential (RS) Cases				% of cases	*impacted cases*	*add'l time*	
864	(New) - identify applicable regs, prior land use approvals etc, verify presence of site plan and elevations	task 1 (some existing cases already reviewed for trees through current LD)	0.3	43%	372	111.6	Task 1 reduced from .4 to .3 to reflect simplified preservation standard.
		task 2 - Protection Review	0.1	30%	259	21.6	
		task 3 - Arborist Report Review	0.3	10%	86	25.8	
		task 4 - Tree Density Review	0.2	100%	864	172.8	
		task 5 - Add Trees to Checksheet (75% of task 4 cases)	0.2	75%	648	108.0	
728	(Add'n) - identify applicable regs, prior land use approvals etc, verify presence of site plan and elevations	task 1 (most RS additions will be on sites exempt from preservation)	0.2	10%	73	14.6	time per case 0.4 to 0.2, reduced cases 40% to 10% to reflect SFR
		task 2 - Protection Review	0.1	5%	36	3.6	30% to 5% to match task 1
		task 3 - Arborist Report Review	0.3	0%	0	0.0	reduced to 0%
		task 4 - Tree Density Review	0.2	75%	546	109.2	
		task 5 - Add Trees to Checksheet (100% of task 1 cases)	0.2	5%	36	6.1	
247	(Demo) -identify applicable regs, prior land use approvals etc, verify presence of site plan	task 1 (fewer cases where exceptional trees present than vacant sites)	0.2	65%	161	32.1	time per case 0.4 to 0.2
		task 2 - Protection Review	0.1	30%	74	6.2	
		task 3 - Arborist Report Review	0.3	10%	25	8.2	
		task 4 - Tree Density Review	0.2	0%	0	0.0	
		task 5 - Add Trees to Checksheet (75% of task 1 cases)	0.2	49%	121	20.2	reduced to 49% (3/4 task 1)
1967	(Alt) - identify applicable regs, prior land use approvals etc, verify presence of site/floor plan and elevations	*No change (preservation and planting do not apply)*	0.0	0%	0	0.0	
13	(Move) - identify applicable regs, prior land use approvals etc, verify presence of site plan and elevations	*No change (preservation and planting do not apply)*	0.0	0%	0	0.0	
48	(Fire Repair) - confirm Fire Damage folder, no further action.	*No change (preservation and planting do not apply)*	0.0	0%	0	0.0	
RS SUBTOTAL	**RS where no tree plan review occurs**	***Number of RS permits with added tasks/total added time***			1571	642.8	
3867	2028						
b. Commercial (CO) Cases				% of cases	*impacted cases*	*add'l time*	
315	(New) - identify applicable regs, prior land use approvals etc, verify presence of site plan and elevations	task 1 - Preservation Review	0.3	65%	205	61.4	time per case 0.4 to 0.3
		task 2 - Protection Review	0.1	25%	79	6.6	
		task 3 - Arborist Report Review	0.3	10%	32	10.6	
		task 4 - Tree Density Review	0.3	100%	315	94.5	
		task 5 - Add Trees to Checksheet	0.2	25%	79	13.1	
149	(Add'n) - identify applicable regs, prior land use approvals etc, verify presence of site plan and elevations	task 1 - Preservation Review	0.2	40%	60	11.9	time per case 0.4 to 0.2
		task 2 - Protection Review	0.1	25%	37	3.1	
		task 3 - Arborist Report Review	0.3	10%	15	5.0	
		task 4 - Tree Density Review	0.3	100%	149	44.7	
		task 5 - Add Trees to Checksheet	0.2	75%	112	18.6	
69	(Demo) -identify applicable regs, prior land use approvals etc, verify presence of site plan	task 1 - Preservation Review	0.2	65%	45	9.0	time per case 0.4 to 0.2
		task 2 - Protection Review	0.1	25%	17	1.4	
		task 3 - Arborist Report Review	0.3	10%	7	2.3	
		task 4 - Tree Density Review	0.3	0%	0	0.0	
		task 5 - Add Trees to Checksheet (75% of task 1 cases)	0.2	49%	34	5.6	reduced to 49% (3/4 task 1)
1402	(Alt) - identify applicable regs, prior land use approvals etc, verify presence of site/floor plan and elevations	task 1 - Preservation Review	0.2	0%	0	0.0	
		task 2 - Protection Review	0.1	0%	0	0.0	
		task 3 - Arborist Report Review	0.3	0%	0	0.0	
		task 4 - Tree Density Review (all NCU's)	0.3	12%	168	50.5	
		task 5 - Add Trees to Checksheet	0.2	12%	168	28.0	
0	(Move) - identify applicable regs, prior land use approvals etc, verify presence of site plan and elevations	*No change (preservation and planting do not apply)*	0.0	0%	0	0.0	
21	(Fire Repair) - confirm Fire Damage folder, no further action.	*No change (preservation and planting do not apply)*	0.0	0%	0	0.0	
CO SUBTOTAL	**CO where no tree plan review occurs**	***Number of CO permits with added tasks/total added time***			677	366.3	
1956	21						
c. Major Projects (MG) Cases				% of cases	*impacted cases*	*add'l time*	
34	(New) - identify applicable regs, prior land use approvals etc, verify presence of site plan and elevations	task 1 - Preservation Review	0.2	65%	22	4.4	time per case 0.4 to 0.2
		task 2 - Protection Review	0.1	30%	10	0.9	
		task 3 - Arborist Report Review	0.3	10%	3	1.1	
		task 4 - Tree Density Review	0.1	100%	34	2.3	
		task 5 - Add Trees to Checksheet	0.2	5%	2	0.3	
8	(Add'n) - identify applicable regs, prior land use approvals etc, verify presence of site plan and elevations	task 1 - Preservation Review	0.2	40%	3	0.5	time per case 0.4 to 0.2
		task 2 - Protection Review	0.1	30%	2	0.2	
		task 3 - Arborist Report Review	0.3	10%	1	0.3	

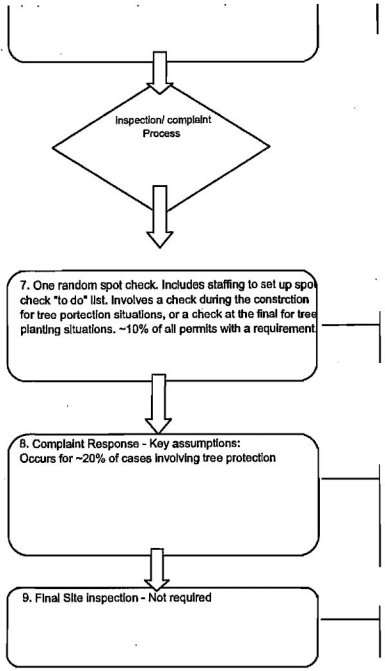


		task 4 - Tree Density Review	0.2	100%	8	1.3	
		task 5 - Add Trees to Checksheet	0.2	5%	0	0.1	
	0 (Demo) -identify applicable regs, prior land use approvals etc, verify presence of site plan	task 1 - Preservation Review	0.2	40%	0	0.0	time per case 0.4 to 0.2
		task 2 - Protection Review	0.1	25%	0	0.0	
		task 3 - Arborist Report Review	0.3	10%	0	0.0	
		task 4 - Tree Density Review	0.2	0%			
		task 5 - Add Trees to Checksheet	0.2	5%	0	0.0	
	0 (Alt) - identify applicable regs, prior land use approvals etc, verify presence of site/floor plan and elevations	task 1 - Preservation Review	0.2	40%	0	0.0	time per case 0.4 to 0.2
		task 2 - Protection Review	0.1	30%	0	0.0	
		task 3 - Arborist Report Review	0.3	10%	0	0.0	
		task 4 - Tree Density Review (assume all>NCU)	0.2	100%	0	0.0	
		task 5 - Add Trees to Checksheet	0.2	5%	0	0.0	
	0 (Move) - identify applicable regs, prior land use approvals etc, verify presence of site plan and elevations	*No change (preservation and planting do not apply)*	*0.0*	*0%*	0	0.0	
	0 (Fire Repair) - confirm Fire Damage folder, no further action.	*No change (preservation and planting do not apply)*	*0.0*	*0%*	0	0.0	
MG SUBTOTAL	**MG where no tree plan review occure = (**	***Number of MG permits with added tasks/total added tim***			42	12.0	
	42						
d. Other Permits	**TOTAL Number of Other Cases - 1,172**						
				% of cases	*impacted cases*	*add'l time*	
	35 (SD - RS) Site Development, Residential	task 1 - Preservation Review	0.4	43%	15	6.0	
		task 2 - Protection Review	0.1	40%	14	1.2	
		task 3 - Arborist Report Review	0.3	10%	4	1.2	
		task 4 - Tree Density Review	0.1	0%	0	0.0	
		task 5 - Add Trees to Checksheet	0.2	5%	2	0.4	
	39 (SD - CO) Site Development, Commercial	task 1 - Preservation Review	0.3	43%	17	5.0	time per case 0.4 to 0.2
		task 2 - Protection Review	0.1	40%	16	1.3	
		task 3 - Arborist Report Review	0.3	10%	4	1.3	
		task 4 - Tree Density Review	0.1	0%	0	0.0	
		task 5 - Add Trees to Checksheet	0.2	5%	2	0.3	
	104 (ZP - RS) Zoning Permit, Residential	task 1 - Preservation Review	0.2	65%	68	13.5	time per case 0.4 to 0.3
		task 2 - Protection Review	0.1	40%	42	3.5	
		task 3 - Arborist Report Review	0.3	10%	10	3.5	
		task 4 - Tree Density Review	0.1	0%	0	0.0	
		task 5 - Add Trees to Checksheet	0.2	5%	5	0.9	
	23 (ZP - CO) Zoning Permit, Commercial	task 1 - Preservation Review	0.2	40%	9	1.8	time per case 0.4 to 0.2
		task 2 - Protection Review	0.1	30%	7	0.6	
		task 3 - Arborist Report Review	0.3	10%	2	0.8	
		task 4 - Tree Density Review	0.1	0%	0	0.0	
		task 5 - Add Trees to Checksheet	0.2	5%	1	0.2	
	18 (MI) Manufactured Dwelling on individual lot	task 1 - Preservation Review	0.3	65%	12	3.5	time per case 0.4 to 0.3
		task 2 - Protection Review	0.1	30%	5	0.5	
		task 3 - Arborist Report Review	0.3	10%	2	0.6	
		task 4 - Tree Density Review	0.1	100%	18	1.5	
		task 5 - Add Trees to Checksheet	0.2	5%	1	0.2	
	918 (FA) Facility Permits	*No change (preservation and planting do not apply)*	0.0	*0%*	0	0.0	
OTHER SUB	1,137 Other permtis where no tree plan review occurs = 904	***Number of OTHER permits with added tasks/total added tim***			127	47.6	
	2116 Total number of cases with Tree Density rev fee						
	2633 Total number of cases with Tree Density + Pres rev fe	**Total Number of Permits with added tasks/total added time**			**2416**	**1068.7**	
Field Confirmation	City arborist conducts site visit to evaluate arborist reports	50% sum of Task 3	1.0		95	95.3	
4 Spot Check	No current program to spot check	a. Create Program b. Track new permits c. 10% Sample (all impacted permits) d. Site Verification (ranges from drive-by to measuring trees)	*1.0*		242	241.6	
	Add for spot checking program set up	Adminstration for spot checks (determine sample pool and arrange for insepctions)=0.25 FTE				520.0	
5 Initial Inspections	Delete inspection program	DELETE	*0.3*		0	0.0	
6 Complaints	a. research complaint, site visit, follow-up site visits	20% of sites with tree protection (ie 20% of task 2)	3.0		120	359.4	0.65
7 Interim Inspections	Delete inspection program	DELETE	0.5		0	0.0	0.36
8 Final Inspection	Delete inspection program	DELETE	*0.3*		0	0.0	

Results based on averaged FY 04-09	Tree Insp	CPII	
TOTAL TIME	1279.8	1213	2493.0
TOTAL FTE	0.62	0.58	**1.20**
Annual Cost:salary plus benefits Tree Insp=60,570 + 40%; CPII = 67,642 +	$52,175	$55,234	**$107,410**
Fully loaded (OH) BDS = 42.28%	$74,235	$78,587	**$152,822**
Cost per permit where requirements apply (fully loaded			$58.04

Changed FTE split between UF/BDS to split between Tree inspection services and planner review services

updated salary to FY10-11 $'s and classification



	cases	time
Sum of Task 1	1060	275.4
Sum of Task 2	599	50.5
Sum of Task 3	191	63.5
Sum of Task 4	2102	477.3
Sum of Task 5	1211	201.9

Land Use Reviews - updated 2/26/10 to incorporate BDS/UF comments (green text) Revised 4/6/10, updated 11/3/10 to reflect PC/UFC direction (green highlight cells)

	Tasks	Current	Proposal	Add'l time per case UF Arborist (hrs)	Add'l time per case BDS (hrs)	# of cases impacted per year	Total add'l time per year UF	Total add'l time per year BDS	Total Add'l Time per year	Assumptions	Notes
1	**Customer Service and Early Assistance**										
A	Communications	Ongoing outreach to public and applicants									
		1. Update: - handouts, examples and brochures periodically	**Add at start up:** - Update handouts to include new tree related requirements. - Create an exemple Preliminary Tree Plan.							40 hours to create 4-5 new handout, 20 hours to make minor edits to several handouts Assumes BDS takes lead (80%) with UF acting in review role (20%)	moved to start up cost
		2. Events - brownbags, remodeling shows	Add: - tree specific brownbags and outreach events (building permit, land use, tree protection, planting and care)							2 events: 1 hour each with 8 hours prep for BDS. 4 hours prep for UF.	moved to start up cost
		3. Counter and phone question/answer	Add: - increase in questions at counter		0.25		0	65	65	Approx one 15 minute sessions per working day (full year)	[illegible]
			Subtotal				0	65	65	**0.03 FTE**	
B	Early Assistance Appointments	Tree preservation requirements apply primarily to Land Division cases: 1. Check aerial and LU History 2. Discuss tree requirements at meeting 3. Prepare written summary	Add: - Tree requirements apply to more types of LU cases (DZ and select CU cases) - Add'l time spent by planner for non-land division and land division cases	[illegible]	[illegible]	[illegible]	0	25	25	BDS recommends 50 cases to include LD cases.	[illegible]
C	Pre-Application Appointments	Tree preservation requirements apply primarily to Land Division cases: 1. Check aerial and LU History 2. Discuss tree requirements at meeting 3. Prepare written summary	Add: - Tree requirements apply to more types of LU cases - Add'l time spent by planner for non-land division and land division cases.	0	1	[illegible]	0	25	25	Assume impacts 40% of CU PC and 5% of DZ PC (based on avg # of Type III cases 2004-2008 + 20% to account for cases not submitted). Added 25 LD cases to account for more involved review	[illegible]
			Add: Preliminary tree assessment required for Type III cases with tree requirements, includes additional steps of: 1. Site visit by Planner and UF Arborist 2. Written summary by UF Arborist	[illegible]	[illegible]	[illegible]	0	0	0	Tasks include: travel/coordination by UF and BDS (1.0), tree assessment by UF and BDS (1.0), written summary by UF (1.5) Assume impacts 95% of LD PC cases. BDS asked for 3.5 hours - why? Add'l time for tree related criteria is included above for these same cases. 2/2/10: Removed CU & DZ cases (25 LD & PD cases only)	[illegible]
			Subtotal				0	50	50	**0.02 FTE**	
2	**Land Use Review**										
A.	**Land Division & Planned Development**	1. Completeness review by planner - Planner reviews tree preservation plan and arborist report (and other zoning requirements) for completeness and approvability issues - Planner writes incomplete letter	Add: - Increased complexity of review due to discretionary criteria	[illegible]	1	165	0	165	165	LD cases based on 2000-2008 avg (242). Assume 85% of LD cases involve trees (206 cases), assume no significant change for 20% of cases that currently use mitigation option (206-41=165 cases)	[illegible]
		2. Completeness Review by other bureaus - Review for Completeness (RFC) sent to PBOT, BES and BDS Site Dev - Bureaus provide written response regarding completeness and approvability issues	Include Urban Forestry in RFC process (non Type III): a. If no preliminary tree assessment, UF arborist does site visit b. UF arborist reviews tree plan and report and comments on completeness and approvability issues		0.25	185	0	46.25	46.25	Assume UF tasks are similar to preliminary tree assessment (small time savings shown because applicant will provide arborist report and proposal at this stage). Cases impacted are 206 cases - 21 Type III cases that will have preliminary assessment = 185	TRACS process line needed for UF at RFC stage. UF review focuses on priority for preservation, exemptions and adequate tree protection. Increased to UF time to 3.5 hours, per their request
			UF review of Type III cases		0.25	21	0	5.25	5.25	New line to capture these cases.	
		2. Planner Site Visit			0.5	103	0	51.5	51.5	BDS suggested 1/2 of cases	
		3. Review of complete application by BDS Planner - Planner reviews tree preservation plan and arborist report against numeric standards - Planner reviews tree protection - Planner reviews discretionary criteria for mitigation option	Add: - Planner reviews new discretionary tree preservation criteria for all sites with trees - Planner reviews conceptual tree planting against new criterion/standards - Planner reviews street tree criteria in consultation with UF and City Service Bureaus		1	165	0	165	165	LD cases based on 2000-2008 avg (242). Assume 85% of LD cases involve trees (206 cases), assume no significant change for 20% of cases that currently use mitigation option (206-41=165 cases)	
		4. Review of complete application by other City review groups - All review groups provide written comments attached to TRACS - UF site visit to determine street tree requirements - UF provides written comments on requirements for street tree planting and removal/protection of existing street trees	Add: - UF arborist reviews tree preservation plan, building on previous review and comment - More involved review of street tree preservation and planting for a subset of cases - Input on tree planting plan for some cases		0.25	206	0	51.5	51.5	Applies to all cases where trees involved, assume 85% of LD cases.	
			Add: - 2nd site visit by UF arborist		0	52	0	0	0	UF request to add 2nd site visit to address issues raised during review of arborist report and plans	
			Subtract: - Current site visit by UF arborist (done under step 2)		0	185	0	0	0	Subtract time for current site visit to assess street trees - site visit is included in the completeness step (#3) for all of these cases.	
		5. Write Decision/Recommendation - Planner writes tree preservation findings and conditions	**Add:** More involved tree findings required to address discretionary tree preservation criteria, planting criterion and street tree criteria		1.5	165	0	247.5	247.5	LD cases based on 2000-2008 avg (242). Assume 85% of LD cases involve trees (206 cases), assume no significant change for 20% of cases that currently use mitigation option (206-41=165 cases)	
		6. Hearings (for Type III cases or Appeals) - Planner prepares and delivers presentation to Hearings Officer or City Council - Bureau representatives testify as technical expert as needed on controversial issues	Add: -UF arborist serves as City's technical expert on tree issues raised in hearings.		2	8	0	16	16	Avg # of Type III LD & PD cases (21) + Type IIx appeals (4) = 25 Assume 33% involve tree issues at hearing or appeal	Forestry asked for 4 hours, seems high

	7. Final Plat Review Planner and other Bureau reviewers check compliance with conditions of approval	No change							BDS asked for additional time for final plats (.5 x 242 cases). Not sure why. There shouldn't be increased time at this stage over what currently happens now.	
		Subtotal		0		0	0	0		**0.36 FTE**
B.	**Design (DZ) and specified Conditional Use (CU) Reviews**	General. These reviews currently include the same general process steps outlined in 1-8 above for land divisions. However, there are currently no tree preservation criteria for these reviews.	Proposal includes general tree preservation criteria that will apply to cases where trees, particularly Exceptional Trees, may be impacted.				0	0	0	Includes CU and CU MS cases, DZ and DZM cases BDS suggests 60% CU, 5% DZ and 40% AD - Used 40% CU and 5% DZ. A quick review of 2007 CU cases show approx 50% will have ground disturbing activity and are subject to criteria in proposal, reduced by appr 10% because all proposals won't impact trees.	1 LU (current CU cases per direction from BL LUC to include "criteria" in factors to be considered as relevant to the review
		1. Completeness Review	**Add:** Planner reviews tree preservation plan for completeness and approvability	0	0.6		0	0	0	Based on avg # of cases from 2004-2008 Assume will impact 5% of Design cases and 40% of CU cases = 29 cases	
			Add: Option to request UF arborist to review tree plan: - If no preliminary tree assessment, UF arborist does site visit - UF arborist reviews tree preservation plan and comments on completeness and approvability issues	3.5	0.2		0	0	0	Subtract Type III cases that would have had preliminary assessment at PC stage. Increased UF time to 3.5 hours, per their request	
			UF review of Type III cases	1			0		0		
		2. Planner Site Visit		0	0		0	0	0		
		3. Review of complete application by BDS Planner	**Add:** - Planner reviews new tree preservation criteria for all sites with exceptional trees	0	0.6		0	0	0	Based on avg # of cases from 2004-2008 Assume will impact 5% of Design cases and 40% of CU cases = 29 cases	
		4. Review of complete application by other City review groups - UF site visit to determine street tree requirements - UF provides written comments on requirements for street tree planting and removal/protection of existing street trees	**Add:** Option to request UF arborist review of tree preservation plan - Written comments would be expanded to include on-site trees	0.75	0.2		0	0	0	Based on avg # of cases from 2004-2008 Assume will impact 5% of Design cases and 40% of CU cases	
		5. Write Decision/Recommendation (Planner)	**Add:** - Planner writes new tree preservation findings and conditions	0.25	1.7		0	0	0	Based on avg # of cases from 2004-2008 Assume will impact 5% of Design cases and 40% of CU cases	
		6. Hearings (for Type III cases or Appeals)	**Add:** - UF arborist serves as City's technical expert on tree issues raised in hearings.	2.5			0	0	0	Assume 10% of cases may need testimony at Type III or appeal hearing.	
			Subtotal				0	0	0		**0.00 FTE (4.0 hrs per case BDS & 4.5 for UF)**
C.	**Tree Review**	General. These reviews currently include the same general process steps outlined in 1-8 above for land divisions.	**Add:** Increase in tree review cases			1	0	0	0	Assume increase in TR cases due to additional tree plans approved. Reduced # of additional TR cases - no longer proposing "optional" TR. Estimate based on % TR/TV cases in relation to # of LD decisions (10/200 = 5%). Add 4 cases (5% of 74 addt CU,DZ,AD reviews)	1 LD (based on # cases). Add to CU,DZ,AD reviews - tree plans no longer required.
			Add: - UF arborist routinely reviews and comments on Tree Review cases			11	0	0	0	Based on avg # of TR and TV cases 2004-2008 (10), plus assumed increase in # of cases received (4)	11h For all UF Arborist time, included time per case with a block of time for "as needed" consultation
	Adjustments	General	Add criterion to minimize impacts to trees and other natural features outside of environ	2.5	2		0	0	0	20% of AD cases based on 2000-2006 average (224 cases) increased % AD cases impacted per BDS request	1 LD (Optional AD cases, no tree criteria proposed
		Appeals	Additional appeals may be filed as a result of the proposed criterion	2.5	2		0	0	0	Currently approx 5% of AD cases are appealed (7 of 217 in 2006). Similar rate for LD cases. Assume increase by 3 appeals (10 total) as result of new criterion	1 LD Optional AD cases, no tree criteria proposed
	EN/GW		Add time for UF consultation	0	0	11	0	0	0	Assume UF consultation on 30% of EN, ENM, EV and GW cases	11h For all UF Arborist time, included time per case with a block of time for "as needed" consultation
	General coordination/ case setup		Add time for UF to address general coordination on LU cases - calling files etc	0	0	0.67	0	0	0	corrected total case load # (subtracted TP cases)	11h For all UF Arborist time, included time per case with a block of time for "as needed" consultation
	LUR Consolidation for all LURs	LUR has been cancelled. There is no current LU consolidation so BDS has no real LUR staff reviews LD for street tree requirements	Add time for UF consultation on an "as needed" basis	0	0	0	0	0	0	Assume UF consultation on about 10% cases @ 4 hours per case.	
			Subtotal	0	0	0	416	0	416		**0.20 FTE**
						Total Hours	416	863	1279		LUR net reduction= 1,115 hours BDS net reduction=774 hours Total FTE reduction from 2.15 FTE
						Total FTE (2080 hours/FTE)	0.20	0.41	0.61		
						Cost (salry+40% benefits)	$16,960	$39,291	$56,251		
						Fully loaded (45%ppr oh, 42.28% bds oh)	$25,100	$55,903	$81,003		

Land Use Reviews - updated 2/26/10 to incorporate BDS/UF comments (green text) Revised 4/6/10, updated 11/8/10 to reflect PC/UFC direction (green highlight cells), updated to use 09-10 cal year blended case data (orange text)

	Tasks	Current	Proposal	Add'l time per case UF Arborist (hrs)	Add'l time per case BDS (hrs)	# of cases impacted per year	Total add'l time per year UF	Total add'l time per year BDS	Total Add'l Time per year	Assumptions	Notes
1	**Customer Service and Early Assistance**										
A	Communications	Ongoing outreach to public and applicants									
		1. Update: - handouts, examples and brochures periodically	**Add at start up:** - Update handouts to include new tree related requirements. - Create an example Preliminary Tree Plan.							40 hours to create 4-5 new handout, 20 hours to make minor edits to several handouts Assumes BDS takes lead (60%) with UF acting in review role (20%)	moved to start up cost
		2. Events - brownbags, remodeling shows	**Add:** - tree specific brownbags and outreach events (building permit, land use, tree protection, planting and care)							2 events: 1 hour each with 8 hours prep for BDS, 4 hours prep for UF.	moved to start up cost
		3. Counter and phone question/answer	**Add:** - increase in questions at counter		0.25	260	0	65	65	Approx one 15 minute sessions per working day (full year)	11/8: reduced # cases from 1040 to reflect focus on LD cases only (no CU/DZ etc)
			Subtotal				**0**	**65**	**65**		**0.03 FTE**
B	Early Assistance Appointments	Tree preservation requirements apply primarily to Land Division cases: 1. Check aerial and LU History 2. Discuss tree requirements at meeting 3. Prepare written summary	**Add:** - Tree requirements apply to more types of LU cases (DZ and select CU cases) - Add'l time spent by planner for non-land division and land division cases.	0	0.25	100	0	25	25	BDS recommends 50 cases to include LD cases.	11/8: Reduced amount of time per case from 1 hour to 15 mins. Reflects focus on LD only cases, which actually achieve tree preservation
C	Pre-Application Appointments	Tree preservation requirements apply primarily to Land Division cases: 1. Check aerial and LU History 2. Discuss tree requirements at meeting 3. Prepare written summary	**Add:** - Tree requirements apply to more types of LU cases - Add'l time spent by planner for non-land division and land division cases.	0	1	25	0	25	25	Assume impacts 40% of CU PC and 5% of DZ PC (based on avg # of Type III cases 2004-2008 + 20% to account for cases not submitted). Added 25 LD cases to account for more involved review	11/8: Doubled non-LD cases from 50 to 100. Reduced to 25 total
			Add: Preliminary tree assessment required for Type III cases with tree requirements, includes additional steps of: 1. Site visit by Planner and UF Arborist 2. Written summary by UF Arborist				0	0	0	Tasks include: travel/coordination by UF and BDS (1.0), tree assessment by UF and BDS (1.0), written summary by UF (1.5) Assume impacts 95% of LD PC cases. BDS asked for 3.5 hours - why? Add'l time for tree related criteria is included above for these same cases. 2/2/10: Removed CU & DZ cases (25 LD & PD cases only)	11/8: Doubled (preliminary tree assessment)
			Subtotal				**0**	**50**	**50**		**0.02 FTE**
2	**Land Use Review**										
A	**Land Division & Planned Development**	1. Completeness review by planner - Planner reviews tree preservation plan and arborist report (and other zoning requirements) for completeness and approvability issues - Planner writes incomplete letter	**Add:** - Increased complexity of review due to discretionary criteria		1	44	0	44	44	LD cases based on case load average for calendar year 2005-2010 (84). Assume 95% of LD cases involve trees (84 cases), assume no significant change for 20% of cases that currently use mitigation option (84-10=44 cases)	11/8: For all UF Arborist time. Increased time per case with a block of time for "no shows" cancellations.
		2. Completeness Review by other bureaus - Review for Completeness (RFC) sent to PBOT, BES and BDS Site Dev - Bureaus provide written response regarding completeness and approvability issues	Include Urban Forestry in RFC process (non Type III): a. If no preliminary tree assessment, UF arborist does site visit b. UF arborist reviews tree plan and report and comments on completeness and approvability issues		0.25	88	0	14.5	14.5	Assume UF tasks are similar to preliminary tree assessment (small time savings shown because applicant will provide arborist report and proposal at this stage). Cases impacted are 84 cases - 6 Type III cases that will have preliminary assessment = 72	TRACS process line needed for UF at RFC stage. UF review focuses on priority for preservation, exemptions and adequate tree protection. Increased to UF time to 3.5 hours, per their request
			UF review of Type III cases		0.25	6	0	1.5	1.5	New line to capture these cases	
		2. Planner Site Visit			0.5	39	0	19.5	19.5	BDS suggested 1/2 of cases	
		3. Review of complete application by BDS Planner - Planner reviews tree preservation plan and arborist report against numeric standards - Planner reviews tree protection - Planner reviews discretionary criteria for mitigation option	**Add:** - Planner reviews new discretionary tree preservation criteria for all sites with trees - Planner reviews conceptual tree planting against new criterion/standards - Planner reviews street tree criteria in consultation with UF and City Service Bureaus		1	44	0	44	44	LD cases based on case load average for calendar year 2005-2010 (84). Assume 95% of LD cases involve trees (84 cases), assume no significant change for 20% of cases that currently use mitigation option (84-10=44 cases)	
		4. Review of complete application by other City review groups - All review groups provide written comments attached to TRACS - UF site visit to determine street tree requirements - UF provides written comments on requirements for street tree planting and removal/protection of existing street trees	**Add:** - UF arborist reviews tree preservation plan, building on previous review and comment - More involved review of street tree preservation and planting for a subset of cases - Input on tree planting plan for some cases		0.25	84	0	13.5	13.5	Applies to all cases where trees involved, assume 85% of LD cases.	
			Add: **- 2nd site visit by UF arborist**		0	0	0	0	0	UF request to add 2nd site visit to address issues raised during review of arborist report and plans	
			Subtract: - Current site visit by UF arborist (done under step 2)		0	0	0	0	0	Subtract time for current site visit to assess street trees - site visit is incuded in the completeness step (#2) for all of these cases.	
		5. Write Decision/Recommendation - Planner writes tree preservation findings and conditions	**Add:** More involved tree findings required to address discretionary tree preservation criteria, planting criterion and street tree criteria		1.5	44	0	66	66	LD cases based on case load average for calendar year 2005-2010 (84). Assume 95% of LD cases involve trees (84 cases), assume no significant change for 20% of cases that currently use mitigation option (84-10=44 cases)	

	6. Hearings (for Type III cases or Appeals) - Planner prepares and delivers presentation to Hearings Officer or City Council - Bureau representatives testify as technical expert as needed on controversial issues	Add: -UF arborist serves as City's technical expert on tree issues raised in hearings.		2	3	0	6	6	Appeal data not available - Used same percentage in previous table (8 of 242 cases= 3.3% of total cases are appealed and include tree issues) PRIOR BASIS FOR ASSUMPTION:Avg #	Forestry asked for 4 hours, seems high
	7. Final Plat Review Planner and other Bureau reviewers check compliance with conditions of approval	No change							BDS asked for additional time for final plats (.5 x 242 cases). Not sure why. There shouldn't be increased time at this stage over what currently happens now.	
		Subtotal		0		0	0	0		**0.10 FTE**
B.	**Design (DZ) and specified Conditional Use (CU) Reviews**	General. These reviews currently include the same general process steps outlined in 1-6 above for land divisions. However, there are currently no tree preservation criteria for these reviews.	Proposal includes general tree preservation criteria that will apply to cases where trees, particularly Exceptional Trees, may be impacted.				0	209	209	Includes CU and CU MS cases, DZ and DZM cases BDS suggests 60% CU, 5% DZ and 20% AD - Used 40% CU and 5% DZ. A quick review of 2007 CU cases show approx 60% will have ground disturbing activity and are subject to criteria in proposal, reduced by abt 10% because all proposals won't impact trees.	1 UR trained DZ cases per direction from PC. UFC to review "criteria" to decide to be considered as impacts to the trees.
		1. Completeness Review	Add: Planner reviews tree preservation plan for completeness and approvability	0	0.6		0	0	0	Based on avg # of cases from 2004-2008 Assume will impact 5% of Design cases and 40% of CU case = 29 cases	
			Add: Option to request UF arborist to review tree plan: - If no preliminary tree assessment, UF arborist does site visit - UF arborist reviews tree preservation plan and comments on completeness and approvability issues	3.5	0.2		0	0	0	Subtract Type III cases that would have had preliminary assessment at PC stage. Increased UF time to 2.5 hours, per their request	
			UF review of Type III cases	1			0		0		
		2. Planner Site Visit		0	0.6		0	0	0		
		3. Review of complete application by BDS Planner	Add: - Planner reviews new tree preservation criteria for all sites with exceptional trees	0	0.6		0	0	0	Based on avg # of cases from 2004-2008 Assume will impact 5% of Design cases and 40% of CU cases = 29 cases	
		4. Review of complete application by other City review groups - UF site visit to determine street tree requirements - UF provides written comments on requirements for street tree planting and removal/protection of existing street trees	Add: Option to request UF arborist review of tree preservation plan - Written comments would be expanded to include on-site trees	0.75	0.2		0	0	0	Based on avg # of cases from 2004-2008 Assume will impact 5% of Design cases and 40% of CU cases	
		5. Write Decision/Recommendation (Planner)	Add: - Planner writes new tree preservation findings and conditions	0.25	1.7		0	0	0	Based on avg # of cases from 2004-2008 Assume will impact 5% of Design cases and 40% of CU cases	
		6. Hearings (for Type III cases or Appeals)	Add: - UF arborist serves as City's technical expert on tree issues raised in hearings.	2.5	2		0	0	0	Assume 10% of cases may need testimony at Type III or appeal hearing.	
			Subtotal				0	0	0		**0.00 FTE**
C.	**Tree Review**	General. These reviews currently include the same general process steps outlined in 1-6 above for land divisions.	Add: Increase in tree review cases		11		0	0	0	Assume increase in TR cases due to additional tree plans approved. Reduced # of additional TR cases - no longer proposing "optional" TR. Estimate based on % TR/TV cases in relation to # of LD decisions (10/208 = 5%). Add 4 cases (5% of 74 add'l CU,DZ,AD reviews)	1 UR (current at 4 cases) add to CU,DZ,AD reviews ; tree plans no longer required.
			Add: **- UF arborist routinely reviews and comments on Tree Review cases**			1	0	0	0	**Based on avg # of TR and TV cases 2004-2008 (10), plus assumed increase in # of cases received (4)**	1 UR for all UF Arborist time, replaced time per case with a block of time for "as needed" consultation
	Adjustments	General	Add criterion to minimize impacts to trees and other natural features outside of e-zones.	2.5	2		0	0	0	20% of AD cases based on 2000-2008 average (224 cases). Increased % AD cases expected per BDS request	1 UR (Desired AD cases, no tree criteria proposed
		Appeals	Additional appeals may be filed as a result of the proposed criterion	2.1	2		0	0	0	Currently approx 3% of AD cases are appealed (7 of 217 in 2008). Similar rate for the LD cases. Assume increase by 3 appeals (10 total) as result of new criterion.	1 UR (Desired AD cases, no tree criteria proposed
	EN/GW		Add time for UF consultation		1		0	0	0	Assume UF consultation on 20% of EN, ENM, EV and GW cases	1 UR for all UF Arborist time, replaced time per case with a block of time for "as needed" consultation
	General coordination/ case setup		Add time for UF to address general coordination on LU cases - culling files etc		54		0	0	0	corrected total case load # (subtracted FF cases)	1 UR For all UF Arborist time, replaced time per case with a block of time for "as needed" consultation
	UF Consultation for all LURs	BDS has been canceled. There is no current LU consultation on BDS tree issues (UF still reviews LD for street tree requirements)	Add time for UF consultation on an "as needed" basis.		54		212			Assume UF consultation on about 53 cases @ 4 hours per case.	
			Subtotal				**212**	**0**	**212**		**0.10 FTE**
						Total Hours	212	324	536		
						Total FTE (2080 hours/FTE)	**0.10**	**0.16**	**0.26**		
						Cost (salry+40% benefits)	8642.873	14751.19	23394.06		
						Fully loaded (46%ppr oh, 42.28% bds oh)	12791.45	20997.99	33779.45		

Tree Permits Absent Development - Private Property (Based on 12" size threshold, no exemption)

Tasks	Current 20.42 Tree Cutting	Proposal 11.40 Private Trees	Current Avg. Time per case (hours)	Current # of Cases	Current Total Time (hours)	Proposed (low end range) Avg. Time per case (hours)	Proposed (low end range) # of Cases	Proposed (low end range) Total Time (hours)	Proposed (high end) Avg. Time per case (hours)	Proposed (high end) # of Cases	Proposed (high end) Total Time (hours)	Notes
Outreach and Education	- handout and brochure production - staffing arbor day, remodeling shows, community events	**No change** - handout and brochure production - staffing arbor day, remodeling shows, community events Shift to Single Point of Contact			416.00			416.00			416.00	
Customer Service -permit inquiries -tree cutting concerns -general info	Provided by Parks Urban Forestry (823-4489) but referred to BDS to determine if specific Zoning regulations apply. Caller is then referred back for permit process. Handles phone inquiries, mails application Includes BDS Time (375 hours)	**Single point of contact** Front-end customer service by Single point of contact (answers BDS and UF tree questions). Handles phone and walk in inquiries, mails application or directs to on line form, sets up permit file, verifies applicability (is a LU review required?) Assigns to inspection staff when ready	0.93	1500	1392.00	0.93	2125	1976.25	0.72	2125	1540.00	Permits to be primarily administered through DSC. Single Point of Contact to be Development Service Tech Classification or equivelent. # of cases represents # calls for general info plus # of calls for concerns. Total time is aggregated from phone inquiries, responding to calls for concerns/ complaints,mailing permit applications, and setting up permit case files. Current time includes portion of BDS time.
Permit Processing	**Total Number of Applications**	**Total Number of Applications**		120			262			523		Proposed # of permits is estimated by increase in proportion of lots
Simple Permits (Type A)	**Inspection** -tree is dead/dying -clearly dangerous	Confirmation (Type A) -tree is dead -tree is dying/dangerous (w/arb report) -tree is w/in 10' of building -four healthy trees 12-20" in diameter -nuisance species +>20" trees on SF homesites	1.00	24	24.00	1.00	175	175.00	1.00	350	350.00	Assumes: 37% of all applications are for 4 trees <20 inches. from the remainder, 1/2 of the 80% that are DDD have an arborist report. from the remainder 12.5% of the applications are for nuisance trees. Does not include reductions related to SF homesites. See note below
	Permit Decision Upon confirmation, permit is issued. No mitigation required	**Permit Decision** Upon confirmation, permit is issued.Tree for Tree replacement required	1.00	24	24.00	1.00	175	175.00	1.00	350	350.00	
	Permit Issued Most simple permit situations are issued on site.	**Permit Issued** Most simple permit situations are issued on site or through email	0.25	24	6.00	0.25	175	43.75	0.25	350	87.50	
	Replanting Inspection None for DDD trees (no replacement)	**Replanting Inspection** 10% spot check for all	1.00	0	0.00	1.00	18	18.00	1.00	35	35.00	
Complex Permits (Type B)	**Field Observation** -tree is any healthy≥12" tree -tree is not clearly dangerous Complex decisions require greater analysis of criteria/hazard or risk assessment	**Field Observation (Type B)** -tree is 5th healthy tree -tree is any healthy≥20" tree Complex decisions require greater analysis of mitigation Does not apply to SF homesites Also included in these are 1/2 DDD trees that did not include arborist repor	2.60	96	249.60	2.60	87	226.20	2.60	173	449.80	Total # apps minus confirmation (Type A) apps equals Field Observation (Type B) apps. #'s of Type B apps shown do not include deduction for SF homesites (~2/3 of all lots in system) See Permit Type A+B calcs at bottom.
	Permit Decision Tree Assesment required for unhealthy trees. No mitigation if approved. Criteria assesment for healthy trees. Applicant's mitigation plan negotiated for site (up to inch for inch), if approved.	**Permit Decision** Tree Assesment required for unhealthy trees. Tree for Tree replacement if approved. Criteria assesment for healthy trees. Mitigation rate negotiated when infeasible to plant required number of trees.	1.39	96	133.44	1.25	87	108.75	1.25	173	216.25	
	Permit Issued Upon confirmation of tree condition or receipt of adequate mitigation plan for healthy trees, permit is issued.	**Permit Issued** Upon confirmation of tree condition or receipt of mitigation plan for healthy trees, permit is issued.	0.25	96	24.00	0.25	87	21.75	0.25	173	43.25	
	Replanting Inspection For healthy trees only	**Replanting Inspection** 10% spot check for all	1.00	24	24.00	1.00	9	9.00	1.00	18	18.00	
Appeals	**Total Number of Appeals**	**Total Number of Appeals**		7			14			28		
	Applicant Appeal Any application. Typical appeal rate is: ___ Includes scheduling appeal, prep, documentation and presentation, hearing, follow up, additional communications	**Applicant Appeal** Any application. Assumed appeal rate is: 5% of all applications	26.60	6	159.60	26.60	13	347.93	26.60	26	690.86	
	Public Appeal Limited to any healthy trees≥12" Typical appeal rate is:___ Includes scheduling appeal, prep, documentation and presentation, hearing, follow up, additional communications. Plus Communications with public re: proposed tree removal during posting period (Inspectors handle public inquiries)	**Public Appeal** Limited to Non SF healthy trees≥20" or more than four ≥12" Assumed appeal rate is:1% of Field Observation permits Includes scheduling appeal, prep, documentation and presentation, hearing, follow up, additional communications. Plus communications with public re: proposed tree removal during posting period (general and process info call would come to SPoC, inspectors would address specific case questions)	32.51	1	32.51	32.51	1	32.51	32.51	2	65.02	
Enforcement	**Total Number of Complaint Calls** Accounted for in "customer service"	**Total Number of Complaint Calls** Accounted for in "customer service"		250			250			250		
	Site visit and verify violation Current rate is 50% of 250 complaint calls	**Site visit and verify violation** Assumed rate is 60% of 250 complaint calls	2.60	125	325.00	2.60	150	390.00	2.60	150	390.00	
	Case Processing Current Rate is 12% of site visits result in violation case. Set up case, review case and penalties with manager, review mitigation plan, involve management, communications, follow up inspection to close case.	**Case Processing** Assumed rate is 30% of site visits result in violation case. Set up case, review case and penalties with manager, review mitigation plan, involve management, communications, follow up inspection to close case.	5.66	15	84.90	5.66	45	254.70	5.66	45	254.70	
		TOTALS			2895			4195			4911	
							Sum	Net Δ		Sum	Net Δ	
		FTE			1.39		2.02	0.62		2.36	0.97	
		COSTS (S+B)			$108,116		$156,656	$48,541		$183,415	$75,300	
		FULLY LOADED (OH)			$160,011		$231,851	$71,840		$271,455	$111,444	

Type A+B calcs (Hi end)		remaining
Total Apps	523	
subtract 40% (1/2 DDD, with arb rpt)	209	
equals		314
subtract 37% (12-20") from remaining	116	
equals		198
subtract 12.5%(N) from remaining	25	
Final - Type B		173
Final - Type A	350	

Type A+B calcs (Lo end)		remaining
Total Apps	262	
subtract 40% (1/2 DDD, with arb rpt)	10	
equals		251
subtract 37% (12-20") from remaining	93	
equals		158
subtract 12.5%(N) from remaining	20	
Final - Type B		138
Final - Type A	123	

Note:
The assumptions regarding the split between Type A vs. B permits are based on data that can be extrapolated (tree size, condition, species population distribution). What is not reflected here are data relating to how many currently exempt properties would submit applications to remove 20" and larger trees. Even though this pool of properties accounts for almost 60% of the total pool of properties, and effectively reduces the properties subject to the current 20.42 requirements by ~20,000 lots, we simply do not have sufficient information to base an assumption on. Therefore, we have not attempted to assign a greater proportion of permit applications to the Type A permit stats which would result from the single family homesite provision, and are instead assuming the distribution of Type A and B permits is not affected by this pool of Type A properties. In other words, the numbers are likely weighted toward more Type B permits.

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635 CAPITOL STREET, #150
SALEM, OREGON 97301-2540

33.430.175 Standards for Right-of-Way Improvements
[No change.]

A. through C. [No change.]

D. ~~Native~~ ~~t~~Trees within the right of way may be removed within the improvement area and within 10 feet of the edge of the ~~right-of-way~~ improvement. In no case may the combined total diameter of all ~~the 6-inch or greater~~ trees ~~cut~~ removed exceed 225 inches, counting only native trees that are at least 6 inches. Trees other than native trees ~~listed on the Nuisance Plants List and~~ are exempt from this standard and may be removed without being counted as part of the 225 inches; and

E. [No change.]

33.430.180 Standards for Stormwater Outfalls
[No change.]

A. [No change.]

B. Native trees ~~more than 10~~ 12 or more inches in diameter may not be removed~~;~~ ~~**C.**~~ Each native tree at least 6 inches but less than ~~to 10~~ 12 inches in diameter ~~native tree~~ that is removed ~~cut~~ must be replaced as shown in Table 430-3;~~on the site at a ratio of 3 native trees for each one removed. The replacement trees must be at least one-half inch in diameter and selected from the Portland Plant List.~~

C. Non-native non-nuisance trees may be removed. Each tree at least 6 inches in diameter must be replaced as shown in Table 430-3;

D, Trees listed on the Nuisances Plant List may be removed. Each tree at least 6 inches in diameter must be replaced with one tree;

E. Replacement trees and shrubs must comply with the planting standards of Subsection 33.430.140.K; and;

[Re-letter D through G to F through I]

COMMENTARY

33.430.190 Standards for Public Recreational Facilities

Amendments to standard D.1 will change the size threshold for removing native trees from 10 inches to 12 inches in diameter. This improves consistency between the e-zone standards and other tree threshold in Title 33 and Title 11. The amendments also require replacement of small native trees allowed to be removed. Currently, these trees are only required to be replaced if they are removed for a public viewing area. There is no reason why public recreation facilities should have a different replacement requirement than other development proposals. Therefore, replacement is being added here.

The amendments to D.2 and D.3 address the removal and replacement of non-native non-nuisance and nuisance trees, consistent with changes made in the remainder of the chapter.

This set of standards also refers to the general development standards for required tree replacement.

E.4 and 5 are deleted because the replacement requirement for all trees removed is stated above in D.

33.430.190 Standards for Public Recreational Facilities
[No change.]

A.through C. [No change.]

D. Tree removal and replacement standards are as follows:

1. Native trees ~~more than 10~~ 12 or more inches in diameter may not be removed. Each native tree more than 6 but less than 12 inches in diameter removed must be replaced as shown in Table 430-3;

2. Non-native non-nuisance trees may be removed if each tree at least 6 inches in diameter is replaced as shown in Table 430-3;

3. Trees listed on the Nuisance Plants List may be removed if each tree at least 6 inches in diameter is replaced with one tree; and

4. Replacement trees and shrubs must meet the planting standards of Subsection 33.430.140.K; and

E. If a public viewing area is proposed, the following must be met:

1. The viewing area may create up to 500 square feet of permanent disturbance area;

2. The viewing area is at least 30 feet from the top of bank; and

3. The viewing area is not in the floodway.~~; and~~

~~4. Each 6 to 10 inch diameter native tree removed must be replaced at a rate of 3 trees for each one removed.~~

~~5. The replacement trees must be a minimum one half inch diameter or 3 to 5 gallon conifers and be native trees listed on the Portland Plant List. All trees must be planted on the site.~~

COMMENTARY

Environmental Review

33.430.240 Supplemental Application Requirements

A. Supplemental site plans required.

Changes include:

- An explicit requirement to show trees to be preserved, trees to be removed and tree protection meeting the specifications in Title 11
- A requirement to show the location of the perimeter controls, which may include construction fencing, as well as erosion control barriers. These features should be included in the disturbance area and be located outside of critical root zones.
- A reference to Title 11 tree protection requirements.

33.430.240 Supplemental Application Requirements
[No change]

A. Supplemental site plans required. [No change]

1. [No change];

2. The proposed development site plan must show the following:

   a.-c. [No change];

   d. Trees ~~greater than~~ six or more inches in diameter, identified by species, with trees proposed to be preserved and removed indicated. In the case of violations, also indicate those that were cut or damaged by stump diameter and species;

3. A construction management site plan must show the following:

   a. Areas that will be temporarily or permanently disturbed, including equipment maneuvering areas, and perimeter controls;

   b.–e. [No change];

   f. Measures to protect trees and vegetation. Tree protection must meet the requirements of Chapter 11.60, Technical Specifications.

4. [No change.]

B. Supplemental narrative. [No change.].

COMMENTARY

Corrections to Violations of This Chapter

33.430.405 Correction Options

Minor changes to this section clarify that the 12 diameter inches threshold for tree removal refers to native trees only and to make replacement plant material consistent with other sections of the chapter (one-half inch trees and 1 gallon shrubs).

Corrections to Violations of This Chapter

33.430.400 Purpose [No change.].

33.430.405 Correction Options
Applicants must choose one of the following options to correct environmental code violations.

A. When these options may be used.

1. If all of the following are met, the applicant may choose Option One, Option Two, or Option Three:

   a. Tree removal:

      (1) Only non-native trees have been removed;

      (2) No more than 12 diameter inches of native trees have been removed; or

      (~~2~~3) No more than one of the following has been removed:

      - A Madrone 4 inches or less;
      - A Garry Oak 4 inches or less; or
      - A Pacific Yew 2 inches or less;

   b. and c. [No change.]

2. If any of the following apply, the applicant may not use Option One, but may chose either Option Two or Option Three:

   a. Tree removal. More than 12 diameter inches of native trees have been removed;

   b. and c. [No change.]

3. - 5. [No change.].

B. Option One, Remove and Repair. [No change.]

1.-2. [No change.]

3. Violation remediation planting. [No change.]

   a.– d. [No change.].

   e. Trees must be a minimum ~~1~~ one-half inch in diameter unless they are oak, madrone, or conifer, which may be 3 to 5-gallon size. No more than 10 percent of the trees may be oak or madrone. Shrubs must be a minimum of ~~2~~ 1-gallon size. All other species must be a minimum of 4-inch pots; and

   f. [No change.].

33.430.405 Correction Options (continued)

Continuation of changes described above to make replacement plant material consistent with other sections of the chapter (one-half inch trees and 1 gallon shrubs).

4. For violations involving the removal of trees, three native trees must be planted on the site for each tree removed, in addition to other remediation vegetation planted. If any tree removed was a Garry Oak, Madrone, or Pacific Yew, the replacement trees must be of the same species. Planted trees must be a minimum ~~1~~ one-half inch in diameter unless they are oak, madrone, or conifer, which may be 3 to 5-gallon size.

C. Option Two, Retain and Mitigate. [No change.]

1. [No change.].

2. Violation remediation planting. [No change.]

   a.- d. [No change.].

   e. Trees must be a minimum ~~1~~ one-half inch in diameter unless they are oak, madrone, or conifer, which may be 3 to 5-gallon size. No more than 10 percent of the trees may be oak or madrone. Shrubs must be a minimum of ~~2~~ 1-gallon size. All other species must be a minimum of 4-inch pots; and

   f. [No change.].

3. For violations involving the removal of trees, three native trees must be planted on the site for each tree removed, in addition to other remediation vegetation planted. If any tree removed was a Garry Oak, Madrone, or Pacific Yew, the replacement trees must be of the same species. Planted trees must be a minimum ~~1~~ one-half inch in diameter unless they are oak, madrone, or conifer, which may be 3 to 5-gallon size.

D. Option Three, Environmental Review. [No change.].

COMMENTARY

CHAPTER 33.440,GREENWAY OVERLAY ZONE

Note: The existing code language in Chapter 33.440 has been updated to reflect amendments adopted through the River Plan/North Reach process. The amendments will be effective July 1, 2011.

In general, tree removal in the Greenway overlay zones requires Greenway Review with the exception of trees on the Nuisance Plants List, and trees removed as part of allowed development. The objective of the code changes is to address tree removal outside of the greenway setback (landward) the same as trees located outside of the overlay zone are addressed. When no development is proposed, these trees would be subject to the permit requirements of Title 11, Trees. In development situations, the Title 11 tree preservation and tree density standards would apply (in addition to any specific landscape or mitigation requirements of the overlay zone). Tree removal in or riverward of the greenway setback would require greenway review, except removal of nuisance trees which could be permitted through Title 11.

33.440.210 Development in the Greenway Setback

The development regulations have been amended to explicitly address tree removal in the greenway setback and riverward of the setback. Slight rewording of paragraph 3 better aligns the sentence construction between paragraphs 2 and 3.

33.440.320 Exemptions from Greenway Review

The amendment to the introduction indicates that tree removal that is exempt from greenway review may still be subject to the tree removal requirements of Title 11, when no other development is proposed.

"L" exempts the removal of trees located outside the greenway setback (landward) from greenway review, with the exception of trees in the more environmentally-sensitive natural ("n") and water quality ("q") overlays. In a development situation these trees would still be subject to Title 11 tree preservation standards and could be used to meet relevant tree density and landscaping standards in Title 11 and Title 33. If only tree removal is requested for trees outside of the greenway setback (and not in the n or q overlay), a Title 11 tree permit would be required, consistent with all other areas of the city.

AMEND CHAPTER 33.440, GREENWAY OVERLAY ZONES

Development Standards

33.440.210 Development in the Greenway Setback

A. and B. [No change.]

C. Development regulations.

1. Development landward of the greenway setback. [No change.]

2. Development within the greenway setback.

   a. River-dependent and river-related development. Development, exterior alterations, excavations, ~~or~~ fills, and associated tree removal within the greenway setback that are river-dependent or river-related may be allowed if approved through greenway review, unless exempt under Section 33.440.320, Exemptions.

   b. [No change.]

3. Development riverward of the greenway setback. ~~Riverward of the greenway setback, d~~Development, exterior alterations, excavations, ~~or~~ fills, and associated tree removal riverward of the greenway setback that are river-dependent or river-related may be allowed if approved through greenway review, unless exempt under Section 33.440.320, Exemptions. Development, exterior alterations, excavations, or fills that are not river-dependent or river-related require greenway review and a Greenway Goal Exception to locate riverward of the greenway setback.

Greenway Review

33.440.320 Exemptions from Greenway Review

Greenway review is not required for any of the situations listed below. The situations listed below are still subject to the Greenway development standards. When no development is proposed, removal of trees allowed under the exemptions below are subject to the tree permit requirements of Title 11, Trees. ~~The~~ Exempt situations are:

A.-J. [No change.]

K. Removal of vegetation ~~identified~~ on the Nuisance Plants List; and

L. Removal of trees not located within or riverward of the greenway setback or within the boundaries of the n and q overlays. However, trees removed using this exemption continue to be subject to other applicable regulations of this title and Title 11, Trees;

33.440.345 Supplemental Application Requirements

The references to tree preservation and protection measures in 33.248 are replaced with the new reference to Title 11, where these measures will be located.

The current exemption from the supplemental application requirements for certain activities in the River Water Quality zone is removed as a code clean-up item. The intent was that these proposals in the "q" overlay would only be subject to subsection "B," which requires additional information. However, subsection "B" does not include the basic existing conditions information described in subsection "A" that would be needed for the review. Removing this exemption does not substantively change the requirements for reviews in the "q" overlay because all of the information would be needed to show that the approval criteria are met and 33.730.060 allows BDS to require information necessary to conduct the review.

33.440.345 Supplemental Application Requirements
In addition to the application requirements of Section 33.730.060, Application Requirements, the information below is required for Greenway review applications. ~~River-dependent development, exterior alterations, excavations, and fills in the River Water Quality zone are exempt from these Supplemental Application Requirements.~~

A. Supplemental site plans. [No change.]

1.-2. [No change.]

3. A construction management site plan including:

a. through d. [No change.]

e. Tree protection measures for trees to be preserved ~~A tree preservation plan~~ that meets the ~~standards of Section 33.248.065~~ requirements of Title 11, Chapter 11.60, Technical Specifications.

B. River Quality overlay zone. [No change.]

1. [No change.]

2. Narrative. [No change.]

a. [No change.]

b. Construction management plan. Identify measures that will be taken during construction or remediation to protect the remaining functional values at and near the construction site and a description of how undisturbed areas will be protected. For example, describe the timing of construction, how construction equipment will be controlled, and describe how trees will be protected in conformance with ~~Section 33.248.065~~ Chapter 11.60, Technical Specifications, and erosion controlled in conformance with Title 10, Erosion and Sediment Control Regulations.

c. [No change.]

COMMENTARY

CHAPTER 33.465,PLEASANT VALLEY NATURAL RESOURCES OVERLAY ZONE

The Pleasant Valley Natural Resources Overlay (designated as "v") functions in a similar fashion as the environmental overlay zones, but includes some appreciable differences. For one, there is no transition area in the "v" overlay, so the gaps that exist in the environmental zone with regard to trees in transition areas do not exist. There are also generally greater levels of restricted activities in the "v" zone and a more limited list of projects that can utilize development standards instead of requiring a resource review.

The amendments are intended to be parallel with amendments to the environmental overlay zone regulations, including referencing Title 11 requirements for tree removal when no development is proposed and making more explicit the requirements that apply to native, non-native non-nuisance trees, and trees on the Nuisance Plants List.

33.465.070 When These Regulations Apply

Amendments clarify that the chapter applies to non-native non-nuisance trees and plants and to trees and plants on the Nuisance Plants List. This is necessary to ensure that the restrictions in the exemptions section and replacement requirements in development standards apply to these trees and plants. See additional discussion below under the exemptions and standards for how non-native vegetation is addressed.

33.465.080 Items Exempt From These Regulations

The introduction paragraph is amended to note that that other City regulations may apply even if the proposal is exempt from the "v" zone regulations, and that tree removal allowed under the exemptions may be subject to a Title 11 tree permit if no development is proposed. This statement is included to alert code users to this requirement in an effort to prevent unintentional violations.

AMEND CHAPTER 33.465, PLEASANT VALLEY NATURAL RESOURCES OVERLAY ZONE

General

33.465.070 When These Regulations Apply
[No change.]

A. and B. [No change.];

C. Removing, cutting, mowing, clearing, burning, or poisoning native trees and plants ~~vegetation~~ listed in the *Portland Plant List*;

D. Planting or removing trees and plants listed on the Nuisance Plant List and removing non-native non-nuisance trees and plants;

[Re-letter D through F to E through G]

33.465.080 Items Exempt From These Regulations
The following items, unless prohibited by Section 33.465.090, below, are exempt from the regulations of this chapter~~:~~. Other City regulations such as Title 10, Erosion Control, and Title 11, Trees must still be met. When no development or other activities are proposed that are subject to the development standards or review requirements of this chapter, tree removal allowed under the exemptions below is subject to the tree permit requirements of Title 11, Trees.

A.-B. [No change.].

Commentary

33.465.080 Items Exempt From These Regulations

The exemptions in "C" apply to existing development, operations, and improvements and allow certain activities to occur on the site without triggering the development standards and the associated plan check and mitigation, or review requirements. Changes to this section include:

C.5: Changes are proposed to the tree removal exemptions. First, the introduction sentence clarifies that these exemptions apply only if no other activities or development is proposed that is subject to the development standards or review requirements. This distinction is important because, if no such activities or development is proposed, tree removal that is exempt under this section is subject to Title 11 permit requirements. If development or activities are proposed that are subject to the development standards or review requirements, the applicable tree removal and replacement standards or review requirements of the "v" overlay apply. Second, a requirement for erosion control is added for vegetation removal activities that are allowed under the exemptions. This is needed to provide clear direction about what is required when non-native vegetation is removed.

Additional amendments include:

- A new exemption for removal of non-native non-nuisance trees and plants. Because these trees are not currently regulated by this chapter, this exemption does not constitute a change in practice. However, removal of these trees (when no other development is proposed) will be subject to Title 11 tree permit requirements.
- A new exemption for removal of trees within 10 feet of an existing building and attached structures (such as decks and stairs). This provides consistency with other current and new removal allowances that apply citywide.
- Revision to the current hazard tree exemption to refer to "dead, dying and dangerous" trees consistent with terms used in other parts of this Title and Title 11, Trees. In addition the City Forester is authorized to allow or require removal of wood from diseased trees from the overlay zone to prevent spread of disease.

C.6: Pruning is not specifically addressed in this chapter, however it is implied based on the list of activities that are subject to the regulations. Title 11 allows limited pruning of native trees in the "v" overlay subject to a permit, as is allowed in the environmental overlay zone. Pruning permits will require arborist oversight and will be reviewed by the City's Urban Forestry program. Exemptions for limited pruning in these areas will be provided in Title 11.

C. Existing development, operations, and improvements, including the following activities:

1.- 4. [No change.].

5. Removal of vegetation when no other activities subject to the development standards of this chapter are proposed, if the following are met:

   a. All vegetation removal activities must be surrounded or protected to prevent erosion and sediment from leaving the site or negatively impacting resources on the site. Permanent erosion control, such as replanting areas of bare soil, must be installed.

   b. The vegetation proposed for removal is one of the following:

      (1) Trees or plants listed on the Nuisance Plants List;

      (2) Dead, dying, or dangerous trees or portions of trees when they pose an immediate danger, as determined by the City Forester or an arborist. Removing these portions is exempt only if all sections of wood more than 12 inches in diameter either:

         - Remain, or are placed, in the Pleasant Valley Natural Resources overlay zone on the same ownership on which they are cut; or.

         - Are removed, if the City Forester authorizes removal of diseased wood because it will threaten the health of other trees;

      (3) Non-native non-nuisance trees and plants; and

      (4) Trees that are within 10 feet of a building and structures attached to buildings, such as decks, stairs, and carports.

   6. Pruning trees in accordance with Title 11 permit requirements;

   ~~Removing a tree listed on the Nuisance Plants List. Removing other trees or portions of trees when they pose an immediate danger, as determined by the City Forester or a certified arborist. Removing these portions is exempt only if all sections of wood greater than 12 inches in diameter remain, or are placed, in the Pleasant Valley Natural Resources overlay zone on the same ownership on which they are cut;~~

~~6~~7. Development over existing paved surfaces that are over 50 feet from any identified wetland or water body; and

~~7~~8. Land division and partitions of developed properties where no additional building sites are created and no additional development is proposed.

D. [No change.]

Commentary

33.465.130 Permit Application Requirements

A.4: References to regulated tree sizes are amended establish consistent terms in the code.

B.5. An explicit requirement to show trees proposed to be preserved, trees proposed to be removed, and tree protection is added. Reference to the tree plan requirements of Title 11 is also added to alert applicants of this requirement, which will also apply to most development permits.

Development Standards

33.465.130 Permit Application Requirements

A building permit or development permit application that is reviewed for compliance with the standards of this chapter requires more information than a permit not affected by these provisions. The information in Subsections A. through C. must be submitted with permit application plans. Submission of the information in Subsection D. is optional.

A. An existing conditions site plan including:

1.- 3. [No change.]

4. Within the disturbance area, all trees that are ~~more than~~ at least 6 inches in diameter must be indicated by size and species. Trees outside of the disturbance area must be shown as crown cover with an indication of species composition; and

5. [No change.]

B. Proposed development plan including:

1. Outline of the proposed disturbance area, including all areas of proposed utility work;

2. Location and description of all proposed erosion control devises;

3. A stormwater management plan; ~~and~~

4. A landscape plan indicating the size, species, and location of all vegetation to be planted in the environmental zone showing that 90 percent vegetative cover will be achieved within one year~~.~~; and

5. Trees proposed to be preserved and trees proposed to be removed. For trees preserved, tree protection measures, meeting the requirements of Chapter 11.60, Technical Specifications, must be shown. A tree plan may also be required to comply with the requirements of Chapter 11.50, Trees in Development Situations.

C. – D. [No change.]

Commentary

33.465.150 General Development Standards

Standard "E" addresses tree removal. The amendments clarify requirements for removal of native, non-native non-nuisance and nuisance trees and refer to the requirements in 33.465.180 for consistent planting standards (plant size, diversity etc).

The standard is broken into 4 parts:

1. No major changes are proposed to the regulation of native trees. Additional allowances are proposed for removal of trees within 10 feet of an existing building and attached structures and within 10 feet of proposed driveways or right-of-way improvements. Replacement continues to be required per Table 465-2. Note that Table 465-2 matches the requirements for replacement in the environmental overlay zone (Table 430-3).
2. Non-native non-nuisance trees may be removed, but must be replaced per the replacement table (465-2). Non-native non-nuisance trees are not counted in the limit of 225 inches of native tree removal. Therefore, removal of non-native non-nuisance trees will not trigger a Resource Review unless the replacement standards are not met.
3. Removal of trees on the Nuisance Plants List continues to be allowed, however they must be replaced at a 1:1 (tree for tree) ratio. This requirement is consistent with Title 11 requirements that apply citywide.
4. The replacement plantings are required to meet the planting standards in 33.465.180, which describe requirements for plant size, native species, diversity and location. The current Standard "E", which specifies a different planting standard is deleted. The planting standards in 33.465.180 are referred to throughout the chapter, providing a consistent planting standard for the overlay zone.

33.465.150 General Development Standards
The standards of this section apply to all development in the Pleasant Valley Natural Resources overlay zone except utilities subject to Section 33.465.155, rights-of-way subject to 33.465.160, land divisions and planned developments subject to Section 33.465.165, resource enhancement projects subject to Section 33.465.170, trails subject to Section 33.465.175, and mitigation subject to 33.465.180.

Standards A, B and E through L apply to new development. Standards C, D and E through L apply to alterations to existing development. All of the applicable standards must be met.

Modification of any of these standards requires approval through Pleasant Valley resource review.

A. – D. [No change.].

E. Tree removal and replacement standards are:

1. Native trees may only be removed as follows. In no case will the combined total diameter of all trees removed exceed 225 inches, counting only native trees that are at least 6 inches. Trees removed must be replaced as shown in Table 465-2.

   a. W~~w~~ithin 10 feet of any existing or proposed buildings and structures ~~or within 5 feet of driveways~~ attached to buildings, such as decks, stairs, and carports; or

   b. Within 10 feet of proposed driveways or right-of-way improvements; and

   ~~. In no case will the combined total diameter of all the 6-inch and larger native or greater trees cut exceed 225 inches. Trees removed must be replaced as shown in Table 465-2;~~

2. Non-native non-nuisance trees may be removed if each tree at least 6 inches in diameter is replaced as shown in Table 465-2;

3. Trees listed on the Nuisance Plants List may be removed, if each tree is replaced with one native tree; and~~; are exempt from this standard and may be removed without being counted as part of the 225 inches;~~

4. Replacement trees and shrubs required by this subsection must meet the requirements for plantings in Section 33.465.180.

~~E. Trees cut must be replaced as shown in Table 465-2. Replacement trees must be at least one-half inch in diameter; shrubs must be in at least a 2-gallon container or the equivalent in ball and burlap. All trees and shrubs must be selected from the Portland Plant List and planted anywhere on the site. Conifers must be replaced with conifers and shrubs must consist of at least two different species;~~

Commentary

33.465.150 General Development Standards (continued)

Table 465-2 is amended to provide clarity.

G.: The amendment corrects the reference to the Erosion Control Manual and to Chapter 24.70.

L: Language is added to clarify that the required mitigation in 33.465.180 is for allowed disturbance area.

Table 465-2 Tree Replacement In Pleasant Valley Natural Resources Overlay Zone Applicants may chose either Option A or Option B		
Size of tree to be removed (inches in diameter)	Option A (no. of native trees to be planted)	Option B (combination of native trees and shrubs)
At least 6 to up to 12	2	not applicable
More than 12 ~~13~~ to up to 20 ~~18~~	3	1 tree and 3 shrubs
More than 20 ~~19~~ to up to 25 ~~24~~	5	3 trees and 6 shrubs
More than 25 to up to 30	7	5 trees and 9 shrubs
~~over~~ More than 30	10	7 trees and 12 shrubs

~~G.~~ **F.** All vegetation planted in the Pleasant Valley Natural Resource overlay zone is native and listed on the *Portland Plant List*. Plants listed on the Nuisance Plants List are prohibited.

G. Erosion control must conform to the *Portland Erosion Control Manual* ~~Technical Guidance Handbook, City of Portland, Bureau of Environmental Services,~~ and to Chapter 24.70, Clearing, and Grading~~, and Erosion Control of Title 24, Building Regulations~~. All development between November 1 and April 30 of any year which disturbs more than 500 square feet of ground requires wet weather measures described in the *Erosion Control Manual* ~~Technical Guidance Handbook~~;

H.- K. [No change.].

L. Mitigation for disturbance area allowed under this section is required as specified in Section 33.465.180.

Commentary

33.465.155 Standards for Utility Lines

The replacement requirements for allowed removal of native tree (standard F) are amended to change the tree size threshold from 10 to 12 inches, consistent with other tree thresholds in Title 33 and Title 11. The amendments also incorporate replacement of non-native non-nuisance trees and nuisance trees, consistent with other sections of this chapter, and other chapters of Title 33 and Title 11. This section refers to the replacement table in the general development standards (Table 465-2).

Standard F.4 replaces the current restrictions regarding where trees can be planted.

Instead of listing separate standards for replacement plant materials, standard F.5 refers to the general mitigation standards in 33.465.180 that describe requirements for plant size, diversity, etc. Language is added to clarify that the required mitigation in 33.465.180 is for allowed disturbance area.

33.465.170 Standards for Resource Enhancement Projects

Language is added to standard "C" to explicitly state that trees, other than natives, can be removed for resource enhancement projects without replacement. Removal of trees other than natives is not currently limited, so this standard will not change the application of the code. It is intended to provide additional clarity. Not requiring replacement of non-native non-nuisance and nuisance trees is intended to provide additional flexibility for resource enhancement projects. These projects often involve extensive removal of invasive vegetation and revegetation with plants and trees that are carefully selected to achieve desired future ecological conditions. In some cases, the future condition may involve conversion to a habitat type with fewer trees. If a strict replacement requirement was applied for removal of, any variation from a strict replacement requirement for nuisance and non-native non-nuisance trees would require a Resource Review, and could slow down and hamper the enhancement process. The strict limit on removal of native vegetation is not changed.

33.465.155 Standards for Utility Lines

[No change.]

A. through E. [No change.]

F. Tree removal and replacement standards are as follows:

1. Native trees ~~more than 10~~ 12 or more inches in diameter may not be removed; ~~**G.**~~ Each native tree more than 6 but less than 12 inches ~~Each 6- to 10-inch~~ in diameter ~~native tree cut~~ removed must be replaced as shown in Table 465-2; ~~at a ratio of three trees for each one removed. The replacement trees must be a minimum ½ inch diameter and selected from the *Portland Plant List*. All trees must be planted on the applicant's site. Where a utility line is approximately parallel with the stream channel, at least half of the replacement trees must be planted between the utility line and the street channel; and~~

2. Non-native non-nuisance trees may be removed if each tree 6 or more inches in diameter is replaced as shown in Table 465-2;

3. Trees listed on the Nuisance Plant List may be removed if each tree 6 or more inches in diameter is replaced with one tree;

4. Where a utility line is approximately parallel with the stream channel, at least half of the replacement trees must be planted between the utility line and the stream channel;

~~**H**~~**G.** Mitigation for disturbance area allowed under this section is required as specified in Section 33.465.180. Replacement trees and shrubs required by this section must meet the requirements for plantings in 33.465.180.

33.465.170 Standards for Resource Enhancement Projects

[No change.]

A. and B. [No change.]

C. No native vegetation listed on the *Portland Plant List* is removed. Non-native trees may be removed.; and

D. [No change.].

Commentary

33.465.175 Standards for Trails

The proposed amendments address the removal and replacement of non-native non-nuisance and nuisance trees, consistent with changes made in the remainder of the chapter (standards C and D). A reference to the general mitigation standard is added for required plantings,

33.465.180 Standards for Mitigation

D. Required plants and planting densities.
Language is added to indicate that planting required to satisfy other requirements, such as tree replacement, may be counted toward the mitigation requirements of this section.

33.465.175 Standards for Trails

[No change.]

A. [No change.]

B. Disturbance may not occur within 10 feet of native trees ~~six~~ 6 or more inches ~~or larger~~ in diameter;

C. Non-native non-nuisance trees may be removed if each tree 6 or more inches in diameter is replaced as shown in Table 465-2;

D. Trees listed on the Nuisance Plants List may be removed if each tree 6 or more inches in diameter is replaced with one tree;

~~C~~E. Mitigation for disturbance area allowed under this section is required as specified in Section 33.465.180. Replacement trees and shrubs required by this section must meet the requirements for plantings in Section 33.465.180;

~~D~~F. No fill or excavation may occur below the ordinary high water mark of the stream; and

~~E~~G. The Division of State Lands has approved any work that requires excavation or fill in a wetland.

33.465.180 Standards for Mitigation

[No change.]

A. and C. [No change.]

D. Required plants and planting densities. One tree, three shrubs, and four other plants are required to be planted for every 100 square feet of mitigation area. Plants must be native plants selected from the *Portland Plant List.* Plants required to meet other requirements of this title count toward the mitigation plantings of this section;

E. through G. [No change.]

Commentary

33.465.240 Supplemental Application Requirements

A. Supplemental site plans required.

This section is amended to require construction management plans to more clearly address disturbance and to show the location of perimeter controls, such as construction fencing and erosion control measures. It is important that these features be shown to ensure proper protection of areas to be left undisturbed and to ensure that their installation does not damage trees or other resources.

A reference to the tree protection requirements of Title 11 is added.

33.465.240 Supplemental Application Requirements
In addition to the application requirements of Section 33.730.060, the following information is required for a Pleasant Valley resource review application:

A. Supplemental site plan requirements. [No change.]

1. Site plans must show the following:

   a.–c. [No change]

2. A construction management site plan including:

   - Areas that will be permanently disturbed;
   - Areas that will be temporarily disturbed, including equipment maneuvering areas and the location of perimeter controls;
   - Areas where existing topography and vegetation will be left undisturbed;
   - Location of site access and egress;
   - Equipment and material staging and stockpile areas;
   - Erosion control measures; and
   - Measures to protect trees and vegetation. Tree protection must meet the requirements of Chapter 11.60, Technical Specifications.

3. [No change.].

B. Supplemental narrative. [No change.]

Commentary

Corrections to Violations of This Chapter

33.465.405 Correction Options

Minor changes to this section clarify that the 12 diameter inches threshold for tree removal applies to native trees only, and make replacement plant material specifications consistent with other sections of the chapter (one-half inch trees and 1 gallon shrubs).

Corrections to Violations of This Chapter

33.465.400 Purpose [No change.]

33.465.405 Correction Options
[No change.]

A. When these options may be used.

1. If all of the following are met, the applicant may choose Option One, Option Two, or Option Three:

   a. Tree removal:

      (1) Only non-native trees have been removed;

      (2~~1~~) No more than 12 diameter inches of native trees have been removed.; or

      (3) [No change.].

   b.-c. [No change.].

2. If any of the following apply, the applicant may not use Option One, but may choose either Option Two or Option Three:

   a. Tree removal. More than 12 diameter inches of native trees have been removed;

   b.-c. [No change.].

3. – 5. [No change.].

Commentary

33.465.405 Correction Options (continued)

Continuation of changes described above to make replacement plant material consistent with other sections of the chapter (one-half inch trees and 1 gallon shrubs).

B. Option One, Remove and Repair. [No change]

1. – 2. [No change.].

3. Violation remediation planting. The area to be planted is the area disturbed by the violation. All of the following must be met:

   a.-d. [No change.].

   e. Trees must be a minimum ~~1~~ one-half inch in diameter unless they are oak, madrone, or conifer, which may be 3- to 5-gallon size. No more than 10 percent of the trees may be oak or madrone. Shrubs must be a minimum of ~~2~~ 1-gallon size. All other species must be a minimum of 4-inch pots; and

   f. [No change.]

4. For violations involving the removal of trees, three native trees must be planted on the site for each tree removed, in addition to other remediation vegetation planted. If any tree removed was a Garry Oak, Madrone, or Pacific Yew, the replacement trees must be of the same species. Planted trees must be a minimum ~~1~~ one-half inch in diameter unless they are oak, madrone, or conifer, which may be 3- to 5-gallon size.

C. Option Two, Retain and Mitigate. [No change]

1. [No change.]

2. Violation remediation planting. [No change.]

   a.-d. [No change.]

   e. Trees must be a minimum ~~1~~ one-half inch in diameter unless they are oak, madrone, or conifer, which may be 3- to 5-gallon size. No more than 10 percent of the trees may be oak or madrone. Shrubs must be a minimum of ~~2 f~~ 1 gallon size. All other species must be a minimum of 4-inch pots; and

   f. [No change.]

3. For violations involving the removal of trees, three native trees must be planted on the site for each tree removed, in addition to other remediation vegetation planted. If any tree removed was a Garry Oak, Madrone, or Pacific Yew, the replacement trees must be of the same species. Planted trees must be a minimum ~~1~~ one-half inch in diameter unless they are oak, madrone, or conifer, which may be 3- to 5-gallon size.

D. Option Three, Pleasant Valley Resource Review. [No change.]

COMMENTARY

CHAPTER 33.480, SCENIC OVERLAY ZONE

The scenic resource overlay zone implements the Comprehensive Plan scenic resource policies. Existing tree preservation requirements apply to scenic corridors, and height limitations apply to structures and trees in view corridors. The amendments clarify that trees may be removed or pruned to comply with view corridor requirements and to provide consistency with other overlay zones and plan districts with similar tree preservation standards.

View Corridors
Language is added to clarify that trees that exceed view corridor height limits may be removed or pruned as necessary to maintain the view. There is a new reference to Title 11 since Title 11 tree removal permits would be required if no development is proposed. Depending on the specific situation, the Title 11 tree permit process could involve evaluating the extent of tree removal needed to maintain the view.

AMEND CHAPTER 33.480, SCENIC RESOURCE ZONE

33.480.040 Development Standards
[No change.]

A. View Corridors. [No change.]

1. Purpose. [No change.]

2. Standard. All development within the designated view corridors are subject to the height limits of the base zone, except when a more restrictive height limit is established by the view corridor. In those instances, the view corridor height limit applies to both development and vegetation. Removal of trees or limbs necessary to maintain the view corridor is allowed. When no development is proposed, tree removal is subject to the requirements of Title 11, Trees. Public safety facilities are exempt from this standard.

B. Scenic Corridors. All development and vegetation with a scenic corridor designation in the *Scenic Resources Protection Plan* are subject to the regulations of this Subsection.

1. Purpose. [No change.]

2. Standards.

   a. through f. [No change.]

Commentary

g. Preservation of trees.

The tree removal standards are proposed to be revised to be more consistent with other similar exemptions in Rocky Butte and Johnson Creek Plan districts, provide consistent tree size threshold descriptions, allow removal of nuisance trees, and to address common conflicting situations.

Proposed changes provide more allowances to remove trees to address issues that commonly arise in development situations, such as installation of driveway and utilities. There is also a new allowance to remove trees within 10 feet of an existing building and attached structures (such as decks and stairs). This is consistent with other sections of the Zoning Code and Title 11.

The requirements for utilities (2.g(4)) now specify that the tree removal is necessary for some aspect of the utility, i.e. maintenance or installation. As currently written, the tree need only be located in an easement to allow its removal, even if removal is not necessary for the utility to be installed or operated. The utility allowance also provides for installation of utilities outside of easements, provided they are restricted to a single 10-foot wide corridor. This allowance has been added to provide for installation of individual service lines to lots, which are typically not located in an easement.

The provision allowing removal of trees that may conflict with a public safety radio frequency facility (cell tower) has been reworded to more directly address the actual impact of trees that obstruct the antenna's send and receive capacity and signal strength. As currently written this standard could apply to removal of short trees that may have been required to be planted as screening around the facility even if they don't obstruct the antenna. As amended, removal of trees within 20 feet of an antenna, measured either horizontally or vertically may be removed.

g. Preservation of trees. ~~The provisions of Chapter 33.248, Landscaping and Screening, apply to this subsection~~. This provision does not apply if the property is regulated by state statutes for forest management practices. All trees ~~over~~ 6 or more inches ~~and larger~~ in diameter that are within the street setback (or first 20 feet if no setback exists) must be retained unless removal conforms to one or more of the following standards:

(1) The tree is located within the footprint ~~of~~ or within 10 feet of existing or proposed buildings and structures attached to buildings, such as decks, stairs, and carports, or within ~~5~~ 10 feet of a proposed driveway ~~structure, or an arborist finds , through root exploration, that the location of a proposed structure will cause the tree to die~~;

(2) The tree is determined by an arborist to be dead ~~or diseased~~ , dying or dangerous ~~and needs to be removed, or it constitutes an immediate hazard to life or property~~;

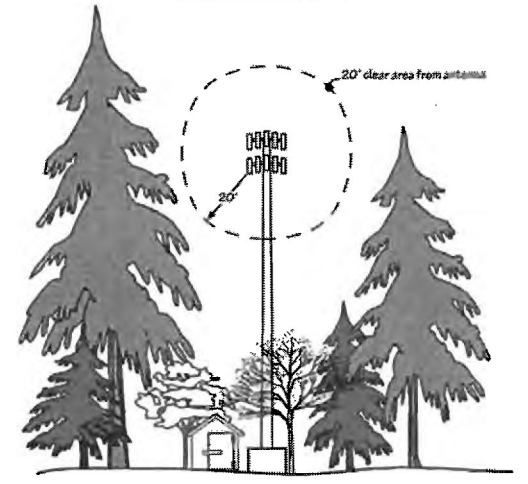
(3) The tree is on the Nuisance Plants List;

(~~3~~ 4) The tree must be removed due to installation, repair, or maintenance of ~~is within a~~ water, sewer, or stormwater services ~~or other utility easement~~. For new installation of services, tree removal allowed under this provision is limited to a single 10 foot wide utility corridor on each lot;

(~~4~~ 5) The tree is within a proposed roadway or City-required construction easement, including areas devoted to curbs, parking strips or sidewalks, or vehicle areas;

(~~5~~ 6) The tree is within ~~10~~ 20 feet of a Radio Frequency Transmission Facility antenna that is a public safety facility. The distance to the antenna is measured vertically and horizontally from the edge of the antenna. See Figure 480-1; or

Figure 480-1



Commentary

g. Preservation of trees (continued).

Existing allowances for replacement of trees less than 12 inches are relocated into a table for consistency with other regulations and a reference to the planting standards in 33.248, Landscaping and Screening is added to replace the current plant size requirements. Replacement trees and shrubs must still be chosen from the Scenic Resources Plan.

h. Tree removal without development.

A reference to Title 11 is added since Title 11 tree removal permits are required to remove trees if no development is proposed. In that situation, the tree removal criteria for plan districts and overlay zones in 11.400 would have to be met.

(~~6~~ 7) The tree is at least 6 and up to ~~9~~ 12 inches in diameter and does not meet any of the other standards of this subparagraph, but is replaced within the front setback (or first 20 feet if no setback has been established) by trees and shrubs listed in the *Scenic Resources Protection Plan* according to Table 480-1. Replacement plantings must meet Section 33.248.030, Plant Materials.~~;or~~

Table 480-1
Tree Replacement Requirements
In Scenic Overlay Zone

Applicants may chose either Option A or Option B

Size of tree to be removed (inches in diameter)	Option A (no. of trees to be planted)	Option B (combination of trees and shrubs)
At least 6 to less than 9	1 tree	Not applicable
At least 9 to less than 12	3 trees	2 trees and 2 shrubs
At least 12	Tree Review Required (see 33.480.050 below)	

~~(7) The tree is more than 9 and up to 12 inches in diameter and does not meet any of the other standards of this subparagraph, but is replaced within the front setback (or first 20 feet if no setback has been established) with landscaping that meets one of the following options:~~

- ~~Option A: The tree is replaced by 3 trees listed in the Scenic Resources Protection Plan: or~~
- ~~Option B: The tree is replaced by 2 trees and 1 plant listed in the Scenic Resources Protection Plan.~~

h. Tree removal without development. When no development is proposed, tree removal allowed by the standards of Subparagraph 2.g above is subject to the tree permit requirements of Title 11, Trees.

~~Replacement landscape material. The size of replacement landscape material required by Subsections B.2.g(6) and (7), above, is as follows:~~

~~(1) Trees: Broadleaf trees must be at least 2 inches in diameter at the time of planting. Conifer trees must be at least 5 feet in height at the time of planting.~~

~~(2) Other plants. Other plants must be in a least a five gallon container or the equivalent in ball and burlap.~~

In addition to these provisions, property owners and others are encouraged to make every effort to locate buildings, easements, parking strips, sidewalks and vehicle areas to preserve the maximum number of trees.

Commentary

33.480.050 Tree Removal Review

This section refers to the Tree Review land use process for situations where the standards are not met. An existing provision indicates that for areas within the environmental overlay zone, tree removal requests would require environmental review instead. The amendment clarifies the intent of this section to require either Tree Review or Environmental Review for tree removal, but not both. Because the scenic overlay zone does not allow removal of non-native non-nuisance trees, except per the standards, it is possible that tree removal could meet environmental zone standards but not the scenic standards. This is appropriate because the scenic overlay serves a different purpose than the environmental zone. In that situation, a tree review to address the requested tree removal would still be required. If both reviews are triggered, only the environmental review would be required and existing provisions require that the review consider the scenic qualities of the resource.

33.480.050 Tree Removal Review

Trees that do not qualify for removal under ~~Subsection~~ Subparagraph 33.480.040.B.2.g, above, may be removed if approved through tree review as provided in Chapter 33.853, Tree Review. ~~Tree removal in areas with an Environmental overlay zone, is subject to~~ However, where the tree removal would require environmental review, only environmental review is required ~~rather than tree review~~.

COMMENTARY

CHAPTER 33.508, CASCADE STATION/PORTLAND INTERNATIONAL CENTER PLAN DISTRICT

The Cascade Station/Portland International Center Plan district includes specific provisions for environmental zones in the district. This plan district is different from the general environmental overlay zone in that it does not specifically regulate the removal of native vegetation. Rather, the plan district regulates the removal of all vegetation, exempting only the removal of nuisance trees and plants, and trees that pose an immediate danger. Given that both native and non-native non-nuisance trees are already regulated by this chapter, no amendments are needed to specifically address removal and replacement of non-native non-nuisance trees.

The proposed amendments to this chapter are relatively limited. References are added to the Title 11 requirements that apply to tree removal that is exempt from the standards and review requirements of this chapter and when no other development or activities subject to this chapter are proposed. Minor amendments are also proposed to make tree size descriptions consistent throughout the code.

33.508.314 Items Exempt From These Regulations

The introduction paragraph to the exemptions section is amended to note that other City regulations may apply even if a proposal is exempt from the environmental zone regulations. Tree removal allowed under the exemptions may be subject to a Title 11 tree permit when no development is proposed. This statement is intended to alert code users to this requirement, in an effort to prevent unintentional violations.

An exemption for tree removal within 10 feet of an existing building is added, consistent with allowances in 33.430, other plan districts and Title 11, Trees. No other substantive changes to this section are proposed. Removal of nuisance trees and hazard trees continue to be exempt from the development standards and review requirements of this chapter. The hazard tree language is changed to "dead, diseased and dangerous" trees to be consistent with terms used elsewhere in the zoning code and Title 11. In this plan district, removal of any other trees within the environmental zone is subject to development standards and/or review.

Pruning is not specifically addressed in this chapter, however regulation of pruning is implied based on the list of activities that are subject to the regulations. The amendments make clear that pruning is exempt from the regulations of this chapter but may be subject to Title 11 pruning permit. Title 11 allows limited pruning of native trees in environmental zones subject to issuance of a permit. This permit provides a means to track approved pruning and involve arborist oversight and City Urban Forestry program expertise in reviewing these requests.

AMEND CHAPTER 33.508, CASCADE STATION/PORTLAND INTERNATIONAL CENTER (CS/PIC) PLAN DISTRICT

Environmental Zones

33.508.312 Items Subject to These Regulations
[No change.]

33.508.314 Items Exempt From These Regulations
The following are exempt from the development standards and required reviews stated in Sections 33.508.300 through 33.508.340 ~~this section:~~. Other City regulations such as Title 10, Erosion Control, and Title 11, Trees must still be met. When no development or other activities are proposed that are subject to the development standards or review requirements of this chapter, tree removal allowed under the exemptions below is subject to the tree permit requirements of Title 11, Trees.

A. – K. [No change.]

L. Removing ~~a~~ trees or plants listed on the Nuisance Plants List;

M. Removing trees that are within 10 feet of an existing building and structures attached to existing buildings, such as decks, stairs, and carports;

N. Removing ~~other~~ dead, dying or dangerous trees or portions of trees when they pose an immediate danger, as determined by the City Forester or an arborist. Removing these portions is exempt only if all sections of wood ~~greater~~ more than 12 inches in diameter either:

1. R~~r~~emain, or are placed, in the resource area of the same ownership on which they are cut; or

2. Are removed, if the City Forester authorizes removal of diseased wood because leaving it in the resource area of the same ownership will threaten the health of other trees; and

O. Pruning trees in accordance with Title 11 permit requirements.

Commentary

33.508.330 Development Standards

B.5: The Clearing and Grading Chapter of Title 24 is being renamed as a result of previously adopted changes to move the erosion control provisions from this chapter to Title 10, Erosion Control.

B.9 & 14: The threshold size for regulating trees is refined to be 6 or more inches in diameter, consistent with the convention used in other natural resource overlay zones in the city. Tree measurement direction is deleted here; tree measurement methods in Title 11 are referenced.

33.508.330 Development Standards

A. [No change.]

B. Land uses and activities within an environmental zone must meet the following standards:

1. – 4. [No change.]

5. All development or activities which disturb ground or remove vegetation must conform to Chapter 24.70, Clearing and~~,~~ Grading~~, and Erosion Control~~ and to the *Erosion Control Manual* ~~Technical Guidance Handbook~~. In addition, the following standards must be met:

   a. – d. [No change.]

6. – 8. [No change.]

9. Construction and ongoing maintenance for overhead or underground utilities, including sanitary sewer connections to individual lots and stormwater outfalls, cannot affect more than a 10-foot-wide corridor across the resource for private utility connections and a 15-foot-wide corridor for public utilities. These activities cannot result in the killing or removal of trees ~~over~~ 6 or more inches in diameter~~, measured 4-1/2 feet above the ground~~.

10. – 13. [No change.]

14. Construction of the trail or recreation facilities cannot result in the removal of trees ~~more than~~ 6 or more inches in diameter~~, measured 4-1/2 feet above the ground,~~ and are not required to be located within wetlands subject to state or federal regulations.

15. – 17. [No change.]

COMMENTARY

CHAPTER 33.515, COLUMBIA SOUTH SHORE PLAN DISTRICT

The Columbia South Shore Plan District includes two areas with special requirements relating to tree preservation: archaeological resource protection and environmental resource protection. Existing provisions limit ground disturbing activities and tree removal within identified archaeological resource areas. A reference to Title 11 is added for non-development situations.

The environmental overlay regulations within this Plan District are different from the general environmental overlay zones. In particular, this plan district does not specifically regulate the removal of native vegetation. Rather, it regulates removal of all vegetation, exempting only exempting the removal of nuisance trees and plants and trees that pose an immediate danger. Given that both native and non-native non-nuisance trees are already regulated by this chapter, no amendments are needed specifically to address removal and replacement of non-native non-nuisance trees.

The proposed amendments to this chapter are relatively limited. References are added to the Title 11 requirements that apply to the limited tree removal that is allowed without triggering the review requirements of this chapter. Title 11 requirements must still be met for tree removal if no other development is proposed. Minor amendments are also proposed to make tree size descriptions consistent throughout the code.

33.515.262 Archaeological Resource Protection
G. Protection of identified archaeological resources.

4.f.: No substantive changes are proposed to this standard. A reference is added to ensure that tree removal allowed by this section meets Title 11 permit requirements that apply when no other development is proposed.

Environmental Zones
33.515.274 Items Exempt From These Regulations
The introduction paragraph is amended to note that that other City regulations may apply even if the proposal is exempt from the environmental zone regulations and when no development is proposed, consistent with the rest of the City. This statement is intended to alert code users to this requirement in an effort to prevent unintentional violations.

An exemption for tree removal within 10 feet of an existing building is added, consistent with allowances in 33.430, other plan districts and Title 11, Trees.

AMEND CHAPTER 33.515, COLUMBIA SOUTH SHORE PLAN DISTRICT

General

33.515.262 Archaeological Resource Protection

A. – F. [No change.]

G. Protection of identified archaeological resources.

1.-3. [No change.]

4. Except for archaeological resource areas of burials, the following ongoing and low-impact activities are allowed in archaeological resources and transition areas:

a.-e. [No change.].

f. Removing a tree listed on the Nuisance Plants List ~~on the Nuisance or Prohibited Plant Lists;~~. When no other development is proposed, tree removal is subject to the tree permit requirements of Title 11, Trees;

g.-i. [No change.].

5.-6. [No change.]

H. Application, Review, and Inspection. [No change.]

Environmental Zones

33.515.274 Items Exempt From These Regulations
The following are exempt from the development standards and required reviews stated in ~~this section:~~ Sections 33.515.265 through 33.515.280. Other City regulations such as Title 10, Erosion Control, and Title 11, Trees must still be met. When no development or other activities are proposed that are subject to the development standards or review requirements of this chapter, tree removal allowed under the exemptions below is subject to the tree permit requirements of Title 11, Trees.

A. – K. [No change.]

L. Removing ~~a~~ trees and plants listed on the Nuisance Plants List;

M. Removing trees that are within 10 feet of an existing building and structures attached to existing buildings, such as decks, stairs, and carports;

Commentary

Environmental Zones
33.515.274 Items Exempt From These Regulations (continued)

Removal of nuisance trees and hazard trees continue to be exempt from the development standards and review requirements of this chapter. The hazard language is changed to "dead, dying and dangerous" tree to be consistent with terms used elsewhere in the zoning code and Title 11. In this plan district, removal of any other trees within the environmental zone is subject to development standards and/or review.

Pruning is not specifically addressed in this chapter, however regulation of pruning is implied based on the list of activities that are subject to the regulations. The amendment clarifies that pruning is exempt from this chapter but may be subject to a Title 11 pruning permit. Title 11 allows limited pruning of native trees in environmental zones subject to issuance of a permit. The Title 11 pruning permit provides a means to track approved pruning. It will involve arborist oversight and the City Urban Forestry program will review the requests.

33.515.278 Development Standards

B.5: Chapter 24.70 is being renamed as a part of this project. The term "erosion control" is now omitted since these requirements had been moved to Title 10 as part of an earlier code amendment project.

B.14: Amendment are proposed to make it clear that the restriction on tree removal applies to trees other than nuisance trees, to provide more consistent tree size threshold terminology and to clarify that the trail cannot be located within a jurisdictional wetland.

~~M~~**N.** Removing dead, dying, or dangerous ~~other~~ trees or portions of trees when they pose an immediate danger, as determined by the City Forester or an arborist. Removing these portions is exempt only if all sections of wood ~~greater~~ more than 12 inches in diameter either:

1. R~~r~~emain, or are placed, in the resource area of the same ownership on which they are cut; or

2. Are removed, if t~~T~~he City Forester authorizes removal of diseased wood because it will threaten the health of other trees; and

O. Pruning trees in accordance with Title 11 permit requirements.

33.515.278 Development Standards

A. [No change.]

B. Land uses, land divisions, and activities within an environmental zone must meet the following standards:

1.-4. [No change.]

5. All development or activities which disturb ground or remove vegetation must conform to Chapter 24.70, Clearing, and Grading, ~~and Erosion Control,~~ and to the *Erosion Control Manual* ~~Technical Guidance Handbook~~. In addition, the following standards must be met:

a. – d. [No change.]

6.-13. [No change.]

14. Construction of the trail or recreation facilities cannot result in the removal of trees that are ~~more than~~ 6 or more inches in diameter, with the exception that trees listed on the Nuisance Plants List may be removed.~~,~~ ~~measured 4 1/2 feet above the ground~~, ~~and are not required to be~~ The trail or recreation facility cannot be located within wetlands subject to state or federal regulations.

15.-18. [No change.]

COMMENTARY

CHAPTER 33.537, JOHNSON CREEK PLAN DISTRICT

The Johnson Creek Plan District includes three areas where tree preservation requirements apply: special flood hazard areas, the south subdistrict, and along the springwater corridor. Like other proposed changes to the scenic overlay and Rocky Butte plan district, these proposed amendments are intended to provide greater consistency and provide more allowances for tree removal where conflicts are common.

To avoid repeating the same set of regulations three times in the chapter, the tree removal regulations are consolidated in to one place (33.537.125). References are also provided in the subdistrict sections where these standards apply to ensure that they are not missed.

AMEND CHAPTER 33.537, JOHNSON CREEK BASIN PLAN DISTRICT

Sections:
General
33.537.010 Purpose
33.537.020 Where These Regulations Apply
33.537.030 Items Subject to These Regulations
33.537.040 Items Exempt from Environmental Regulations
Development Standards
33.537.100 General Development Standards
33.537.110 Transfer of Development Rights
33.537.120 Bonus Density
33.537.125 Tree Removal Standards
33.537.130 Springwater Corridor Standards
33.537.140 South Subdistrict Standards
33.537.150 Floodplain Standards
33.537.160 Johnson Creek Flood Risk Area
Map 537-1 Johnson Creek Basin Plan District

General

33.537.020 Where These Regulations Apply
The regulations of this chapter apply in the Johnson Creek Basin plan district. The boundaries of the plan district are shown on Map 537-1 at the end of this chapter, and on the Official Zoning Maps.

The regulations of Sections 33.537.010 through 33.537.120 apply to all sites in the plan district. The regulations of Section 33.537.125 apply to sites that abut the Springwater Corridor, sites where any portion is within the special flood hazard area and sites where any portion is within the South subdistrict. The regulations of Section 33.537.130 apply to sites that abut the Springwater Corridor. Where any portion of a site is in the special flood hazard area, the entire site is exempt from the regulations of Section 33.537.140 and is instead subject to the regulations of Section 33.537.150. The regulations of Section 33.537.160 apply to sites in the Johnson Creek Flood Risk Area. The South subdistrict, Springwater Corridor, and Flood Risk Area are shown on Map 537-1.

33.537.030 Items Subject to These Regulations
The following are subject to the development standards and required reviews of this chapter.

A. New development and exterior alterations;

B. New above or below ground utilities that are not in public rights-of-way; and

C. Removal of trees ~~greater than six~~ 6 or more inches in diameter.

Commentary

33.537.040 Items Exempt from Environmental Regulations

An exemption for removing trees from Johnson Creek has been deleted. Tree removal had been exempt to protect flood conveyance capacity. However, there has been increasing recognition of that these trees help stabilize stream banks, reduce erosion and sedimentation within the creek, and provide important fish and wildlife habitat. This sort of tree removal, if and when allowed, should be part of a coordinated effort to prevent detrimental downstream impacts from incremental isolated tree loss.

33.537.040 Items Exempt from Environmental Regulations
The following items are exempt from environmental overlay zone regulations within the plan district, as they are compatible with the purposes of the plan district and will not adversely impact significant resources and functional values.

~~A. Removing trees within Johnson Creek below the ordinary high water level;~~

[Re-letter B. through D. to A. though C.]

Commentary

33.537.125 Tree Removal Standards

As noted above, the tree removal standards for the three sub-districts are consolidated into this new section. In addition, changes to the standards provide consistency between districts and provide more allowances to remove trees to address issues that commonly arise in development situations.

C.3: A distinction is made between tree removal allowances that are associated with existing buildings, proposed buildings, and proposed driveways, and requirements for trees associated with existing driveways. Trees within 10 feet of existing buildings are likely to be impacting foundations or causing other types of damage to the building. Trees within 10 feet of proposed buildings or driveways are often difficult to preserve with the need for excavation, grading and construction access. However, trees located near existing driveways don't warrant an exemption. Damage inflicted to driveways is generally similar to sidewalk damage such as upheaval or cracking. This type of damage can usually be repaired without requiring the tree to be removed.

C.4: The allowance for tree removal related to utilities requires that the removal be necessary for some aspect of the utility, i.e. maintenance, repair or installation, and provides for installation of utilities outside of easements, which is required in the current allowance for tree removal. This allowance is included to provide for installation of individual service lines to lots, which are typically not located in an easement, and is similar to provisions elsewhere in the zoning code (scenic overlay zone and Rocky Butte Plan District). Installation of new utilities is restricted to a 10-foot wide corridor per lot to provide for a reasonable utility corridor while limiting the amount of area where tree removal is allowed.

C.5: This is a current tree removal allowance in the Springwater Corridor standards that is carried forward in the new standards.

C.6: To provide additional flexibility and reduce the number of reviews triggered, removal and replacement of trees less than 12 inches in diameter is allowed without a review. Similar provisions currently exist in the scenic overlay zone regulations and are being added here and in the Rocky Butte plan district.

33.537.125 Tree Removal Standards

A. Purpose. The regulations of this section limit tree removal to protect the scenic and recreational quality of the Springwater Corridor, reduce stormwater runoff, flooding, erosion, and landslides and protect water quality and native vegetation.

B. Where these regulations apply. The standards of this section apply to trees that are 6 or more inches in diameter in the following locations:

1. Within 20 feet of the Springwater Corridor right-of-way;

2. On sites where any portion of the site is within the special flood hazard area; and

3. On sites where any portion of the site is within the South Subdistrict as shown on Map 537-1.

C. Standards. Trees 6 or more inches in diameter may not be removed unless one or more of the following are met:

1. The tree is determined by an arborist to be dead, dying or dangerous and needs to be removed;

2. The tree is listed on the Nuisance Plants List;

3. The tree is within 10 feet of existing or proposed buildings and structures attached to buildings, such as decks, stairs, and carports, or within 10 feet of a proposed driveway or right-of-way improvements;

4. The tree must be removed due to installation, repair, or maintenance of water, sewer, or stormwater services. For new installation of services, tree removal allowed under this provision is limited to a single 10 foot wide utility corridor per lot;

5. The tree is within a proposed roadway or City-required construction easement;

6. The tree is at least 6 and up to 12 inches in diameter and does not meet any of the other standards of this Subsection, but is replaced according to Table 537-1. Replacement plantings must meet Section 33.248.030, Plant Materials. Trees removed within 20 feet of the Springwater Corridor must be replaced within the 20 feet of the Springwater Corridor; or

Commentary

33.537.125 Tree Removal Standards (continued)

C.7: Previously, if these standards were not met, an adjustment was required. In an effort to reduce the numbers of review types, a tree review is now required instead, consistent with the Rocky Butte plan district and scenic overlay zone regulations. However, if both an environmental review and tree review are triggered by a tree removal request, only environmental review is required.

D. A reference to Title 11, Trees is added since Title 11 permits would be required for tree removal when no other development is proposed. In that situation, a tree removal permit could be granted only if the plan district standards for tree removal in this chapter are met.

33.537.130 Springwater Corridor Standards

Reference is made to the new tree removal standard section above and the current standards are deleted.

Table 537-1 Tree Replacement In Johnson Creek Basin Plan District Applicants may chose either Option A or Option B		
Size of tree to be removed (inches in diameter)	Option A (no. of trees to be planted)	Option B (combination of trees and shrubs)
At least 6 to less than 9	1	not applicable
At least 9 to less than 12	3	2 trees and 2 shrubs
at least 12	Tree Review Required	

7. Trees that do not qualify for removal under C.1 through 6 may be removed if approved through tree review as provided in Chapter 33.853, Tree Review. However, where the tree removal requires environmental review, only environmental review is required.

D. Tree removal without development. When no development is proposed, tree removal allowed under the standards of Subsection C, above, is subject to the tree permit requirements of Title 11, Trees.

33.537.130 Springwater Corridor Standards

A. and B. [No change.]

C. Standards.

1. General standards.

   a. and b. [No change.].

   c. ~~Retain existing trees~~ Tree removal. Trees within 20 feet of a lot line abutting the Springwater Corridor ~~that~~ are ~~more than 6 inches in diameter must be retained unless:~~ subject to the tree removal standards of 33.537.125.

      ~~(1) The tree is determined by an arborist to be dead or diseased and needs to be removed, or it constitutes an immediate hazard to life or property; or~~

      ~~(2) The tree is within a water, sewer, or other utility easement; or~~

      ~~(3) The tree is within a proposed roadway or City required construction easement, including areas devoted to curbs, parking strips or sidewalks, or vehicle areas.~~

2. Special setback standards. [No change.]

Commentary

33.537.140 South Subdistrict Development Standards

Reference is made to the new tree removal standard section above and the current standards are deleted.

33.537.140 South Subdistrict Development Standards

A. and B. [No change.]

C. Tree removal. Tree removal is subject to the standards of 33.537.125.

~~Trees greater than six inches in diameter may be removed only in the following situations:~~

~~1. When they are within 10 feet of an existing or proposed building or 5 feet of a paved surface;~~

~~2. When they are diseased or pose an immediate danger, as determined by the City Forester or an arborist;~~

~~3. When they are below the ordinary high water level of Johnson Creek; or~~

~~4. When they are within a water, sewer, or other utility easement. In the Environmental Overlay zone, the regulations of Section 33.430.150, Standards for Utility Lines, must also be met.~~

D. and E. [No change.]

Commentary

33.537.150 Floodplain Standards

Reference is made to the new tree removal standard section above and the current standards are deleted.

33.537.150 Floodplain Standards

A. through C. [No change.]

D. Tree removal. Tree removal is subject to the standards of 33.537.125. ~~Trees greater than six inches in diameter may be removed only in the following situations:~~

~~1. When they are within 10 feet of an existing or proposed building or 5 feet of a paved surface;~~

~~2. When they are diseased or pose an immediate danger, as determined by the City Forester or an arborist;~~

~~3. When they are below the ordinary high water level of Johnson Creek; or~~

~~4. When they are within a water, sewer, or other utility easement. In the Environmental Overlay zone, the regulations of Section 33.430.150, Standards for Utility Lines, must also be met.~~

E. [No change.]

COMMENTARY

CHAPTER 33.570, ROCKY BUTTE PLAN DISTRICT

The Rocky Butte Plan district, similar to the scenic overlay zone and Johnson Creek Plan District, contains tree removal restrictions. Refinements are proposed to make the plan district regulations more consistent with these other chapters.

33.570.040 Tree Removal
This section refers to the Tree Review land use process which applies in situations where the standards are not met. An existing provision indicates that within an environmental zone these requests require environmental review instead. The amendment clarifies that this section requires either Tree Review or Environmental Review for tree removal, but not both.

Because the Rocky Butte Plan District does not allow removal of non-native non-nuisance trees, except per the standards, it is possible that tree removal could meet environmental zone standards but not the plan district standards. This is appropriate because the plan district serves a broader purpose than the environmental zone, including protection of scenic values. In that situation, a tree review to address the requested tree removal would still be required. If both reviews are triggered, only the environmental review is required.

C. Tree removal standards
The current list of exemptions are now called "tree removal standards" and have been modified to be more consistent with the standards that apply in the Johnson Creek Plan District and the scenic overlay zone. These changes provide more allowances to remove trees to address issues that commonly arise in the development situations, including installation of driveways and utilities outside of easements. An allowance has been added to address removal of trees within 10 feet of existing buildings and attached structures and driveways, consistent with other sections of the Zoning Code and Title 11, Trees.

To provide additional flexibility and reduce the number of tree reviews triggered, removal of trees less than 12 inches in diameter with replacement is allowed without a Tree Review. Similar provisions currently apply in the scenic overlay zone and are being added to the Rocky Butte and Johnson Creek plan districts, which have existing similar tree removal regulations.

AMEND CHAPTER 33.570, ROCKY BUTTE PLAN DISTRICT

33.570.040 Tree Removal

A. Purpose. [No change.]

B. Tree removal review. Trees in the Rocky Butte plan district that do not qualify for removal under Subsection C, below, may be removed if approved through tree review as provided in Chapter 33.853, Tree Review. However, where tree removal would also require environmental review, only ~~is subject to~~ environmental review is required ~~rather than tree review~~.

C. ~~Exempt from review~~ **Tree removal standards.** ~~The following are exempt from tree removal review:~~ Trees 6 or more inches in diameter may not be removed unless one or more of the following are met:

1. The tree is located within the footprint or within 10 feet of ~~a~~ existing or proposed buildings and structures attached to buildings, such as decks, stairs, and carports, or within ~~5~~ 10 feet of a proposed driveway ~~building, or an arborist finds, through root exploration, that the location of a proposed building will cause the tree to die~~;

2. The tree is determined by an arborist to be dead, ~~or diseased~~ dying, or dangerous ~~and needs to be removed, or it constitutes an immediate hazard to life or property~~;

3. The tree is listed on the Nuisance Plants List;

~~3~~ 4. The tree must be removed for installation, repair or maintenance of ~~is within a~~ water, sewer, or stormwater services ~~or other utility easement~~. For new installation of services, tree removal allowed under this provision is limited to a single 10 foot wide utility corridor per lot.

4 5. The tree is within a proposed roadway or City-required construction easement, including areas devoted to curbs, parking strips or sidewalks, or vehicle areas~~.~~; or

6. The tree is at least 6 and up to12 inches in diameter and does not meet any of the other standards of this Subsection, but is replaced according to Table 570-1.

Commentary

33.570.040 Tree Removal (continued)

D. Tree removal without development.
Reference to Title 11 is added since a Title 11 permit is required for tree removal when no other development is proposed. In that situation, a tree removal permit could be granted only if the plan district standards of this chapter are met.

Table 570-1
Tree Replacement
In Rocky Butte Plan District

Applicants may chose either Option A or Option B

Size of tree to be removed (inches in diameter)	Option A (no. of trees to be planted)	Option B (combination of trees and shrubs)
At least 6 to less than 9	1	not applicable
At least 9 to less than 12	3	2 trees and 2 shrubs
at least 12	Tree Review Required	

D. Tree removal without development. When no development is proposed, tree removal allowed by the standards of Subsection C, above, is subject to the tree permit requirements of Title 11, Trees.

COMMENTARY

CHAPTER 33.580, SOUTH AUDITORIUM PLAN DISTRICT

The South Auditorium Plan District currently has strict tree removal requirements. Design review is required for removal of any tree. The primary change to this chapter is to provide an exemption for dead, dying and dangerous trees to be consistent with tree removal allowances elsewhere in the City. Some changes are also proposed to the approval criteria and to address common situations where trees may need to be removed and replaced.

33.580.130 Preservation of Existing Trees

Currently, all tree removal in the South Auditorium Plan District is subject to design review. The proposed revisions create an exemption for removal of dead, dying and dangerous trees to allow removal and replacement without design review. Currently, there is an allowance to remove such trees, but design review is still required. Under the proposed regulations, these trees will be exempt from design review and instead will be subject to a Title 11 tree removal permit, which includes technical review by the City Forester.

A 6-inch diameter threshold is also added to be consistent with other tree regulations that apply in other overlay zones and plan districts with special tree regulations.

The approval criteria are expanded to allow tree removal in situations where trees will be affected by development, other than those trees within a building footprint, and to require that the proposal be consistent with the purpose of the plan district, which describes the importance of landscaping, open areas and trees.

Lastly, the requirement to replace trees is stated in A.3. The current requirement to replace in accordance to with the adopted landscaping plan is expanded to allow replacement in a location determined appropriate by the design review. For exempt tree removals, the tree must be replaced in the same general location or per the plan. This change is proposed because City staff have been unable to locate the landscaping plan and it is unclear whether the plan was finalized or formally adopted. Continued reference to the plan is proposed in recognition that the original plan may be located or recreated.

AMEND CHAPTER 33.580, SOUTH AUDITORIUM PLAN DISTRICT

Development Standards

33.580.130 Preservation of Existing Trees

A. Existing trees must be preserved. Unless exempt under subsection B, ~~R~~ removal of existing trees 6 or more inches in diameter is allowed only when ~~specifically~~ approved~~. Requests for tree removal are processed as a~~ through design review, using the following approval criteria:

~~A. The tree to be removed is diseased, or dead, and will be replaced in accordance with the adopted landscaping plan for the plan district by at least one tree; or~~

~~B~~ 1. The location of the tree to be removed is needed for development of a new building or an arborist finds that the tree will be affected by proposed development in a manner that is likely to cause significant damage to or death to the tree~~; and each tree removed will be replaced with a new tree elsewhere in the plan district; in accordance with the adopted landscaping plan for the plan district.~~

2. The proposal is consistent with the purpose of the plan district; and

3. Each tree removed will be replaced with a new tree elsewhere in the plan district; in accordance with the adopted landscaping plan for the plan district, or as determined by the design review.

B. Exemption. Removal of trees that are dead, dying, or dangerous, as determined by an arborist, is exempt from the requirement for design review if the tree is replaced by at least one tree in the same general location or in accordance with the adopted landscaping plan for the plan district.

C. Tree removal without development. When no development is proposed, removal of trees allowed under the exemption in Subsection B, above, is subject to the tree permit requirements of Title 11, Trees.

COMMENTARY

CHAPTER 33.630, TREE PRESERVATION

This chapter currently addresses tree preservation on land division sites. While the provisions still focus primarily on tree preservation on the site, the scope is being expanded somewhat to address the preservation and planting of street trees. The chapter title is changed from "Tree Preservation" to "Trees" to reflect this broadening in scope of requirements.

A primary goal of the changes to this chapter is to establish new approval criteria that will produce the most appropriate and highest quality tree preservation plan for the site and development proposal. Minimum preservation standards are retained and updated to provide continuity and to establish a reasonable, minimum amount of tree preservation that is expected given specified situations. Mitigation is required when standards cannot be met.

33.630.010 Purpose

The purpose of the chapter is revised to recognize the unique opportunity that land divisions provide to integrate trees early in the development process. The benefits of trees are consolidated under one bulleted list and, in some cases, expanded upon. The importance of native tree species is highlighted.

AMEND CHAPTER 33.630, TREES ~~PRESERVATION~~

Sections:

33.630.010 Purpose
33.630.020 Where These Regulations Apply
~~33.630.030 Exempt From These Regulations~~
~~33.630.100 Tree Preservation Standards~~
33.630.200 Tree Preservation Requirements for Trees Located on the Site ~~Methods~~
~~33.630.300 Mitigation Option~~
33.630.400 Modifications That Will Better Meet Tree Preservation Requirements
33.630.500 Tree Preservation Credit
33.630.600 Standard for Trees in Existing Rights-of-Way
33.630.700 Recording Tree Preservation Plans and Related Conditions
33.630.~~600~~800 Relationship To Other Tree Regulations

33.630.010 Purpose

The land division process provides the flexibility and opportunity to promote creative site design that considers multiple objectives, including integration of trees. The regulations of this chapter ~~preserve trees and mitigate for the loss of trees to~~ require that trees be considered early in the design process with the goal of preserving high value trees, mitigating for the loss of trees and ensuring space is available for street trees. Desired benefits of trees include:

- Protecting public health through the absorption of air pollutants, ~~and~~ contamination, and capturing carbon dioxide;
- ~~Provide~~ Bbuffering from noise, wind, and storms;
- Provideing visual screening and summer cooling;
- Reduceing energy demand and urban heat island impacts;
- Filtering stormwater and reducing stormwater runoff;
- Reducing erosion, siltation, and flooding;
- Stabilizing slopes;
- ~~Maintain~~ Enhancing property values;
- ~~Maintain~~ Providing fish and wildlife habitat, including support for native species biodiversity through the preservation and planting of native trees; ~~and~~
- Providing food for people and wildlife; and
- ~~Maintain~~ Contributing to the beauty of the City, ~~and~~ its natural heritage, and the character of its neighborhoods.

~~The preservation of trees on a land division site also will:~~

- ~~Preserve trees when it is feasible to preserve trees and still meet the other regulations of this Title;~~
- ~~Reduce erosion, siltation, and flooding;~~
- ~~Filter stormwater and reduce stormwater runoff;~~
- ~~Stabilize slopes; and~~
- ~~Retain options for property owners to preserve trees and vegetation at the time of development.~~

COMMENTARY

33.630.020 Where These Regulations Apply
This chapter now includes criteria that address street trees, as well as tree preservation on the site. Therefore, the chapter now applies to all land division proposals.

An exception for sites in the Central City Plan District is added. The Central City Plan District encourages full build-out of lots and the focus on the form and design of the development has a heightened level of importance. This limits opportunities for tree preservation generally. And, it is more productive to consider tree preservation and planting in the context of the specific development proposal, either during design review if required or at the time of development permit review. The design review chapter is being amended to explicitly state that tree preservation is a factor that can be considered during design review. In addition, the Title 11 tree preservation and planting standards will continue to apply in the Central City Plan District.

33.630.030, Exempt From These Regulations - Deleted
This section is replaced with 33.630.200.A.3. Trees exempt from these regulations. See below.

33.630.020 Where These Regulations Apply

~~Unless exempted by Section 33.630.030, t~~This chapter applies to all land divisions~~ in all zones where:~~ proposals outside of the Central City plan district.

~~**A.** There is at least one significant tree on the site that is not in an Environmental Overlay Zone; or~~

~~**B.** There is at least one tree that is at least 6 inches in diameter on the site that is not in an Environmental Overlay Zone.~~

~~**33.630.030 Exempt From These Regulations**~~

~~The following trees are exempt from the regulations of this chapter:~~

~~**A.** Trees that are listed as nuisance or prohibited on the *Portland Plant List;*~~

~~**B.** Trees that pose an immediate danger to life and safety as determined by the City Forester or an arborist;~~

~~**C.** Trees that are dead, as determined by the City Forester or an arborist;~~

~~**D.** Trees that are diseased in a manner that threatens their continued viability, or represents a significant threat to the health of surrounding trees, as determined by the City Forester or an arborist;~~

~~**E.** Trees that are within 10 feet of an existing building that will remain on the site;~~

~~**F.** Trees where the primary trunk is partially located in the right-of-way or on an adjoining site that is not part of the land division site;~~

~~**G.** Trees where the primary trunk is located partially within Environmental Zones are instead subject to the regulations of Chapter 33.430, Environmental Zones; and~~

~~**H.** Trees that are less than 6 inches in diameter, and not listed as a Significant Tree at a smaller diameter than 6 inches in Table 630-1.~~

COMMENTARY

Table 630-1, Significant Trees - Deleted
The "Significant Tree" table is being deleted. This change allows a simpler, more consistent application of tree preservation requirements in development situations and provides more consistency with tree permitting absent development, where native species are not addressed differently based on size. The current Significant Tree table includes all trees more than 20 inches in diameter, and 18 specific native tree species ranging from 2 to 18 inches in diameter, which complicates the review.

The new discretionary approval criteria for land divisions (see 33.630.200.C) are intended to provide a more qualitative assessment of all trees on the land division site, so that trees providing the greatest benefits are prioritized for preservation. The importance of native trees is highlighted in the purpose statement of the chapter and in the approval criteria.

Deletion of the significant tree table will not affect how native trees are regulated in environmental zones, where the code regulates activities affecting native trees of any sizes. It has been suggested that the size at which native species provide important benefits be added to the Portland Plant List to serve as a resource for staff and applicants in determining which trees should be prioritized for preservation. A future amendment to The Portland Plant List administrative rule is recommended to incorporate this information.

33.630.200 Tree Preservation Requirements for Tree Located on the Site
A. When these regulations apply.
1. This section states when the tree preservation requirements apply. Trees with trunks that are partially on the land division site are included, which is change from current regulations. Currently trees located on property lines are exempt from tree preservation requirements. These "line" trees may be good candidates for preservation because of their location on the perimeter of the site, but cannot be counted toward meeting requirements. This amendment will require these trees be counted in initial tree calculations and will allow them to be used to meet preservation requirements. Trees that are partially in an existing street right-of-way continue to be exempt due to the higher potential for construction conflicts (see A.4, Trees exempt from these regulations).

2. A new option is provided for developed sites in C, E and I zones. This allows applicants with developed sites in commercial, employment and industrial zones to defer tree preservation review until redevelopment is proposed. Title 11 tree preservation and tree density standards would apply at that time. Often when such sites are divided, applicants intend to divide the ownership of the site, but are not proposing additional development. As proposed, deferment of tree preservation review would be an option, so the applicant could still choose to address tree preservation during the land division. This may be beneficial in situations where additional development is anticipated in the near-term because the land division review can customize the tree preservation for the site through the discretionary review process.

~~Table 630-1~~
~~Significant Trees~~

~~Common Name~~	~~Scientific Name~~	~~Diameter~~
~~All trees not listed in this table except trees listed as nuisance or prohibited on the Portland Plant List~~		~~more than 20 inches~~
~~Big-leaf Maple~~	~~Acer macrophyllum~~	~~18 inches~~
~~Bitter Cherry~~	~~Prunus emarginata~~	~~10 inches~~
~~Black Cottonwood~~	~~Populus balsamifera ssp. trichocarpa~~	~~18 inches~~
~~Black Hawthorn~~	~~Crataegus douglasii var. douglasii~~	~~8 inches~~
~~Black Hawthorn~~	~~Crataegus suksdorfii~~	~~8 inches~~
~~Cascara~~	~~Rhamnus purshiana~~	~~6 inches~~
~~Douglas Fir~~	~~Pseudotsuga menziesii~~	~~18 inches~~
~~Garry Oak~~	~~Quercus garryana~~	~~4 inches~~
~~Grand Fir~~	~~Abies grandis~~	~~10 inches~~
~~Madrone~~	~~Arbutus menziesii~~	~~4 inches~~
~~Oregon Ash~~	~~Fraxinus latifolia~~	~~10 inches~~
~~Pacific Yew~~	~~Taxus brevifolia~~	~~2 inches~~
~~Ponderosa Pine~~	~~Pinus ponderosa~~	~~8 inches~~
~~Red Alder~~	~~Alnus rubra~~	~~18 inches~~
~~Scouler Willow~~	~~Salix scouleriana~~	~~6 inches~~
~~Western Flowering Dogwood~~	~~Cornus nuttallii~~	~~6 inches~~
~~Western Hemlock~~	~~Tsuga heterophylla~~	~~10 inches~~
~~Western Red Cedar~~	~~Thuja plicata~~	~~10 inches~~

33.630.~~100~~200 Tree Preservation ~~Standards~~ Requirements for Trees Located on the Site

A. Where these regulations apply.

1. Generally. The regulations of this section apply to all proposals for land divisions on sites that have at least one tree that is at least 6 inches in diameter, except where all trees on the site are exempt under A.4. Where a tree trunk is partially on the land division site, it is considered part of the site.

2. Sites in C, E, and I zones where all of the proposed lots are currently developed with commercial, employment, or industrial development. Such sites may defer tree preservation review to the time of any future development or redevelopment of the site. Sites that use this option are subject to the standards of Title 11, Trees at the time of development.

COMMENTARY

33.630.200.A When these regulations apply (continued)

3. An exception to is provided for sites that are **partially** located in an environmental overlay zone or Pleasant Valley Natural Resources overlay zone, where a concurrent environmental review is requested. These overlay zone regulations encourage development to be clustered outside of resource areas. On sites that are partially within these overlay zones, development tends to be concentrated on the portion of the site that is outside of the environmental zone. This often makes tree preservation outside the overlay zone portion of the site difficult. The amendment provides these sites some relief by exempting them from the quantitative tree preservation standards. These sites are still required to meet the new qualitative approval criteria that focus on preserving the highest quality trees and the most trees possible given the specific situation. The concurrent land division and environmental review can be used to evaluate tree preservation against these criteria for the site as a whole.

4. **Trees exempt from these regulations.**
   This section replaces the current list of exempt trees in 33.630.030. Changes include:
   - Refer to dead, dying and dangerous trees, consistent with terms in Title 11. These terms are also defined in 33.910.
   - Remove the exemption for trees located partially on the site, with exception of trees located partially in an existing right-of-way, as discussed above.
   - Include trees located in the Pleasant Valley Natural Resources overlay zone, which functions like the environmental overlay zone.
   - Remove reference to Significant Trees, which is no longer be used in the chapter.

3. Proposals to divide sites that are partially within an environmental overlay zone or the Pleasant Valley Natural Resources overlay zone and include a concurrent environmental review or Pleasant Valley Resource review are not subject to the tree preservation standards of Section 33.630.200.B. However, the tree preservation approval criteria in 33.630.200.C apply to these proposals.

4. Trees exempt from these regulations. The following trees are exempt from the tree preservation requirements of this section:

   a. Trees that are on the Nuisance Plants List;

   b. Trees that are less than 6 inches in diameter;

   c. Trees that are dead, dying or dangerous as determined by an arborist. The review body may require additional analysis or documentation to confirm the condition of the tree;

   d. Trees where the trunk is within 10 feet of an existing building that will remain on the site;

   e. Trees where the trunk is located completely or partially within an existing right-of-way that is not part of the land division site; and

   f. Trees where the trunk is located completely or partially within an Environmental or Pleasant Valley Natural Resources overlay zone. Those trees are instead subject to the regulations of Chapter 33.430, Environmental Zones or Chapter 33.465, Pleasant Valley Natural Resources overlay zone.

~~**A.** Existing trees must be preserved. The total tree diameter on the site is the total diameter of all trees on the site, minus the diameter of trees that are listed in Section 33.630.030, Exempt From These Regulations. The applicant must choose one of the following options. Significant trees are listed in Table 630-1:~~

COMMENTARY

B. Minimum Tree Preservation Standards

The primary change to the preservation standards is that the current "Option 1" may now be used only if there are no trees 20 or more inches in diameter on the site. The current Option 1 is the most commonly used preservation option and has no requirement to preserve larger trees. This change is proposed to emphasize that the priority for preservation is larger high-value trees. The options are also reorganized so that preservation of trees that are 20 or more inches in diameter receive greater emphasis.

A new option, proposed "Option 5," will apply to sites containing ore or more tree groves. It requires grove trees to be preserved and allows flexibility to use either a total tree diameter calculation or canopy calculation to meet the standard. This option is proposed to emphasize the importance of keeping groves intact.

Historic Landmark and Heritage trees may count toward tree preservation standards and criteria. A reference to Title 11, Trees is provided, consolidating the terms and procedures for Historic Landmark and Heritage Trees.

B. Minimum tree preservation standards.

1. The applicant must show how existing trees will be preserved. The options listed below represent minimum tree preservation standards. Additional tree preservation may be required to meet the approval criteria of Subsection 33.630.200.C. The total tree diameter on the site is the total diameter of all trees completely or partially on the site, minus the diameter of trees that are listed in Paragraph 33.630.200.A.4, Trees exempt from these regulations. The applicant must choose one of the following options:

~~1.~~ a. Option 1: Preserve all of the trees that are 20 or more inches in diameter and at least ~~35~~ 20 percent of the total tree diameter on the site;

~~2.~~ b. Option 2: Preserve at least ~~50~~ 75 percent of the ~~significant~~ trees that are 20 or more inches in diameter ~~on the site~~ and at least ~~30~~ 25 percent of the total tree diameter on the site;

~~3.~~ c. Option 3: Preserve at least ~~75~~ 50 percent of the ~~significant~~ trees that are 20 or more inches in diameter ~~on the site~~ and at least ~~25~~ 30 percent of the total tree diameter on the site;

d. Option 4: Where all trees are less than 20 inches in diameter, preserve at least 35 percent of the total tree diameter on the site;

e Option 5: If one or more tree groves are located completely or partially on the site, preserve all of the grove trees located on the site and at least 20 percent of the total tree diameter or canopy area on the site; or

~~4. Option 4: Preserve all of the significant trees on the site and at least 20 percent of the total tree diameter on the site; or~~

~~5.~~ f. Option ~~5~~ 6: If the site is larger than one acre, preserve at least 35 percent of the total tree canopy area on the site.

~~B.~~2. ~~Historic Landmark~~ Heritage Trees. Heritage ~~Historic Landmark~~ Trees located on the land division site may be counted toward meeting preservation standards. Heritage Trees must be preserved~~. They may be~~ unless removal~~ed only if~~ has been approved by the ~~Historic Landmarks Commission~~ Urban Forestry Commission.

~~**C. Heritage Trees.** Heritage Trees are regulated by Chapter 20.40.150, Heritage Trees, of the City Code.~~

COMMENTARY

B. Minimum Tree Preservation Standards (continued)

3. Calculations

This section is amended to reflect the change in terminology from "significant trees" to trees 20-inch diameter and larger. The method of calculating tree canopy is also updated to allow other technology, such as LiDAR, to be used to identify tree canopy on a site.

4. Location of Preserved Trees.

This section is added to clearly state where trees can be preserved. It replaces language that is deleted below in the current Tree Preservation Methods section. Any trees proposed to be preserved in a tract managed by the City of Portland, or a service district, such as Clean Water Services or a drainage district, must be approved by the City or the service district. For example, public stormwater facilities are sometimes located in a privately-owned tract with an easement granted to the City. Depending on the situation it may not be appropriate to preserve trees within such a tract because it could interfere with the operation or maintenance of the facility.

~~D.~~ 3. Calculations.

~~1~~ a.. Tree diameter and ~~significant~~ number of trees. When calculating the amount of tree diameter and the number of ~~significant~~ 20 inch diameter and larger trees on the site, the applicant may choose one of the following methods of measurement:

~~a.~~ (1) Tree inventory. A tree inventory identifies all trees on the site, specifying location, species, and diameter of each tree; or

~~b.~~ (2) Statistical sampling. Statistical sampling may be used to estimate the total tree diameter and total number of ~~significant~~ trees at least 20 inches in diameter present. Sampling must be carried out by a professional forester based on standard methodologies.

~~2.~~ b. Tree canopy. When calculating the amount of tree canopy on the site, the total canopy area ~~is~~ must be based on the most recent aerial photograph available. ~~If the most recent~~ The aerial photograph ~~available is~~ used must be no more than 5 years old. Other data such as LiDAR may be used to help in calculating tree canopy as appropriate. ~~the applicant must provide a more recent photograph~~.

4. Location of preserved trees. Trees may be preserved on lots, within tree preservation tracts, or within other privately managed tracts, such as flood hazard, recreation area or stream, spring and seep tracts. Proposed tree preservation within tracts that are to be managed by the City of Portland or a service district, must be approved by the City or service district.

COMMENTARY

C. Tree Preservation Criteria.

Currently there are no discretionary approval criteria in the tree preservation chapter, with the exception of the criteria for using the mitigation option when the tree preservation standards can not be met. This has resulted in tree preservation plans being approved even though they were not optimal for the site or the development proposed. Common issues include:

- Preservation of less desirable trees, such as small trees or old fruit trees nearing the end of their lives;
- Unrealistic preservation plans that result in violations or requests to remove trees once the approval is granted; and
- No consideration of site characteristics, such as steep slopes or nearby natural areas.

The new approval criteria are intended to:

1. Guide priorities for preservation toward larger trees and groves and/or trees that provide the greatest environmental and aesthetic benefits for the site and surrounding area;

2. Look at the appropriateness of trees proposed for preservation, meaning they should be healthy, in good condition and have a high likelihood of surviving long-term;

3. Preserve as many trees as possible, while recognizing that there are valid site and development constraints that can conflict with tree preservation goals. In some cases, it may not be possible to meet the preservation standards due to site constraints (or the lack of trees suitable for preservation). In other cases, preservation of more than the minimum standard may be justified. Many of the factors for consideration listed in 3a-3e are concepts that were carried forward from the current criteria to qualify for the mitigation option. These factors are included here, instead of in a separate set of mitigation criteria, to provide more flexibility to mitigate for tree removal when it is the best solution for the site.

4. Require mitigation when the minimum standards can not be met. The determination of when mitigation is more appropriate than meeting the standards will be made by evaluating the approval criteria in paragraphs 1-3.

C. Tree Preservation Approval Criteria.

Applicants must demonstrate how the proposed tree plan will meet the following tree preservation criteria. In meeting these criteria, applicants may use options available in this and other chapters of this Title to modify development standards and minimum density in order to preserve trees.

1. To the extent practicable, trees proposed for preservation provide the greatest benefits as identified in the purpose of this chapter. In general, trees that are 20 or more inches in diameter and tree groves, are the highest priority for preservation. However, specific characteristics of the trees, site and surrounding area, may call for different priorities, such as preserving native species, buffering natural resources, preventing erosion or slope destabilization and limiting impacts on adjacent sites;

2. Trees proposed for preservation are suitable based on their health, overall condition and potential for long-term viability, considering the anticipated impact of development and tolerance typical for the tree species;

3. Tree preservation is maximized to the extent practicable while allowing for reasonable development of the site, considering the following:

   a. The specific development proposed;

   b. The uses and intensity of development expected in the zone and the area in which the site is located;

   c. Requirements to provide services to the site under Chapters 33.651 through 33.654, including street connectivity and street plan requirements. Options to limit impacts on trees while meeting these service requirements must be evaluated;

   d. Requirements to protect resources in Environmental, Pleasant Valley Natural Resources , or Greenway Natural, Water Quality, and River Environmental overlay zones. Protection of environmental resources and retention of benefits from trees should be maximized for the site as a whole; and

   e. Other site constraints that may conflict with tree preservation, such as small or oddly shaped sites or trees located in existing utility easements.

4. Mitigation. Where the minimum tree preservation standards of 33.630.200.B can not be fully met, as determined by evaluating the above criteria, or when there is a concurrent Environmental Review and the minimum tree preservation standards do not apply, mitigation must be provided as needed to replace the functions of trees removed from the site. Options for mitigation may include preservation of smaller diameter or native trees, permanent preservation of trees within a tree preservation or environmental resource tract, tree planting, payment into the City's Tree Planting and Preservation Fund, or other options that are consistent with the purpose of this chapter.

COMMENTARY

33.630.200 Tree Preservation Methods - deleted

This section is deleted. The requirements for root protection zones and construction fencing are be located in Title 11, Chapter 11.60, Technical Specifications.

Requirements for tree information including survey of existing trees, a preservation plan and arborist report are in the submittal standards in Section 33.730.060.D.

33.630.200 Tree Preservation Methods

Trees must be preserved either in a tract or by use of a tree preservation plan.

A. Tree preservation tracts. The following standards apply to sites where trees will be preserved in tracts:

1. Tract boundary. The boundary of a tree preservation tract must be at least five feet from the root protection zone of any trees to be protected within the tract. Where the edge of the root protection zone is less than 5 feet from the edge of the site, the tract boundary will be located along the edge of the site. See Figure 630-1; and

2. Construction fencing.

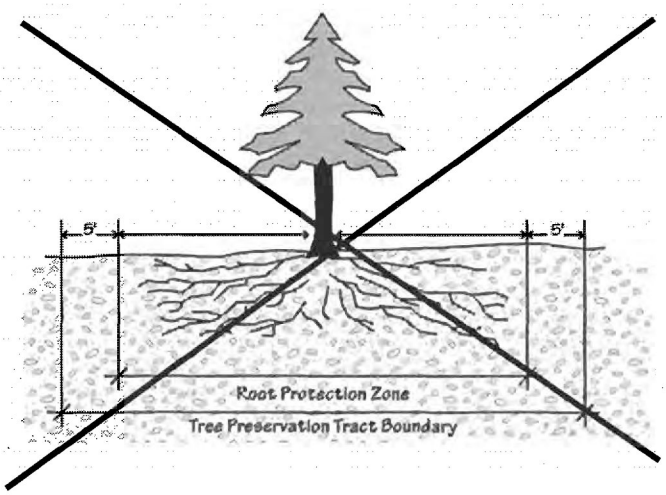
   a. A construction fence must be placed along the boundary of the tract or a larger area;

   b. The location and material of the fence must be shown on the clearing and grading plan;

   c. The fence must be in place before clearing, grading, or construction starts and remain in place until construction is complete; and

   d. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground.

Figure 630-1
Boundary of Tree Preservation Tract



B. Tree preservation plan. Trees that will be preserved on individual lots must be permanently preserved through a tree preservation plan, as specified in Section 33.248.065, Tree Preservation Plans. Trees to be preserved must be healthy and the tree, including the root protection zone, must be outside of areas proposed for structures, services, and utilities. For the purposes of this chapter, the tree preservation plan must be completed by an arborist or landscape architect.

COMMENTARY

33.630.300 Mitigation Option - deleted

The current Mitigation Option is deleted. A mitigation criterion is included in the approval criteria above under 33.630.200.C. Many of the concepts from the current criteria are included in the new criteria set forth above.

~~33.630.300 Mitigation Option~~

~~As an alternative to meeting Section 33.630.100, approval of a mitigation plan may be requested. The review body will approve the mitigation plan where the applicant has shown that the applicant has met criteria A. and B. and one of the criteria in C., below:~~

~~A.~~ ~~As many trees as possible are preserved; and~~

~~B.~~ ~~The applicant has submitted a mitigation plan that adequately mitigates for the loss of trees, and shows how the mitigation plan equally or better meets the purpose of this chapter. Mitigation can include tree planting, preservation of groups of smaller trees, eco-roof, porous paving, or pervious surface permanently preserved in a tract.~~

~~C.~~ ~~It is not possible under any reasonable scenario to meet Section 33.630.100 and one of the following:~~

1. ~~Meet minimum density;~~

2. ~~Meet all service requirements of Chapters 33.651 through 33.654, including connectivity;~~

3. ~~Implement an adopted street plan;~~

4. ~~On sites 15,000 square feet or less in area, provide a practicable arrangement of lots, tracts, and streets within the site that would allow for the division of the site with enough room for a reasonable building site on each lot;~~

5. ~~In E and I zones, provide a practicable arrangement of lots, tracts, and streets within the site that would allow for the division of the site with enough room for a reasonable building site on each lot, considering the uses and development allowed in the zone, or~~

6. ~~Preserve the trees within the environmental zones on site while providing a practicable arrangement of building sites and disturbance area.~~

7. ~~Preserve trees within an easement that:~~

   a. ~~Is held by a utility or service agency; and~~

   b. ~~That was held by the utility or service agency before the application for preliminary plan review of the land division was filed.~~

COMMENTARY

33.630.400 Modifications That Will Better Meet Tree Preservation Requirements

A. Site-related development standards.
Minor edits to the site-related development standards section are intended to clarify terms and to require that the proposal better meet the new tree preservation approval criteria to qualify for the modification.

B. Minimum Density
This section, which addresses reduction in minimum density, has been split into two section: 1) addresses multi-dwelling zones and 2) addresses single dwelling zones.

A new provision is added to the Multi-Dwelling base zone regulations that allows a limited reduction in minimum density when trees are preserved. If the site is going through a land division, the reduction could be requested at that time. However, if no land division is proposed, the reduction could be requested during building permit review. A reference to this provision for multi-dwelling zones is included to help direct applicants to the appropriate code section (33.120.205). It is also noted that the allowed reduction in minimum density can only be used once, either at the time of land division review or at the time of building permit review.

33.630.400 Modifications That Will Better Meet Tree Preservation Requirements

A. Site-related development standards. The review body may consider ~~adjustments~~ modifications to site-related development standards as part of the land division review. These modifications are done as part of the land division process and do not require an adjustment. Adjustments to use-related development standards ~~(such as FAR, or number of units)~~ are subject to the adjustment process of Chapter 33.805, Adjustments. Modification to a regulation that contains the word "prohibited," or a regulation that is a qualifying situation or threshold is prohibited.

~~In order t~~To approve the modification, the review body must find that the modification will result in the ~~application~~ proposal better meeting the ~~requirements~~ criteria of Subsection 33.630.~~100~~200.C, and will, on balance, be consistent with the purpose of the regulation being modified.

B. Minimum density.

~~1. A reduction in minimum density may be approved as part of the land division review. The reduction is done as part of the land division review and does not require an adjustment.~~

~~2. For land divisions of 2 to 10 lots, minimum density may be reduced by 1 dwelling unit. For land divisions of 11 to 20 lots, minimum density may be reduced by 2 dwelling units. For land divisions of more than 20 lots, minimum density may be reduced by 3 dwelling units. Reductions greater than those listed in this paragraph are prohibited.~~

~~3. The review body will approve the reduction in minimum density if they find that the reduction will result in the proposal better meeting the requirements of Section 33.630.100.~~

~~4. If the review body approves a reduction of minimum density, trees preserved must be in a tree preservation tract.~~

1. In multi-dwelling zones, minimum density may be reduced to preserve trees as stated in Paragraph 33.120.205.C.3. This provision may be used to reduce minimum density during the land division process. Sites that reduce minimum density at the time of the land division are not eligible to further reduce minimum density at the time of development on the lots.

COMMENTARY

B. Minimum Density (continued)

For Single-Dwelling zones, the current allowance to reduce minimum density has been revised to encourage use of the provision to facilitate tree preservation. Instead of prescribing the number of units that can be reduced, the provision provides a 20 percent reduction allowance. This provides more proportional approach to the allowed reduction. The maximum number of lots that can be reduced is increased from 3 to 4 lots. A comparison of the allowed reduction is provided below. Please note that the result is not an exact 20% reduction because of rounding (see 33.930.020 for rounding rules):

Recommended Code	**Existing Code**
7 or less lots = 1 lot reduction	Less than 10 lots = 1 lot reduction
8-12 lots = 2 lot reduction	11 to 20 lots = 2 lot reduction
13-17 lots = 3 lot reduction	20+ lots = 3 lot reduction
18+ lots = 4 lot reduction	

The requirement to place trees in a tree preservation tract has been eliminated because it discourages use of this provision. It is often not feasible to place trees in tracts because the trees are not conveniently clustered in one area. Instead, a restriction on creating lots that can be further divided is proposed. This restriction will help avoid future development conflicts with the trees preserved on the site. In some cases this restriction may result in the creation of tree preservation tracts to provide better protection for trees and reduce the size of proposed lots.

33.630.500 Tree Preservation Credit

This provision currently allows trees preserved in a tract to count toward meeting tree planting requirements on the lots. This provision is retained, however a requirement to plant or preserve at least one tree on each single-family lot has been added to ensure there will be a minimum amount of trees on the remainder of the site. To ensure that the credit can be applied easily during permit review, a requirement to indicate which lots are using the credit during the land division review has been added. In situations where a portion of the tree density standards are met by preserving trees in a tract, there would be a condition of approval that states the tree planting requirement that applies to each lot.

2. A reduction in minimum density in single-dwelling zones may be approved as part of the land division review. The reduction is done as part of the land division review and does not require an adjustment.

   a. Minimum density may be reduced by 20 percent or one lot, whichever is more, up to a maximum reduction of 4 lots. Reductions greater than those listed in this paragraph are prohibited.

   b. The review body will approve the reduction in minimum density if the following are met:

      (1) The reduction in minimum density will result in the proposal better meeting the criteria of Section 33.630.200.C; and

      (2) The lot or lots where trees are proposed to be preserved are not large enough to be further divided under the current zoning. Trees proposed for preservation may be placed in a tree preservation tract to reduce lot sizes and provide better protection for the trees to be preserved.

33.630.500 Tree Preservation Credit

Trees that are preserved in a tree preservation tract that is outside of an ~~e~~Environmental or Pleasant Valley Natural Resources overlay zone may count toward meeting the tree density standards for individual lots in Chapter 11.50, Trees in Development Situations. ~~individual lot requirements of the T1 standard of section 33.248.020, Landscaping and Screening Standards.~~ If this option is chosen, at least one tree must be planted or preserved on each lot created for single-dwelling or duplex development. The preliminary plan must indicate the lots where the credit from the preserved trees will be used.

COMMENTARY

33.630.600 Standard for Trees in Existing Rights-of-way

This standard requires that street tree preservation and planting within existing rights-of-way be considered during the preliminary land division review. The decision about whether the preliminary plan adequately addresses tree preservation and planting will be made by the City Forester, in consultation with the and City Engineer. This coordination is necessary as the City Engineer makes decisions about street improvement and provision of other services within the right-of-way. Street tree planting within new streets will be addressed in 33.654, along with other right-of-way design issues for new streets). Preservation of trees on the site as a whole will be taken into account when determining where new streets should be located.

33.630.700 Recording Tree Preservation Plans and Related Conditions

This section adds a new requirement to record approved tree preservation plans and related conditions of approval. As a result, tree preservation requirements will show up on the title report of the new lots. This will help ensure that future property owners are aware of the tree-related requirements that apply to the property.

33.630.600 Standard for Trees in Existing Rights-of-way

A. Where the regulation applies. This standard applies to existing public rights-of-way that are adjacent to the land division or planned development site.

B. The City Forester, in consultation with the City Engineer, has preliminarily approved the proposal and found it acceptable for retention of street trees and providing adequate areas for future street tree planting.

33.630.700 Recording Tree Preservation Plans and Related Conditions
Tree preservation plans approved as part of the preliminary plan and related conditions of approval must be recorded with the County Recorder. The documents must be approved by the Bureau of Development Services prior to recording.

33.630.~~600~~ 800 Relationship To Other Tree Regulations
Other tree ~~preservation~~ regulations of this Title and other Titles may apply at the time of a land division and at the time of development.

COMMENTARY

CHAPTER 33.635, CLEARING AND GRADING APPROVAL CRITERIA

This new approval criterion is intended to emphasize the importance of consistency between the clearing and grading plan and tree preservation plan, and to ensure that any conflicts are identified early in the development process. The requirement to show the limits of disturbance and tree protection (i.e., fence locations) on the plan already exists, but this information is often overlooked or inconsistent with other plans. The criterion will highlight the requirement.

AMEND CHAPTER 33.635, CLEARING, GRADING, AND LAND SUITABILITY

33.635.100 Clearing and Grading Approval Criteria
[No change.]

A. through **C.** [No change.]

D. Topsoil must be preserved on site to the extent practicable for use on the site after grading is complete; ~~and~~

E. Soil stockpiles must be kept on the site and located in areas designated for clearing and grading as much as is practicable~~.~~; and

F. The limits of disturbance and tree protection measures shown on the Preliminary Clearing and Grading Plan must be adequate to protect trees to be retained on the tree preservation plan.

COMMENTARY

CHAPTER 33.654, RIGHTS OF WAY

33.654.110 Connectivity and Location of Rights-of-Way
B. Approval criteria.

The revision is intended to ensure that tree groves, waterbodies and flood hazard areas within or outside resource overlay zones are considered in determining the appropriateness and practicability of requiring through streets and pedestrian connections on land division sites.

AMEND CHAPTER 33.654, RIGHTS-OF-WAY

33.654.110 Connectivity and Location of Rights-of-Way

A. Purpose. [No change.]

B. Approval criteria.

1. Through streets and pedestrian connections in OS, R, C, and E Zones. In OS, R, C, and E zones, through streets and pedestrian connections are required where appropriate and practicable, taking the following into consideration:

   a. and b. [No change.];

   c. Characteristics of the site, adjacent sites, and vicinity, such as:

      (1) Terrain;

      (2) Whether adjacent sites may be further divided;

      (3) The location of existing streets and pedestrian connections;

      (4) Whether narrow frontages will constrain creation of a through street or pedestrian connection;

      (5) Whether <u>any of the following</u> ~~environmental overlay zones~~ interrupt the expected path of a through street or pedestrian connection<u>:</u>

      - <u>Environmental, Pleasant Valley Natural Resource, or Greenway overlay zones;</u>
      - <u>Tree groves;</u>
      - <u>Streams;</u>
      - <u>Special flood hazard areas; or</u>
      - <u>Wetlands; and</u>

      (6) Whether existing dwelling units on- or off-site obstruct the expected path of a through street or pedestrian connection. Alternative locations or designs of rights-of-way should be considered that avoid existing dwelling units. However, provision of through streets or pedestrian connections should take precedence over protection of existing dwelling units where the surrounding transportation system will be significantly affected if a new through street or pedestrian connection is not created;

COMMENTARY

33.654.120 Design of Rights-of-Way

H. Standard for Street Trees.
A new standard is added that requires street tree planting within new rights-of-way be considered during the preliminary land division review. The decision about whether the preliminary plan adequately addresses street tree planting in public streets will be made by the City Forester, in consultation with the and City Engineer. This coordination is necessary as the City Engineer makes decisions about street improvement and provision of other services within the right-of-way. For private streets, the Bureau of Development Services will make the decision about street trees in accordance with the Administrative Rule for Private Rights-of-Way, which was recently updated to include requirements for street trees. Street tree planting within existing streets will be addressed in 33.630.

33.654.130 Additional Approval Criteria for Rights-of-Way

A. Utilities.
A list of "utilities" is added to clarify that the intent is to address utilities other than those addressed under the requirements for "services" in Chapters 33.651 - 33.654. This is consistent with the definition in Chapter 33.910. These utilities are commonly placed in public utility easements along lot frontages which can conflict with tree preservation requirements. Often these easements are not identified during the preliminary land division review, resulting in discovery of conflicts after approval has been granted or damage has occurred in the field. The revisions require more up-front information showing where utilities will be installed so that conflicts between utility placement and trees can be avoided.

C. Future extension of proposed dead-end streets and pedestrian connections.
The existing criterion requires that proposed dead-end streets serve other sites where a need exists to create better access in an area and/or to achieve full development potential. It currently does not identify other factors that should be considered in making this determination. Factors similar to those listed in the approval criteria for through streets have been incorporated so that the existing pattern of development and environmental conditions are considered in determining the appropriate location for street extensions. It is recognized that applicants are not responsible for surveying existing conditions or identifying the quality of resources on adjacent sites. However, the features listed are often identified on City mapping or aerial photographs. The amendment will ensure that these features are considered when determining street locations when possible.

d. and e. [No change.]

2. through 4 [No change.]

33.654.120 Design of Rights-of-Way

A. Purpose. The purpose of these standards and approval criteria is to ensure that the vehicle, bicycle, and pedestrian circulation system is designed to be safe, efficient, and convenient.

B. through G. [No change.].

H. Standard for Street Trees. For new public streets, the City Forester, in consultation with the City Engineer, has preliminarily approved the street tree planting plan. For private streets, the Bureau of Development Services has preliminarily approved the street tree planting plan.

33.654.130 Additional Approval Criteria for Rights-of-Way

A. Utilities. Telephone, cable, natural gas, electric and telecommunication ~~U~~utilities must be located within rights-of-way or utility easements that are adjacent to rights-of-way to the maximum extent practicable. Utility easements up to 15 feet in width may be required adjacent to rights-of-way. To the extent practicable, utility easements needed to serve the lots must be identified during the preliminary land division plan review.

B. Extension of existing public dead-end streets and pedestrian connections. Existing public dead-end streets and pedestrian connections adjacent to the site must be extended onto the site as needed to serve the site.

C. Future extension of proposed dead-end streets and pedestrian connections. Where the land division site is adjacent to sites that may be divided under current zoning, dead-end streets and pedestrian connections must be extended to the boundary of the site as needed to provide future access to the adjacent sites. Options for access and street locations must consider the characteristics of adjacent sites, including terrain, the location of existing dwellings, environmental or Pleasant Valley Natural Resource overlay zoning, streams, wetlands, special flood hazard areas, and tree groves. The following factors are considered when determining if there is a need to make provisions for future access to adjacent sites. A need may exist if:

1. The site is within a block that does not comply with the spacing standards or adopted street plan of the Transportation Element of the Comprehensive Plan; or

2. The full development potential of adjacent sites within the block will not be realized unless a more complete street system is provided to improve access to those sites.

D. and E. [No change.]

COMMENTARY

CHAPTER 33.660, REVIEW OF LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

Review of Preliminary Plan

33.660.120 Approval Criteria

The title of the Chapter 33.630 has been changed from "Tree Preservation" to "Trees."

Review of Changes to an Approved Preliminary Plan

33.660.310 Review Procedures

Currently the City handles proposed changes to an approved tree preservation plan differently depending on where the project is in the review process. If the final plat has not been recorded, changes are processed as a change to the preliminary plan under this Section (called a subdivision or partition amendment). If the final plat has been recorded, the change is processed as a tree review. These differences in review types means that the City applies different fees and processes to similar requests. The proposed amendment would send all changes to tree preservation requirements through the same tree review process in Chapter 33.853. Situations where changing tree preservation would affect other components of the preliminary land division approval would still need to be processed as an amendment to the preliminary plan.

AMEND CHAPTER 33.660, REVIEW OF LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

General

33.660.120 Approval Criteria
[No change.]

A. [No change.]

B. Trees. The standards and approval criteria of Chapter 33.630, Trees ~~Preservation~~, must be met;

C. – L. [No change.]

Review of Changes to an Approved Preliminary Plan

33.660.300 When Review is Required
[No change.]

33.660.310 Review Procedures
Procedures for review of changes to an approved Preliminary Plan vary with the type of change proposed.

A. Type I. Changes not listed in Subsections B or C, below, are processed through a Type I procedure.

B. Same procedure as was used for Preliminary Plan. [No change.].

C. Changes to tree preservation requirements. Changes to tree preservation requirements are processed as described in the Tree Review Chapter, 33.853.

COMMENTARY

CHAPTER 33.662, REVIEW OF LAND DIVISIONS IN COMMERCIAL, EMPLOYMENT, AND INDUSTRIAL ZONES

Review of Preliminary Plan

33.662.120 Approval Criteria

The title of the Chapter 33.630 is proposed to be changed from "Tree Preservation" to "Trees." Chapter 33.630 will also include approval criteria that must be met.

Review of Changes to an Approved Preliminary Plan

33.662.310 Review Procedures

Currently the City handles changes to an approved tree preservation plan differently depending on where the project is in the review process. If the final plat has not been recorded, changes are processed as a change to the preliminary plan under this Section (called a subdivision or partition amendment). If the final plat has been recorded, the change is processed as a tree review. The difference in review types means that the City applies different fees and processes to similar requests. The proposed change would send all changes to tree preservation requirements through the same tree review process in Chapter 33.853. Situations where changing tree preservation affects other components of the preliminary land division approval would still need to be processed an amendment to the preliminary plan.

AMEND CHAPTER 33.662, REVIEW OF LAND DIVISIONS IN COMMERCIAL, EMPLOYMENT, AND INDUSTRIAL ZONES

33.662.120 Approval Criteria
[No change.]

A. [No change.].

B. Trees. The standards and approval criteria of Chapter 33.630, Trees ~~Preservation~~, must be met;

C. - K. [No change.].

33.662.310 Review Procedures
[No change.].

A. Type I. Changes not listed in Subsections B or C, below, are processed through a Type I procedure.

B. Same procedure as was used for Preliminary Plan. [No change.].

C. Changes to tree preservation requirements. Changes to tree preservation requirements are processed as described in the Tree Review Chapter, 33.853.

COMMENTARY

CHAPTER 33.663, FINAL PLATS

33.663.200 Approval Standards

F. Legal Documents.

This section is being renamed to recognize that other legal documents are routinely required to be submitted during the final plat review. In particular, the new requirement to record approved tree plans is identified as one of the required legal documents that must be reviewed and recorded with the final plat. The requirement for recording tree plans is in Chapter 33.630, Trees (33.630.700).

Another minor change to the language acknowledges that it is not necessary for the City Attorney to review all individual documents recorded with the plat. The City Attorney may instead approve the "form" or template that applicants use to create the required documents.

G. Variations beyond the limits allowed in this Section.

Language is added indicating that changes to an approved tree preservation plan are processed through a Tree Review.

AMEND CHAPTER 33.663, FINAL PLATS

Sections:
General
33.663.010 Purpose
33.663.020 Where These Regulations Apply
Review of Final Plats
33.663.100 Review Procedures
33.663.110 Voiding of Final Plat Application
Standards for Approval
33.663.200 Approval Standards
33.663.210 Staged Final Plat
Changes to Final Plat
33.663.310 Changes to Final Plat Before Recording
33.663.320 Changes to Final Plat Survey After Recording

Standards for Approval

33.663.200 Approval Standards
[No change.]

A. through E. [No change.].

F. Legal Documents. ~~Maintenance agreements and Conditions, Covenants and Restrictions (CC&Rs).~~ Required legal documents, such as ~~All~~ maintenance agreements, ~~and~~ Conditions, Covenants and Restrictions (CC&Rs), and acknowledgements of tree preservation requirements or other conditions of approval, must be reviewed and approved by the Bureau of Development Services ~~and the City Attorney~~ prior to Final Plat approval. These documents must also be reviewed and approved by the City Attorney prior to final plat approval or submitted on forms approved by the City Attorney. The required legal documents ~~and~~ must be submitted to the County Recorder to be recorded with the Final Plat within 90 days of the Final Plat approval; and

G. Variations beyond the limits allowed in this Section.

1. Generally. If the Final Plat contains variations that exceed the limits listed in this section and that were not specifically allowed under the Preliminary Plan approval, the land division is subject to a review of changes to an approved preliminary plan stated in Section 33.660.300 for land divisions in Open Space and Residential zones or Section 33.662.300 for land divisions in Commercial, Employment and Industrial Zones. If a Land Use Review is required for the changes to the approved preliminary plan, the revised Final Plat must also undergo a Final Plat Review.

2. Changes to tree preservation requirements. If the only changes proposed are to tree preservation requirements, the changes are processed as described in Chapter 33.853, Tree Review.

COMMENTARY

33.663.320 Changes to Final Plat After Recording

Recording the final plat survey is the process that establishes the new lot and street boundaries. Language is added to clarify the process to change the final plat survey after it is recorded. Changes to the preliminary plan that do not impact the final plat survey can still be processed through an amendment review under Section 33.660.300 or 33.662.300. The reference to tree review is deleted because it is stated in the section above.

Changes to Final Plat

33.663.320 Changes to Final Plat Survey After Recording

After the Final Plat Survey has been recorded with the County Recorder and Surveyor, changes are processed as a new land division or alternative process, such as a Property Line Adjustment under Chapter 33.667 or Lot Consolidation under Chapter 33.675, if allowed. ~~However, a change to an approved tree preservation plan may be approved as set out in Chapter 33.853, Tree Review~~.

COMMENTARY

CHAPTER 33.664, REVIEW OF LAND DIVISIONS ON LARGE SITES IN INDUSTRIAL ZONES

The only changes to this chapter involve changing the title of Chapter 33.630 and the reference to approval criteria in the chapter. This chapter allows a more conceptual review of the proposed land division for large industrial sites. Tree requirements must be shown to be feasible during the preliminary plan review, and must be shown to be met during final plat review.

33.664.220 Approval Criteria

G. Legal Documents.
This section is being renamed to recognize that other legal documents are routinely required to be submitted during the final plat review. In particular, the new requirement to record approved tree plans is identified as one of the required legal documents that must be reviewed and recorded with the final plat. The requirement for recording tree plans is in Chapter 33.630, Trees (33.630.700).

Another minor change to the language acknowledges that it is not necessary for the City Attorney to review all individual documents recorded with the plat. The City Attorney may instead approve the "form" or template that applicants use to create the required documents.

These same changes are proposed in 33.663, Final Plats.

AMEND CHAPTER 33.664, REVIEW OF LAND DIVISIONS ON LARGE SITES IN INDUSTRIAL ZONES

33.664.120 Approval Criteria

[No change.]

A. [No change.]:

1. Lots. [No change.].

2. Trees. The standards and approval criteria of Chapter 33.630, Trees ~~Preservation~~, can be met by the proposal;

3. – 5. [No change.].

B. [No change.]

Review of Final Plat

33.664.220 Approval Criteria

A. [No change.]

B. Conformance with requirements of this Title. [No change.]

1. [No change.]

   a. Lots. [No change.].

   b. Trees. The standards and approval criteria of Chapter 33.630, Trees ~~Preservation~~, must be met;

   c. – i. [No change.].

2. [No change.]

C. – F. [No change.].

G. Legal Documents. ~~Maintenance agreements and Conditions, Covenants and Restrictions (CC&Rs).~~ Required legal documents, such as ~~All~~ maintenance agreements, ~~and~~ Conditions, Covenants and Restrictions (CC&Rs), and acknowledgements of tree preservation requirements or other conditions of approval, must be reviewed and approved by the Bureau of Development Services ~~and the City Attorney and~~ prior to Final Plat approval. These documents must also be reviewed and approved by the City Attorney prior to final plat approval or submitted on forms approved by the City Attorney. The required legal documents ~~and~~ must be submitted to the County Recorder to be recorded with the Final Plat within 90 days of the Final Plat approval.

COMMENTARY

CHAPTER 33.665, PLANNED DEVELOPMENT REVIEW

33.665.340 Proposals Without a Land Division

This section lists approval criteria that apply to planned developments when a land division is not also proposed

Criterion "B" has been revised to reflect the change to the title of Chapter 33.630.

E. *Clearing, grading, and land suitability.*

This new approval criterion is added to this chapter and to Section 33.635.100, which contains the clearing and grading approval criteria for land divisions. It is intended to highlight the need for consistency and compatibility between the clearing and grading plan and proposed tree preservation and protection. This criterion is also meant to help ensure that any conflicts between anticipated clearing and grading and tree preservation are identified early in the development process. Requirements to show the limits of disturbance and tree protection (i.e. fence locations) on the plan already exist, but are often overlooked or inconsistent with other plans. The criterion will help bolster these requirements.

AMEND CHAPTER 33.665, PLANNED DEVELOPMENT REVIEW

Review of Planned Development

33.665.340 Proposals Without a Land Division
[No change.]

A. [No change.]

B. **Trees** ~~preservation~~**.** The proposal must meet the requirements of Chapter 33.630, Trees ~~Preservation~~.

C. and D. [No change.]

E. Clearing, grading, and land suitability.

1. through 5. [No change.]

6. The limits of disturbance and tree protection measures shown on the Preliminary Clearing and Grading Plan must be adequate to protect trees shown to be retained on the tree preservation plan; and

[Re-number 6 to 7]

F. and G. [No change.]

COMMENTARY

CHAPTER 33.700, ADMINISTRATION AND ENFORCEMENT

33.700.115 Expiration of Tree Preservation Requirements

Through this amendment, tree preservation requirements of a land use approval will expire 10 years after final plat approval for land divisions or 10 years after land use approval for other case types. The expiration will apply to all land use approvals, including those that occurred prior to the adoption of these amendments.

Currently, tree preservation plans approved as part of a land division do not expire, therefore the trees must be preserved in perpetuity. This was identified as problematic by community stakeholders and City staff who implement the regulations. The current approach provides no flexibility to address changes in the condition of trees over time. It also restricts future property owners from changing the landscaping on their property since a land use review is required to remove trees.

Through this amendment, after 10 years, trees required to be preserved as part of a land use review will be regulated the same as other trees in the city. The expiration is intended to treat like situations equally, while ensuring that tree preservation required as a condition of approval is adhered to for a substantial period of time.

The expiration will not apply to sites within Unincorporated Multnomah County, commonly referred to as the "County urban pockets". The City of Portland administers development regulations for these areas, however the City's tree permit system that applies absent development does not apply in the urban pockets. Without a tree permit system, trees required to be preserved through a land use review would have no protection or replacement requirements. Therefore, Multnomah County has requested that the expiration not be applied to the urban pocket areas.

AMEND CHAPTER 33.700, ADMINISTRATION AND ENFORCEMENT

Sections:

Implementing the Code

33.700.005 Building Permit Required
33.700.010 Uses and Development Which Are Allowed By Right
33.700.015 Review of Land Divisions
33.700.020 Uses and Development Which Are Not Allowed By Right
33.700.025 Neighborhood Contact
33.700.030 Violations and Enforcement
33.700.040 Reconsideration of Land Use Approvals
33.700.050 Performance Guarantees
33.700.060 Covenants with the City
33.700.070 General Rules for Application of the Code Language
33.700.075 Automatic Changes to Specified Dollar Thresholds

Timeliness of Regulations

33.700.080 Regulations that Apply at the Time of an Application
33.700.090 Regulations that Apply After Approval
33.700.100 Transfer of Approval Rights
33.700.110 Prior Conditions of Land Use Approvals
33.700.115 Expiration of Tree Preservation Requirements
33.700.120 Status of Prior Revocable Permits
33.700.130 Legal Status of Lots

33.700.115 Expiration of Tree Preservation Requirements

The regulations of this section apply to tree preservation required as a condition of a land use review or required in a tree preservation plan approved in conjunction with a land use review for sites within the City Limits. These regulations do not apply outside the City Limits. Although tree preservation requirements may expire for a site, the site is still subject to the tree requirements of this Title and Title 11, Trees.

A. Generally. Tree preservation requirements expire 10 years from the effective date of the land use approval, unless otherwise stated in the land use approval or as specified in B and C;

B. Land divisions. Tree preservation requirements for land divisions, expire 10 years from the date the final plat is approved, unless otherwise stated in the conditions of approval;

C. Master plans and IMPs. Multi-year Conditional Use Master Plans and Impact Mitigation Plans may establish an expiration date through conditions of approval; and

COMMENTARY

CHAPTER 33.730, QUASI-JUDICIAL PROCEDURES

33.730.060 Application Requirements

C. Required information for land use reviews except land divisions.

Additional information is added to the general submittal requirements for all land use reviews to ensure that impacts on trees can be identified at the time of land use review. The goal is that adequate information will be available to evaluate approval criteria and to do a preliminary review of Title 11 tree preservation and tree density standards. An early review of the Title 11 standards will help ensure that the land use approval does not conflict with the standards.

AMEND CHAPTER 33.730, QUASI-JUDICIAL PROCEDURES

33.730.060 Application Requirements

A. and B. [No change.]

C. Required information for land use reviews except land divisions. Unless stated elsewhere in this Title, a complete application for all land use reviews except land divisions consists of all of the materials listed in this Subsection. The Director of BDS may waive items listed if they are not applicable to the specific review. The applicant is responsible for the accuracy of all information submitted with the request.

1.–2 [No change.]

3. Four copies of a site or development plan. At least one complete copy must be 8-1/2 inches by 11 inches, suitable for photocopy reproduction. The site or development plan must be drawn accurately to scale and must show the following existing and proposed information:

- All property lines with dimensions and total lot area;
- North arrow and scale of drawing;
- Adjacent streets, access (driveways), curbs, sidewalks, and bicycle routes;
- Existing natural features such as watercourses including the ordinary high water line and top of the bank;
- The location, size and species of a~~A~~ll trees ~~greater than~~ 6 inches and larger in diameter, ~~measured 5 feet above the ground,~~ in areas to be disturbed and within 25 feet of areas to be disturbed;
- Trees proposed to be preserved, including protection methods meeting the requirements of Chapter 11.60, and trees proposed to be removed;
- Easements and on-site utilities;
- Existing and proposed development with all dimensions;
- Building elevations;
- Location of adjacent buildings;
- Distances of all existing and proposed development to property lines;
- Types and location of vegetation, street trees, screening, fencing, and building materials;
- Percentage of the site proposed for building coverage, and landscaping coverage;
- Motor vehicle and pedestrian access and circulation systems, including connections off-site;
- Motor vehicle and bicycle parking areas and design, number of spaces, and loading areas;
- Bus routes, stops, pullouts or other transit facilities on or within 100 feet of the site; and
- Additional requirements of the specified land use review.

4.-6. [No change.]

COMMENTARY

33.730.060 Application Requirements (continued)

D. Required Information for Land Divisions.
The requirement for surveyed information is amended to include trees that are partially on the site. Trees located on property lines will be included in the inventory and tree preservation calculations and therefore need to be included in the survey.

The survey requirements are also updated to reflect the new option to preserve tree groves based on canopy area. If that option is used, individual trees do not have to be surveyed.

D. Required information for land divisions. Unless stated elsewhere in this Title, a complete application for a land division consists of the materials listed below. The Director of BDS may waive items listed if they are not applicable to the specific review. The applicant is responsible for the accuracy of all information submitted with the request. At least one copy of each plan/map submitted with the application must be 8 ½ by 11 inches in size, and be suitable for reproduction.

1. Preliminary Plan for all sites except those taking advantage of Chapter 33.664, Review of Large Sites in I Zones. An application for Preliminary Plan for all sites except those taking advantage of Chapter 33.644, Review of Large Sites in I Zones, must include all of the following:

   a. – c. [No change.]

   d. Copies of the proposed land division, drawn to scale and of a format, material, and number acceptable to the Director of BDS. The required information may be grouped on several maps. The location of items not required to be surveyed must be accurately shown on the maps. The proposed land division maps must include the following information:

      (1) Base map. [No change.]

      (2) Existing conditions map. The following existing site conditions must be shown:

      Surveyed information:
      - Ground elevations shown by contour lines at 5-foot vertical intervals for slopes greater than 10 percent, and at 2-foot vertical intervals for ground slopes of 10 percent or less;
      - Existing development, including dimensions and distances to property lines. Structures and facilities to remain must be identified;
      - All trees completely or partially on the site that are ~~at least~~ 6 or more inches in diameter. Trees more than 25 feet inside a tract within which all trees will be preserved do not have to be surveyed. ~~Trees o~~ On ~~a Land Division~~ sites ~~that propose~~ where the proposal is to preserve tree canopy under ~~use~~ Option 5 or 6 of the Tree Preservation Standard in 33.630.200.B.1.e or ~~f 100.A.5 Option 5~~, the trees do not have to be surveyed;
      - Location and dimensions of existing driveways, curb cuts, and sidewalks on and abutting the site;
      - Seeps and springs, wetlands, watercourses, and all water bodies including the ordinary high water line and top of bank; if there is a seep or spring on the site, a wetland delineation is required to determine the edge of the seep or spring. This delineation must be performed by an environmental scientist;

Commentary

D. Required Information for Land Divisions (continued)

The submittal requirements for land divisions are updated to include tree information necessary to meet new requirements and to provide more specific direction on what needs to be addressed in the arborist report.

The required information includes:

1. An existing tree map and preservation plan. This is a current requirement, however some additional information is requested. Information about trees in the adjacent right-of-way is needed to address the street tree requirements in 33.630.600. General information is also requested about trees on adjacent sites, so that possible impacts can be evaluated and avoided where possible. Tree protection is also added to the list of requirements.

2. Tree planting information. Conceptual tree planting information is requested to show how any proposed mitigation plantings, in addition to Title 11 tree planting requirements, will be accommodated on the site. A conceptual street tree planting plan is also required for City Forester review under 33.630.600 and 33.654.120.

3. A written statement describing how 33.630, Trees is met. This is a current requirement and will typically include calculations and narrative describing how the tree preservation standards and approval criteria are met. The written statement and arborist report required below may be combined provided all of the information is provided.

4. A written report prepared by an arborist (see next page). An arborist report is a current requirement, however an itemized list has been added to make the expectations for the report more clear. In addition to evaluating the trees on the development site, the arborist report must address trees within adjacent rights-of-way and on adjacent sites that may be impacted by development on the site. The intent is that potential impacts be identified up front during the land use review, so that adequate protection can be provided where possible.

- The centerline of existing drainageways, including ditches, swales, and other areas subject to wet weather inundation; and
- Location of flood hazard areas, including elevations of 100-year floodplains, and FEMA Floodway boundaries. Sites that contain a water body not shown on the FEMA maps must identify the location of the flood hazard areas;

Additional information: [no change.]

(3)-(4) [No change.]

e. Tree information, as follows:

(1) Existing ~~T~~tree map and preservation plan~~.~~, ~~A tree map~~ showing the following:

- Existing and ~~P~~proposed lots ~~and~~ tracts, rights-of-way and utilities;
- Surveyed location of all trees completely or partially on the site required to be surveyed by D.1.d(2);
- The location, species and size of trees located in adjacent rights-of-way;
- The approximate location, species and size of trees on adjacent sites, within 15 feet of proposed or future disturbance areas;
- Heritage trees on or adjacent to the site;
- Tree numbers corresponding to the arborist report;
- ~~Significant Trees, showing type and size, and indicating which will remain and which will be removed~~;
- ~~Heritage and Historic Landmark Trees~~;
- Location, type, and size of trees to be removed;
- Location, type, and size of trees to be preserved and tree protection meeting the requirements of Chapter 11.60, Technical Specification; and
- Existing and proposed tree preservation tracts.

~~f. Tree Report. A tree report including the following:~~

- ~~How the regulations of Chapter 33.6310, Tree Preservation, are met; and~~
- ~~An arborist's report as required in Chapter 33.630, Tree Preservation.~~

(2) Tree planting information, including:

- Conceptual planting plan showing general area where trees will be planted on the lots as mitigation and/or to satisfy the tree density standards of Chapter 11.50, Trees in Development Situations;
- A preliminary street tree planting plan; and

(3) A written statement describing how the requirements of Chapter 33.630, Trees, are met; and

Commentary

See commentary of previous page.

(4) A written report prepared by an arborist that includes the following:

- Trees located on the development site. The information listed below must be provided for all trees required to shown on the existing tree map, as described in e(1) above. Trees must be numbered consistent with the tree survey:
  - Evaluation of tree health and condition;
  - Identification of tree groves and Heritage Trees;
  - Identification of nuisance, dead, dying, and dangerous trees;
  - Evaluation of the suitability of each tree for preservation based on proposed or future development on the site, including consideration of grading and utility plans;
  - Identification of trees to be preserved and trees to be removed;
  - Root protection zone and tree protection methods specified for each tree to be preserved, as required by Chapter 11.60, Technical Specifications;
  - A discussion of activities that will be prohibited within root protection zones during construction, and any other relevant construction management needs; and
  - Recommendations for short or long-term tree care.

- Trees in adjacent rights-of-way or on adjacent sites. Trees on adjacent rights-of-way or on adjacent sites that may be affected by the proposed or future development on the land division or planned development site must be identified. Recommendations for tree protection and methods to limit impacts on adjacent trees must be included in the arborist report.

[Re-letter g through l to f through k]

2. - 4. [No change.].

COMMENTARY

33.730.140 Requests for Changes to Conditions of Approval

The proposed amendment would allow changes to conditions of approval involving tree preservation to be changed through tree review. These reviews will always be Type II reviews, which are relatively quick and inexpensive. Otherwise, it would be possible for minor changes to a tree preservation plan to trigger a Type III land use review. This provision is intended to make changes easier to accomplish while still allowing for public review and input. The tree review criteria require that the relevant approval criteria of the original review be considered (see 33.853).

33.730.140 Requests for Changes to Conditions of Approval

A. Generally. Requests for changes to conditions of approval are processed using the current procedure assigned to the land use review and the current approval criteria for the original land use review, unless this Title specifies another procedure or set of approval criteria. See also Section 33.700.110, Prior Conditions of Land Use Approvals.

B. Zone changes before 1981. In the case of zone change requests filed before January 1, 1981, the Type II procedure applies.

C, Reviews no longer required. In the case of land use reviews that are no longer required by this Title, the most comparable review and procedure applies. For example, for variance requests, the procedures for adjustments apply.

D. Tree preservation. Where the only requested change is to tree preservation plans or conditions that have not expired, the change may be processed through Tree Review as described in Chapter 33.853.

COMMENTARY

CHAPTER 33.815, CONDITIONAL USES

The changes to this chapter are intended to ensure that tree preservation is considered along with other relevant factors during specified conditional use reviews. This amendment recognizes that preservation of existing trees can make a significant contribution in terms of neighborhood compatibility and limiting adverse impacts on adjacent properties. Tree preservation has been added to the factors to be considered for conditional use reviews in Open Space and for institutional or other uses in residential zones. These zones are where neighborhood compatibility and impacts on adjacent uses are generally key elements of the review. Tree preservation has also been added as a factor to consider in reviews for Radio Frequency Transmission Facilities, which applies in all zones.

Approval Criteria
33.815.100 Uses in the Open Space Zone

A. Character and impacts.
Impacts on mature trees and tree groves has been added to the list of issues to be considered in the review, along with City-designated resources. Mature trees and tree groves often contribute to the character of open space zones and should be retained where feasible.

AMEND CHAPTER 33.815, CONDITIONAL USES

33.815.100 Uses in the Open Space Zone
These approval criteria apply to all conditional uses in the OS zone except those specifically listed in other sections below. The approval criteria allow for a range of uses and development that are not contrary to the purpose of the Open Space zone. The approval criteria are:

A. Character and impacts.

1. The proposed use is consistent with the intended character of the specific OS zoned area and with the purpose of the OS zone;

2. Adequate open space is being maintained so that the purpose of the OS zone in that area and the open or natural character of the area is retained; and

3. Impacts on mature trees and tree groves are minimized and City-designated environmental resources, such as views, landmarks, or habitat areas, are protected or enhanced.

B. through D. [No change.].

COMMENTARY

33.815.105 Institutional and Other Uses in R Zones

B. Physical compatibility.

Tree preservation is added as a factor to be considered when determining the physical compatibility of institutional and other uses in residential zones and ways to mitigate differences in appearance and scale. Landscaping is currently on the list, which may include retention of existing trees. Adding tree preservation makes explicit the expectation that existing trees will be considered

33.815.105 Institutional and Other Uses in R Zones
These approval criteria apply to all conditional uses in R zones except those specifically listed in sections below. The approval criteria allow institutions and other non-Household Living uses in a residential zone that maintain or do not significantly conflict with the appearance and function of residential areas. The approval criteria are:

A. Proportion of Household Living uses. [No change.]

B. Physical compatibility.

1. The proposal will preserve any City-designated scenic resources; and

2. The proposal will be compatible with adjacent residential developments based on characteristics such as the site size, building scale and style, setbacks, tree preservation and landscaping; or

3. The proposal will mitigate differences in appearance or scale through such means as setbacks, screening, landscaping, tree preservation, and other design features.

C. through E. [No change.].

COMMENTARY

33.815.225 Radio Frequency Transmission Facilities

B. Approval criteria for towers in OS or R Zones (or within 50'):
Tree preservation is added as a means to soften the appearance of a tower.

D. Approval criteria for all other Radio Frequency Transmission Facilities:
A criterion is added to ensure that the mature trees and groves are considered in locating RF facilities, and that impacts on those trees are minimized.

33.815.225 Radio Frequency Transmission Facilities
These approval criteria allow Radio Frequency Transmission Facilities in locations where there are few impacts on nearby properties. The approval criteria are:

A. [No change.].

B. Approval criteria for facilities operating at 1,000 watts ERP or less, proposing to locate on a tower in an OS or R zone, or in a C, E, or I zone within 50 feet of an R zone:

1. – 2. [No change.]

3. The visual impact of the tower on the surrounding area must be minimized. This can be accomplished by one or more of the following methods:

   a. Limiting the tower height as much as possible given the technical requirements for providing service and other factors such as whether the tower will provide co-location opportunities;

   b. Planting or preserving trees around the tower as a way to soften its appearance. The variety and spacing of the trees will be determined based on the site characteristics, tower height, and other co-location factors;

   c. Shielding the tower and antennas from view by enclosing or concealing them within another structure that has less visual impact.

   d. Placing the tower away from land uses that are more sensitive to the visual impacts, such as adjoining residences or open spaces; or

   e. Other methods that adequately minimize visual impact;

4. - 6. [No change.]

C. [No change.]

D. Approval criteria for all other Radio Frequency Transmission Facilities:

   1. Based on the number and proximity of other facilities in the area, the proposal will not significantly lessen the desired character and appearance of the area;

   2. The facility will be located so that impacts on mature trees and tree groves are minimized;

   ~~2~~3. Public benefits of the use outweigh any impacts which cannot be mitigated; and

   ~~3~~4. The regulations of Chapter 33.274, Radio Frequency Transmission Facilities are met.

COMMENTARY

CHAPTER 33.820, CONDITIONAL USE MASTER PLANS

The changes to this chapter are intended to encourage consideration of tree preservation in conjunction with conditional use master plans where appropriate. Reference to tree preservation is added to the site plan and development standards sections to ensure that adequate information is available to evaluate trees on the site.

Master plans must comply with the applicable conditional use approval criteria. Therefore, master plan proposals for Uses in Open Space Zones and Institutional and Other Uses in R Zones would be required to address the tree preservation factors proposed to be added to the criteria in 33.815.

33.820.070 Components of a Master Plan

D. Site plan.

Tree preservation is added to the list of items that must be shown on site plans. A reference is also included to the application requirements in 33.730. This section requires that trees to be removed and protected be shown on the site plan.

E. Development Standards

This provision is intended to promote tree preservation where practicable by allowing the establishment of specific development standard for tree preservation as part of the master plan process.

AMEND CHAPTER 33.820, CONDITIONAL USE MASTER PLANS

33.820.070 Components of a Master Plan
[No change.].

A. through C. [No change.].

D. Site plan. The master plan must include a site plan, showing to the appropriate level of detail, buildings and other structures, the pedestrian, bicycle, and vehicle circulation system, vehicle and bicycle parking areas, open areas, existing trees to be preserved, and other required items. In addition to the application requirements in 33.730.060.C, the site plan must also include ~~This information must cover the following~~:

E. Development standards. The master plan may propose standards that will control development of the possible future uses that are in addition to or substitute for the base zone requirements and the requirements of Chapters 32.32 and 32.34 of the Sign Code. These may be such things as height limits, setbacks, FAR limits, landscaping and tree preservation requirements, parking requirements, sign programs, view corridors, or facade treatments. Standards more liberal than those of the code require adjustments.

F. – K [No change.].

COMMENTARY

CHAPTER 33.825, DESIGN REVIEW

33.825.035 Factors Reviewed During Design Review.
The change to this chapter makes it explicit that tree preservation is a factor to consider during design review. The factors currently listed include open areas and landscaping, which could include retention of existing trees. This change makes the intent to consider existing trees more clear.

Design reviews are structured differently from other land use reviews in that the decision is made by evaluating the proposal against design guidelines, either the Community Design Guidelines or specialized district guidelines. Many of these documents discuss tree retention and the importance of mature trees in establishing the character of the design district. The proposed amendment will make it clear that the design review can require tree preservation where appropriate.

AMEND CHAPTER 33.825, DESIGN REVIEW

33.825.035 Factors Reviewed During Design Review.
The review may evaluate the architectural style; structure placement, dimensions, height, and bulk; lot coverage by structures; and exterior alterations of the proposal, including building materials, color, off-street parking areas, open areas, ~~and~~ landscaping, and tree preservation.

COMMENTARY

CHAPTER 33.853, TREE REVIEW

The Tree Review process is used to address several situations, including tree removal in certain plan districts and overlay zones, changes to tree preservation plans approved as part of land use review and to correct violations of tree-related regulations in the Zoning Code or conditions of land use approval.

33.853.020 When Review Is Required

A. Tree review is currently required for requested tree removal that does not comply with standards in the scenic overlay zone and Rocky Butte plan district. However, an adjustment is required when the tree standards cannot be met in the Johnson Creek plan district. For greater consistency in procedures, and to use criteria better geared toward tree resources, tree review will also be used to evaluate requests that vary from the Johnson Creek tree standards.

AMEND CHAPTER 33.853, TREE REVIEW

Sections:

33.853.010 Purpose
33.853.020 When Review Is Required
33.853.030 Procedure
33.853.040 Approval Criteria

33.853.010 Purpose

The tree review process evaluates whether mitigation proposed for tree removal is both appropriate and adequate, considering the purpose of the regulations that encourage tree preservation or limit removal. Tree review also evaluates whether changes to tree preservation plans or tree-related conditions of approval are appropriate, and determines the appropriate mitigation for trees lost due to violations of tree regulations. The review allows flexibility for unusual situations and allows for the purpose of the tree regulations to be met using creative or innovative methods.

33.853.020 When Review Is Required

Tree review is required in the following situations:

A. Scenic Overlay Zone, Johnson Creek Basin plan district and Rocky Butte plan district. Trees that do not qualify for removal under the overlay zone or plan district regulations listed below ~~Trees in the Scenic Overlay Zone that do not qualify for removal under 33.480.040.B.2.g, Preservation of Trees, or 33.480.040.B.2.h, Tree Replacement,~~ may be removed if approved through tree review~~.~~:

1. The standards in the Scenic Overlay Zone in 33.480.040.B.2.g, Preservation of Trees;

2. The standards in the Johnson Creek Basin plan district in 33.537.125, Tree Removal Standards; and

~~**B. Rocky Butte plan district.** Trees~~

3. The standards in the Rocky Butte plan district ~~that do not qualify for removal under~~ in Subsection 33.570.040.C, Tree Removal Standards. ~~Exempt From Review, may be removed if approved through tree review as provided in this chapter.~~

4. Exception. Where the requested tree removal would also require environmental review, only environmental review is required.

COMMENTARY

B. Changing tree preservation requirements following land use approval
This section explains when tree review is needed to make changes to tree preservation requirements that resulted from a land use review. The amendments make three changes:

1) Currently, this section only applies to tree preservation requirements of a land division. The amendments would allow tree review to be used for changes to tree preservation plans or conditions of approval of other types of land use reviews. It should be noted that tree review is not the only means by which a tree preservation requirement could be changed. For example, if a conditional use review were to require trees to be preserved and later there was a request to make alterations to the site that included tree preservation and another change that required a conditional use review, the applicant could choose to process all changes under the conditional use review. A concurrent tree review would not be required.

2) The term "tree preservation requirements" is incorporated. It is more general, and therefore more inclusive, than the current language. The intention is that tree review would be used to make changes to tree preservation required under a new or previously approved tree preservation plans or conditions of approval related to tree preservation or mitigation.

3) Language is also added to clarify that a land use review is not required to remove dead, diseased or dangerous trees provided the condition of the tree was not caused by a violation. A Title 11 tree permit would be required to document that the tree does in fact need to be removed. Replacement is required.

C. Violations
The violations section is amended to include consistent terminology as discussed above.

33.853.030 Procedure

A. Scenic Overlay Zone, Johnson Creek Basin plan district and Rocky Butte plan district.
This section is amended to include the Johnson Creek Basin plan district and to consolidate the description of the procedure type for the three areas under one subsection.

~~C.~~ B. Changing tree preservation ~~or mitigation methods for a land division~~. requirements following land use approval.

1. Generally. Changes to tree preservation requirements approved as part of a land use decision, including changes to trees to be preserved, mitigation requirements, or other requirements stated in conditions of approval, ~~or mitigation method, including a tree preservation plan, tree preservation tract, or mitigation plan,~~ may be approved through tree review ~~if the Final Plat of the land division has been approved and recorded~~.

2. Exceptions.

   a. ~~However, i~~ If the tree preservation or mitigation was required ~~through~~ as part of an environmental review, Pleasant Valley resource review or greenway review, changes are subject to the regulations of the relevant overlay zone chapter and exempt from the regulations of this chapter. ~~Chapter 33.430, Environmental Overlay Zones. Changes to tree preservation or mitigation methods where the Final Plat has not been approved and recorded are reviewed under the 600 series of chapters of this Title for Land Divisions and Planned Developments.~~

   b. Requests to remove trees found by an arborist to be dead, dying, or dangerous do not require Tree Review if the condition of the tree is not the result of a violation. A Title 11 tree permit must be obtained and the tree must be replaced.

~~D.~~ C. Violations.

1. Corrections to violations of tree protection and tree preservation requirements ~~regulations~~ of this Title, ~~except for violations of the Environmental Overlay Zone and the Greenway Overlay Zone,~~ or to violations of tree preservation requirements of a land use review, are reviewed through tree review, except as stated in paragraph C.2. ~~Corrections to violations of tree preservation plans and of methods of tree preservation or mitigation approved through a land division review are reviewed through tree review~~.

2. Exception. Corrections to violations of the environmental overlay zone, Pleasant Valley Natural Resources overlay zone, and the Greenway overlay zone, are not subject to Tree Review but are reviewed through the review procedures for those overlay zones.

33.853.030 Procedure

A. Scenic Overlay Zone, Johnson Creek Basin plan district and Rocky Butte plan district. Requests for Tree Review in the Scenic Overlay Zone, Johnson Creek Basin plan district or Rocky Butte plan district are processed through a Type II procedure.

~~B. Rocky Butte plan district.~~ ~~Requests for Tree Review in the Rocky Butte plan district are processed through a Type II procedure.~~

COMMENTARY

33.853.030 Procedure (continued)

B. Changing tree preservation requirements following land use approval. The procedures for changing tree preservation requirements is amended to address situations other than land divisions and to provide a more consistent procedure type for the review. Currently the type of review varies depending on the timing of the proposed change. Prior to final plat approval, the change is subject to the same level of review as the preliminary land division decision. Following final plat approval it becomes a Type II review. As amended, all tree reviews will be processed under the Type II procedure, with the exception of some violations.

C. Violations

The violations section is modified to reflect an increased emphasis on large trees and tree groves. Under current regulations, the highest review type (Type III) is triggered for violations involving 12 or more inches of tree diameter. This threshold is unnecessarily low. The amendment raises the threshold for a Type III review to more than two trees that are 20 or more inches in diameter or more than two trees within a grove. A violation that meets these thresholds would trigger a Type III review if the original requirement was the result of a Type III process. Otherwise, the violation would be processed through the Type II procedure.

~~C.~~ B **Changing tree preservation requirements following land use approval ~~or mitigation methods for a land division~~.** Requests to change ~~a~~ tree preservation requirements of a land use review, or a tree-related condition of approval, ~~plan or mitigation methods approved through a land division~~ are processed ~~as follows:~~ through a Type II procedure.

~~1. Changes to the locations of dry-wells and soakage trenches shown on a tree preservation plan approved through a land division are processed through a Type I procedure.~~

~~2. If the original tree preservation plan was part of a Type I land division procedure, then changes to tree preservation or mitigation methods are processed through a Type I procedure.~~

~~3. If the original tree preservation plan was part of a Type II, Type IIx or Type III land division procedure, then changes to tree preservation or mitigation methods are processed through a Type II procedure.~~

~~D.~~ C. **Violations.** Corrections to violations of tree protection and tree preservation regulations of this Title, or violations of tree preservation requirements of a land use review ~~or mitigation methods approved through a land division,~~ are processed as follows:

~~1. If the violation is for the removal of no more than 12 diameter inches of trees, it is processed through a Type II procedure.~~

~~2. If the violation is for the removal of more than 12 diameter inches of trees, the following apply:~~

~~a. If the original procedure to approve the tree protection, preservation, or mitigation plan was a Type III procedure, the violation is processed through a Type III procedure.~~

~~b. All other violations are processed through a Type II procedure.~~

1. Corrections to violations are processed through a Type II Review, except as stated in paragraph C.2.

2. If the original procedure for the review that approved the tree preservation requirement was a Type III procedure, and either C.2.a or b. applies, the violation is processed through a Type III Tree Review.

   a. The violation is for the removal of more than two trees that are 20 or more inches in diameter; or

   b. The violation is for the removal of more than two trees within a tree grove.

COMMENTARY

33.853.040 Approval Criteria

A. Trees in the Scenic Overlay Zone, Johnson Creek Basin plan district, or Rocky Butte plan district.
The amended approval criteria for the Scenic overlay, Johnson Creek, and Rocky Butte include additional consideration of tree removal that is necessary for "reasonable development of the site". The current criteria limit allowed tree removals to situations where a public view is being maintained or created. This is overly restrictive and does not allow for unique situations to be considered, such as on sites where gaining access and/or providing services is difficult.

B. Changes to a tree preservation requirements following land use approval. -
For tree preservation requirements of land use cases other than land divisions, a reference is added to the approval criteria of the original review. This will ensure that the intent of the original review is addressed when the change is evaluated.

33.853.040 Approval Criteria

A. Trees in the Scenic Overlay Zone, Johnson Creek Basin plan district, or Rocky Butte plan district. A request to remove trees in the Scenic Overlay Zone, Johnson Creek Basin plan district, or Rocky Butte plan district will be approved if the review body finds that the applicant has shown that ~~all of the following approval criteria are met~~ either criterion A.1 or A.2 is met and criterion A.3 is met:

1. The removal is necessary to allow for reasonable development of the site, including access to the site for construction, required parking, pedestrians, and utilities, and considering the allowed uses and characteristics of the area. Alternative locations and construction methods for structures, utilities and paved areas must be considered to maximize preservation of trees, with emphasis on preservation of trees that are 20 or more inches in diameter and tree groves; or

~~1.~~2. For sites within the Scenic overlay zone or Rocky Butte plan district, ~~T~~the removal is to create or enhance a public view from public property or from a public right-of-way. Consultation with the City Forester is required; and

3. The proposal will continue to meet the purpose of the relevant tree preservation or removal standards. Replacement plantings within the Scenic overlay zone must consist of approved vegetation listed in the Scenic Resources Protection Plan appendix.

~~2. Mitigation is provided on site by replacing removed trees with approved vegetation listed in the Scenic Resources Protection Plan appendix. Consultation with the City Forester is required.~~

B. Changes to tree preservation requirements following land use approval ~~or mitigation methods~~. The approval criteria for changes to tree preservation or mitigation requirements ~~or mitigation methods, including a tree preservation plan, tree preservation, tree preservation tract, or mitigation plan~~ are:

1. If the tree preservation requirement was approved as part of a land division or planned development, ~~or mitigation method was approved under the provisions of Chapter 33.630,~~ the requested change will be approved if the review body finds that the applicant has shown that the revised method will continue to meet the requirements of Chapter 33.630, Tree Preservation.

2. If the tree preservation requirement ~~or mitigation method~~ was ~~not~~ approved through a land use review other than a land division or planned development, ~~under the provisions of Chapter 33.630,~~ the requested change will be approved if the review body finds that the applicant has shown that the revised method continues to meet the approval criteria of the original review. Any impacts resulting from the requested change must be mitigated to the extent practicable. ~~better meets the purpose of Chapter 33.630, Tree Preservation, stated in Section 33.630.010~~.

C. Corrections to violations.

For corrections to violations, when applicants propose to use other trees formerly proposed to be removed, the amended criteria require the applicant to submit an arborist assessment of the tree to ensure that it is healthy and appropriate to preserve. The assessment would include recommendations for protection measures and remedial treatments if the tree has been damaged.

This situation could come up where development activity has occurred on a site and the subject tree has not been protected (since it was originally to be removed it was not required to be protected). The requirement is intended to ensure that the tree is still suitable to retain.

The replacement table is proposed to be renumbered (there was no table 853-1). The size thresholds have also been adjusted to better relate to the tree size thresholds in other portions of Title 33 and in Title 11.

C. Corrections to violations. For corrections to violations of tree protection and tree preservation regulations of this Title, or violations of tree preservations requirements of a land use review, ~~plans or the approved method of tree preservation or mitigation,~~ the applicant must show the review body that all of the following approval criteria are met:

1. Mitigation Plan;

   a. The applicant's mitigation plan meets the purpose of the regulation that was violated. Where the violation is of a tree preservation requirement of a land use review, ~~plan or the approved method of tree preservation or mitigation,~~ the mitigation plan meets the purpose of the regulation that required the preservation plan; and

   b. The mitigation plan includes replacement of trees cut, or the preservation and protection of additional trees on the site not originally proposed for preservation. If replacement of trees is proposed, the plan must at a minimum meet the requirements of Table 853-~~2~~ 1. If additional trees on the site are proposed for preservation and protection, the applicant must submit an arborist's assessment indicating the suitability of the trees for preservation, and recommendations for protection methods and any remedial treatment that may be necessary to ensure the long term viability of the trees. ~~t~~The total diameter of additional trees preserved must exceed the total diameter of trees cut.

~~**Table 853-2**~~
~~**Tree Replacement for Violations**~~

~~**Size of tree removed (inches in diameter)**~~	~~**Number of Trees to be Planted**~~
~~6 to 12~~	~~3 trees~~
~~13 to 18~~	~~5 trees~~
~~19 to 24~~	~~7 trees~~
~~25 to 30~~	~~10 trees~~
~~over 30~~	~~15 trees~~

Table 853-1
Tree Replacement for Violations

Size of tree removed (inches in diameter)	**Number of Trees to be Planted**
Up to 12	3 trees
More than 12 to up to 20	5 trees
More than 20 to up to 25	7 trees
More than 25 to up to 30	10 trees
More than 30	15 trees

C. Corrections to violations (continued)

2. Location of replacement trees. The requirements to have applicants plant trees on other properties owned by them or on City properties has proven difficult to coordinate and have rarely been used to mitigate for tree violations. The amendments are intended to address this issue.

b. This amendment states that the applicant "may" plant on another property, as opposed to "must" plant, which requires the applicant to demonstrate that it isn't feasible to do so.

c. An option to pay a fee in lieu of planting on City property has been added. The City Tree Fund is used to plant trees within the same watershed, typically on City and other publicly managed properties

3. A provision is added to the replacement requirement to allow the review to vary from the tree planting size standards in 33.248, if doing so will result in a better mitigation plan. For example, if the mitigation proposal is for planting in a natural area or on a steep slope, it may not be appropriate to plant 1 inch caliper or larger trees.

2. Replacement trees must be planted as follows:

   a. On the site where the violation occurred;

   b. If it is not possible to plant the trees on the site where the violation occurred, then the trees ~~must~~ may be planted on other property owned by the applicant within the City of Portland~~.~~. ~~T~~this includes property owned by a Homeowners' Association to which the applicant belongs;

   c. If it is not possible to plant the trees as described in 2.a or b, then a payment in lieu of planting may be made to the Tree Planting and Preservation Fund as described in Title 11, Trees.~~on the site where the violation occurred, or on other property owned by the applicant within the City of Portland~~, then the trees must be planted in a City of Portland park, as approved by the Bureau of Parks and Recreation, or on a site approved by the Bureau of Environmental Services.

3. Replacement trees must meet the requirements of Section 33.248.030, Plant Materials, unless the mitigation plan calls for different planting specifications to address concerns about plant survival or impacts on the site.

COMMENTARY

CHAPTER 33.910, GENERAL TERMS

Amendments to the definitions chapter include revisions to some definitions for consistency with those in Title 11, the addition of definitions of new terms introduced with these amendments and clarification of some environmental definitions.
If a term is not listed, no changes to its definition are proposed.

Clarification of Environmental definitions
The definition of **Identified Wetlands, Identified Streams Identified Waterbodies** is amended to refer to resources identified in the adopted resource inventory report text **or** on inventory maps. This change clarifies the existing definition. The intent of the environmental zone is to protect identified natural resources within the designated environmental overlay zones. These resources would need to be identified in the appropriate natural resource inventory as present in the resource site or within the inventory study area. The current code requires that the resources be identified in the inventory and the inventory maps. This is problematic since many inventory maps are old, coarse, and inaccurate. This also results in inconsistent application of City policy within the existing environmental zones. This amendment makes it clear that the provisions apply to identified wetlands, streams and waterbodies if they are either mentioned in the inventory report or shown on the inventory map. This will help ensure that riparian vegetation near identified water bodies, including trees, is addressed more consistently within environmental zones.

The definition of **pruning** has been revised to be consistent with the Title 11 definition. These definitions refer to industry standards for pruning. Excessive pruning is also defined as a type of injury in Title 11.

New Terms
Several new definitions are added for new terms introduced with this amendment package and used frequently in the Zoning Code.

Non-native non-nuisance tree – This is a new term used primarily in the environmental zone regulations to describe trees that are not native and are not identified on the City's Nuisance Plant List. New regulations of to clarify how these trees are addressed in z-zones have been added in the environmental zone regulations. Therefore a term was needed to describe them clearly.

AMEND CHAPTER 33.910, DEFINITIONS

33.910.030 Definitions

The definition of words with specific meaning in the zoning code are as follows:

Environment-Related Definitions

- **Identified Wetlands, Identified Streams Identified Waterbodies.** Those streams, wetlands, and waterbodies that are identified in the resource inventory ~~and~~ or maps as being significant and in need of protection.

- **Non-Native Non-Nuisance Tree**. A tree that is not identified as either a native tree species or a nuisance tree species in the *Portland Plant List.*

- **Pruning**. ~~The cutting away or limbing of tree or shrub branches. Pruning does not include the removal of any portion of the top of the tree, sometimes referred to as "topping". Topping a tree is considered destruction of the tree.~~ The removal or reduction of parts of a tree that are not requisite to growth or production, are no longer visually pleasing, or are injurious to the health or development of the tree.

Heritage Tree. See Tree Types.

Nuisance Plants List. The Nuisance Plants List is part of the *Portland Plant List,* published by the Bureau of Planning and Sustainability.

COMMENTARY

The definition of **topping** is revised to be consistent with the new Title 11 definition. It is similar to the existing term, but supplemented with reference to industry pruning standards. The same definition is also in Title 11.

Additional New Terms

Tree grove – A new term to determine when a group of trees constitutes a grove. The definition applies to groupings of native trees, but recognizes that other trees may be interspersed with the natives. A grove is described as generally non-linear to ensure that are situations such as hedgerows and street trees are not included in the definition of grove. It is also noted that a tree grove can be identified by a qualified professional based on the function of the grouping of trees. This is intended to allow some additional flexibility in determining whether specific groupings of trees should be considered a grove.

Tree Types

- **Dangerous, Dead and Diseased Trees** – These are existing terms used in Title 20, the current tree regulations, that have been incorporated into Title 11 and the Title 33 for consistency. **Dangerous Tree** includes both trees that are threatening structures due to their proximity, as well as trees that have structural defects and are prone to failing onto a target. **Dead Tree** describes when a tree will be considered. **Dying Trees** are those afflicted by a pathogen or pest infestation that is not salvageable through treatment. These same definitions are included in Title 11.
- **Heritage tree** – This term is already used in the Zoning Code and is currently defined in Title 20. The definition is included here for ease of reference and is changed to include Historic, and Historic Landmark Trees, so that all of these trees fall within the same program. This same definition is included in Title 11.

The term **Significant Tree** is deleted because it is no longer used in Title 33. Currently it is only used in 33.630, which are the tree preservation requirements for land divisions, where a reference to 20 inch diameter and larger trees is proposed instead. For additional discussion of the shift from Significant Tree to trees 20 or more inches in diameter, see Chapter 33.630, Trees.

Topping. ~~Topping is pruning a tree to shorten it or prevent it from growing in its natural form. The definition of topping includes pollarding, which is training the shape of a tree by pruning its major branches back to stub-shaped ends. Topping does not include pruning performed to remove a safety hazard, to remove dead or diseased materials, or to avoid overhead utilities.~~ The inappropriate pruning practice used to reduce tree height by cutting to a predetermined crown limit without regard to tree health or structural integrity. Topping does not include acceptable pruning practices as described in the American National Standards Institute (ANSI) "A-300 Pruning Standards" and companion "Best Management Practices for Tree Pruning" published by the International Society of Arboriculture, such as crown reduction, utility pruning, or crown cleaning to remove a safety hazard, dead or diseased material.

Tree Grove. A group of six or more native trees at least 12 inches in diameter, or Oregon white oak trees or Pacific madrone trees that are at least 6 inches in diameter and that form a generally continuous canopy, or are spaced as appropriate for that species or species assemblage. Groves are generally non-linear. Other trees and understory vegetation located within the grove are considered part of the grove and are counted as part of the canopy area. A tree grove may be identified by a qualified professional, such as an arborist or environmental scientist, based on the types, configuration, or functions of a grouping of trees. Functions include structural support and wind protection for the trees within the grove, microclimate and shade, and habitat such as nesting, foraging, and cover for birds and other wildlife.

Tree Types:

- **Dangerous Tree** is one where the condition of the tree presents a foreseeable danger of inflicting damage that cannot be alleviated by treatment or pruning. A tree may be dangerous because it is likely to injure people or damage vehicles, structures, or development, such as sidewalks or utilities.
- **Dead Tree** is a tree that is dead or has been damaged beyond repair or where not enough live tissue, green leaves, limbs, or branches exist to sustain life as determined by an arborist.
- **Dying Tree** is tree in an advanced state of decline because it is diseased, infested by insects or rotting and cannot be saved by reasonable treatment or pruning, or must be removed to prevent spread of the infestation or disease to other trees or is imminently likely to become a danger or die.
- **Heritage Tree**. Trees designated as Historic Landmark Trees, Historic Trees, and Heritage Trees by the City of Portland.
- **Non-Native Non-Nuisance Tree.** See Environment-Related Definitions.

~~**Significant tree.** A tree that is listed in Table 630-1, Significant Trees.~~

Commentary

CHAPTER 33.930, MEASUREMENTS

33.930.130 Measuring Tree Diameter

A. Existing trees.

Additional direction is provided on how to measure the size of existing trees in various situations. Figures are also proposed that illustrate the measurements standards. These figures and descriptions were adapted from the Guide for Plant Appraisals, 9th edition, which is published by the Council of Tree and Landscape Appraisers.

AMEND CHAPTER 33.930, MEASUREMENTS

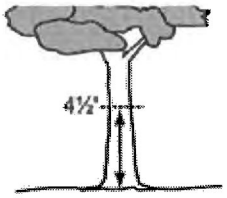
33.930.130 Measuring Tree Diameter

Tree diameter is measured in two ways:

A. Existing trees. ~~Existing trees are measured at a height of 4-1/2 feet above the ground. Trees on slopes are measured from the ground level on the lower side of the tree. If the tree splits into multiple trunks below 4-1/2 feet, the trunk is measured at its most narrow point below the split.~~

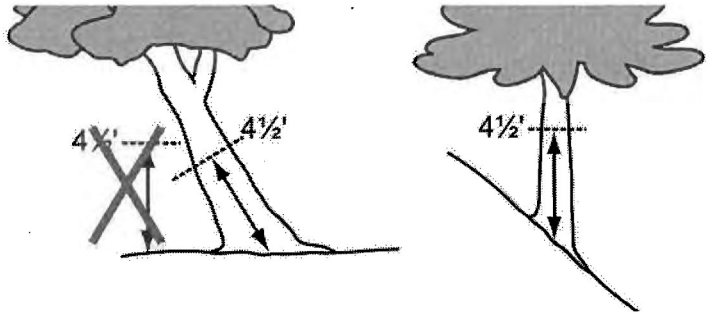
1. Existing trees are generally measured in terms of diameter inches at a height of 4-1/2 feet above the ground. The diameter may be determined by measuring the circumference of the tree trunk and dividing by 3.14. See Figure 930-19.

Figure 930-19
Measuring Tree Size for Existing Trees



2. When the trunk is at an angle or is on a slope, the trunk is measured at right angles to the trunk 4-1/2 feet along the center of the trunk axis, so the height is the average of the shortest and the longest sides of the trunk See Figure 930-20.

Figure 930-20
Measuring Existing Trees with an Angle or on Slopes



3. When the trunk branches or splits less than 4-1/2 feet from the ground, the trunk is measured at the smallest circumference below the lowest branch. See Figure 930-21.

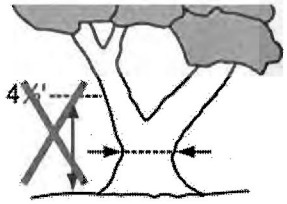
Commentary

33.930.130 Measuring Tree Diameter (continued)

B. New trees

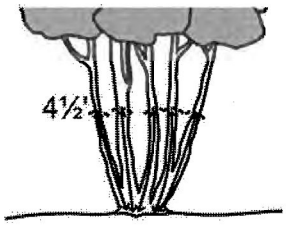
Language is added to note that tree planting sizes for coniferous trees are sometimes specified by the height of the tree. For example, this is the case in 33.248.

Figure 930-21
Measuring Split Trunk Tree



4. For multi-stemmed trees, the size is determined by measuring all the trunks and adding the total diameter of the largest trunk and one-half the diameter of each additional trunk; see Figure 930-22. A multi-stemmed tree has trunks that are connected above the ground and does not include individual trees growing close together or from a common root stock that do not have trunks connected above the ground.

Figure 930-22
Measuring Multi-stemmed Trees



B. New trees. New trees are measured in caliper inch, which is the diameter of the trunk 6 inches above the ground or root ball. For coniferous trees, the tree height may also be used.

33.930.140 Measuring the Root Protection Zone
The root protection zone is a circular area around a tree that is based on the diameter of the tree. Each 1 inch diameter of tree equals 1 foot radius for the root protection zone. See Figure 930-~~19~~ 23.

[Re-number Figure 931-19 to 931-23]

Commentary

Amendment to the List of Chapters and Table of Contents

The title Chapter 33.630 is being changed, therefore the List of Chapters and Table of Contents of Title 33 needs to be amended to reflect this change.

Amendment to the List of Chapters and Table of Contents

[Change the name of Chapter 33.630 from "Tree Preservation" to "Trees".]

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Exhibit B

Amendments to
Ladd's Addition Conservation District Guidelines

Commentary

Amendments to Ladd's Addition Conservation District Guidelines

Title 11 includes a new citywide prohibition on planting trees that are on the City's Nuisance Plants List on any City owned or managed property, including City rights of way. This is consistent with the City's Invasive Species Management Strategy objectives and will help align Title 11 with current prohibitions in Title 33 on planting identified nuisance/invasive species plants or trees in City-required landscaping on private property.

The *Ladd's Addition Conservation District Guidelines* include a street tree plan that calls for planting several trees that are listed on the City's Nuisance Plants List (part of the Portland Plant List). These include Norway Maple, Single Seed Hawthorne and Globe Locust. When Title 11 becomes effective, planting these trees as street trees will be prohibited.

To address this discrepancy and help avoid confusion among the public and staff who use the Ladd's Addition Guidelines, clarifying amendments are proposed to the Guidelines. The amendments are as follows:

- An addendum located at the beginning of the document that alerts the user to the new City regulation prohibiting the planting of City listed nuisance species and refers them to the City Forester for information on appropriate trees to plant and required permitting.
- A footnote added to the Street Tree Plan guideline reiterating the prohibition on planting nuisance species and indicating that the original street plan should be used as a guide in selecting alternate tree species to maintain the overall historic character of the streetscape as trees are be replaced.

The City Forester has begun the process to identify appropriate replacement trees for the streets of Ladd's Addition. Additional work should occur in the period between code adoption and implementation, to finalize this work with the neighborhood.

In addition, staff recommends a future project to address the discrepancy with the *Ladd's Addition Conservation District Guidelines* in a more comprehensive manner. One option would be to replace the existing street plan in the Guidelines with a conceptual plan and general direction about the form and character of street tree plantings within the District, along with a more specific list of trees recommended for Ladd's Addition that could be maintained by Urban Forestry.

Amend the Ladd's Addition Historic Conservation District Guidelines

Add new page after cover pages, with the following text:

Addendum to Ladd's Addition Historic Conservation District Guidelines

Trees identified as nuisance species in the Portland Plant List may not be planted on any City owned or managed property or right of way (Title 11, Trees). Please consult with the City Forester to determine which tree species are appropriate to plant on City property or as a street tree, and to obtain the required tree planting permit.

Add footnote to Open Space Guideline #8, Street Tree Plan (page 7) as follows:

8. STREET TREE PLAN: A Street Tree Plan adopted by the City for Ladd's Addition governs street tree selection and replacement on each street.[1] Species designated in the plan should be consistent with the character, height, canopy and spacing of a street's original plantings, the width of the parking strip, and the scale and function of the street within the district.

Footnote:

1. Norway Maple, Single Seed Hawthorne, and Globe Locust are identified as nuisance species in the Portland Plant List, and therefore may no longer be planted as a City street tree. This historic street tree plan provides guidance on the selection of trees that may be planted to maintain a similar historic streetscape character over time.

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Exhibit C

Tree Canopy Benefits, Financial Impacts and Budget Proposal

The previous sections of this chapter present the Citywide Tree Project proposal to update, refine, and strengthen existing City tree regulations and related programs and customer service activities.

This section presents the estimated tree canopy benefits and costs to implement the project, and the current budget proposal. Additional information about the financial impacts of the project is provided in the Financial Impact Statement (exhibit to the ordinances)

Tree Canopy Benefits

Introduction

As described in previous chapters, implementing the Citywide Tree Project Recommended Draft proposal will enhance the quantity and the quality of Portland's trees and associated canopy, and helps ensure that current and future tree canopy is distributed and sustained throughout the city.

Specifically, new Title 11 Tree Preservation and Tree Density Standards will encourage preservation of large healthy trees through new development standards an the updated tree permit system. Preserving existing trees will contribute to the management of this important City asset and help protect and reinforce City and community investments in tree planting. Title 11 will also ensure that a baseline amount of trees is maintained through preservation or planting on development sites.

Title 33, Planning and Zoning updates will now emphasize preserving healthy, high quality trees, native trees, and tree groves, and preserving a minimum amount of trees on land division sites. Title 33 amendments will also prompt consideration of tree preservation in the context of Design Reviews and certain Conditional Uses, where appropriate. Title 33 amendments will also ensure that tree protection and tree replacement are addressed more consistently in existing environmental resource overlay zones and specified plan districts.

In non-development situations, the standardized tree permit system will continue to encourage retention of large healthy trees, while providing for more consistent tree replacement across the city. The new prohibition on planting invasive tree species on City property and rights-of-way will support City and community investments in managing invasive plants and adds consistency with existing prohibitions on planting these trees in required landscaping or natural resource areas.

Canopy estimating approaches are described below for the following project recommendations:

- Standardized tree permit system for trees on private property
- Tree preservation and tree density standards applied to development permits
- Trees and land use reviews
- Trees replacement in environmental zone transition and resource areas

In some instances the estimates are for acres of tree canopy preserved ***or*** tree canopy planted to replace or mitigate for trees removed or tree standards not met. In these situations, tree preservation and tree planting are inversely correlated. One can see that the future canopy of trees planted will be greater than the area of canopy generated from trees preserved today. This reflects the proposal to give "extra credit" for preserving existing healthy trees, and to require more than a 1:1 tree replacement ratio. This account for the loss of that asset and the time needed for new trees to provide similar benefits to larger trees. Staff has taken an average of preservation and planting to come up with an overall number to use in project discussions.

Like estimates for the financial impacts of the Citywide Tree Project, the tree canopy estimates have been refined as the project proposal has evolved through the Planning Commission and Urban Forestry Commission hearings process.

Approach

The following describes the general methodologies used to estimate incremental increases in tree canopy associated with the different components of the Citywide Tree Project. Changes in tree canopy would occur due to 1) increased preservation of existing trees, and 2) generation of future canopy through increased tree planting to replace existing trees or meet other requirements.

The scenarios developed to estimate the tree canopy generated each year are intended to be both plausible and conservative, to avoid over-estimating the projections. Therefore, the actual incremental tree canopy increases may be greater than the estimates. Relevant assumptions are also consistent with the assumptions used to evaluate potential financial impacts of the proposal (e.g., future development permit activity).

More Standardized Permit System for Trees on Private Property (Absent Development)

Permit System	Acres Preserved	Future Acres Planted
Single Family Lots		3.4
Currently Regulated Lots	0.35	3.59

Single Family Lots Eligible for the Homeowner Permit

As directed by Council, the more standardized permit system will apply to trees on most lots in the city, including many of the single family lots that are currently exempt

from tree permit requirements. Council has replaced this exemption with a different exemption for lots less than 5000 square feet. As a result, the permit system will address trees on approximately 55 percent more lots than addressed by current system.

Currently the public is relatively unaware of the City's permit requirements for trees on private property. Only about 120 permits per year are filed with the City, while several thousand permits per year are filed for activities related to street trees. If private tree permit applications increased by 2 to 4 times given the additional lots and proposed "call before you cut" outreach campaign, the City would process about 500 permits per year, or 380 more permits than the 120 permits currently processed. (The City of Lake Oswego processes roughly 750 tree permits per year.)

The more standardized permit system will establish a streamlined permit for homeowners, requiring replacement of any tree that is least 20 inches in diameter with another tree. If half of the total permit applications were for trees on these homeowner lots, the updated permit system would require replacement of 250 additional trees per year. If these replacement trees were, on average, medium canopy type trees providing about 600 s.f. of canopy at maturity, this would generate 3.4 additional acres of canopy in the future.

(250 trees planted/year x 600 s.f./tree) / 43,560 s.f. per acre
= 3.4 future canopy acres planted per year

Currently Regulated Lots

The more standardized permit system will streamline current requirements by requiring 1:1 tree replacement for dead, dying and dangerous trees, and nuisance species trees, and up to 4 healthy trees per year between 12 inches and 20 inches in diameter. The City will continue to require up to inch-for-inch replacement for trees larger than 20 inches in diameter and requests to remove more than 4 healthy trees at least 12 inches in diameter.

UF staff reports that currently ~80 percent of the tree removal permit applications are for trees that are dead, dying or dangerous (DDD). If half of the total permit applications were for trees on the currently regulated lots, and 80% of those applications were for removal of DDD trees, the updated permit system would require replacement of 200 unhealthy trees per year. If these replacement trees were, on average, medium canopy type trees providing about 600 s.f. of canopy at maturity, this would generate 2.75 additional acres of canopy in the future.

(200 trees planted/year x 600 s.f. per tree) / 43,560 s.f./acre
= 2.75 future canopy acres planted/year

For the remaining 50 healthy trees, we assume that most of these trees are large trees that are no longer wanted. If half (25) of the trees are less than 20 inches in diameter and qualify for the 1:1 tree replacement, this would generate an additional 0.34 acres.

(25 trees planted/year x 600 s.f. per tree) / 43,560 s.f./acre
= 0.34 future acres planted/year

If the other half (25) of the remaining healthy trees are at least 20 inches in diameter, the City would require somewhere between one replacement tree and an inch-to-inch replacement. Based on City experience the inch-for-inch replacement requirement often acts as an effective deterrent to tree removal. If City required half of the 25 trees to be replaced with 3 trees (12x3=36 replacement trees), and half to be replaced inch for inch which in effect deterred their removal, and the canopy of those existing trees was on average 1,200 s.f., the canopy effect would be:

(36 trees planted/year x 600 s.f. per tree) / 43,560 s.f./acre
= 0.5 future acres planted/year

(13 trees preserved/year x 1,200 s.f. per tree) / 43,560 s.f./acre
= 0.35 canopy acres preserved/year

Tree Preservation and Density Standards (Applied Through Building Permits)

Development	Acres Preserved	Future Acres Planted
Tree Preservation	60	
Tree Density		121

New Title 11 Tree Preservation Standards will apply to all development permits where site disturbance will occur and trees 12 or more inches in diameter are present, with some exceptions for small lots and additions on single family lots less than 10,000 sq. ft..

Consistent with assumptions used to estimate fiscal impact these standards will address approximately 2,250 permits per year. If on average 1 large healthy tree were preserved on these sites, an additional 2,250 trees would be preserved. If the average canopy of an established mature tree was 1,200 square feet, the proposed standards would preserve an additional 62 acres of canopy per year.

(2,250 sites/year X 1,200 s.f. preserved per tree) / 43,560 s.f./acre = 62 acres preserved

Given the City Council's direction to increase the small lot exemption from lots up to 3,000 sq. ft. to lots less than 5,000 sq. ft., this estimate could be reduced slightly since the standards would apply to fewer lots during permitting. Given that less than 3% of the existing canopy is located on lots less than 5000 sq. ft., and the percentage of lot area in the city is less than 5 percent, than the impact of this change should be limited. It was projected for fiscal impact assessment the new Tree Density Standards will apply to 4,400 development permits per year. The standards will vary by development type. Across the development types (excluding open space zones), the tree density standards are projected to establish and maintain canopy coverage for distinct urban land elements (ULE's).

One medium canopy tree will generally be required for each 500 square feet of site area not occupied by buildings. If on average, each of the 4400 permits where tree density standards are applied results in planting two medium canopy trees, the net result would be 121 acres of future canopy.

(4400 permits/year x 2 trees planted x 600 s.f. per tree) / 43,560 s.f./acre
= 121 future acres planted/year

The City Council has directed an exemption from the tree preservation standards and tree density standards for industrial, employment and commercial zones that do not have existing landscaped area standards (i.e., IH, IG1, EX, CX, CS, and CM). Currently, these zones contain only 2.8% of the existing tree canopy in the city. It is not possible at this time to estimate the annual impact of on future canopy of this exemption, however over time the tree density standard would have generated additional canopy on these sites or in the watershed where development takes place, equivalent to about 4.5% of the 34 percent tree canopy target. If land in these zones is fully developed this increment of canopy loss would need to be generated elsewhere in the city.

Tree Preservation and Land Use Reviews

Land Use Reviews	Acres Preserved	Future Acres Planted
Tree Preservation Criteria	5	
• Plus improved quality preservation on 200 sites per year		

The proposed new land division criteria should significantly improve the quality and quantity of tree preservation on more than 165 sites per year. The focus will be on preserving large healthy trees, tree groves and native trees. Additionally, trees on property lines will now be counted toward meeting preservation requirements.

The proposal includes establishing new tree preservation considerations for certain conditional use/master plan and design reviews. It is estimated that this would provide opportunities to preserve trees during an additional 35 reviews per year.

If 2 additional trees were preserved on half of the land division sites (2 trees x 0.5 x 165 sites =165 trees), and 1 additional tree was preserved on half of the conditional use and design review cases (1 tree x 0.5 x 35 sites =17 trees), an additional 182 trees would be preserved each year. Preserving these trees would also help applicants meet the preservation and density standards at time of building permit. If the average canopy of an established mature tree was 1200 square feet, this would preserve an additional 5 acres of canopy per year.

(182 trees preserved/year x 1,200 s.f. per tree) / 43,560 s.f./acre
= 5 acres tree canopy preserved/year)

Tree Replacement in Environmental Zones

Environmental Zones	Acres Preserved	Future Acres Planted
Replacement requirements		4.4
• Plus conversion of nuisance trees to native tree species		

The proposal will clarify that trees in environmental overlay zone transition areas (~1,400 acres) must be replaced with native or non-nuisance species trees. This would apply to trees 6 inches or more in diameter, in both development and non-development situations. Currently these trees are not required to be replaced so the potential impact on tree canopy could be substantial over time.

Assuming only 1 tree per 10 acres of transition area received a permit each year, with requirements to replace with another tree, and the replacement trees were medium canopy type trees (on average), the additional replacement would generate almost 2 more acres of future canopy annually.

(1400 acres) x (1 tree planted/year/ per 10 acres)
= 140 trees planted/year

(140 trees planted/year x 600 s.f. per tree) / 43,560 s.f. /acre
= 1.9 acres future canopy planted/year

Moreover, the proposal clarifies that in the resource areas of environmental zones, replacement trees are required for non-native trees, as well as dead, dying and dangerous trees, and trees located adjacent to structures. These trees are presently exempt from replacement requirements. Replacement trees planted in the resource areas are required to be native species.

Assuming only 1 tree per 100 acres of resource area received a permit each year, with requirements to replace with another tree, and the replacement trees were medium canopy type trees (on average), the additional replacement would generate almost 2.5 more acres of future canopy annually.

(18,000 acres) x (1 tree replaced per 100 acres) = 180 trees replaced/year

(180 trees planted/year x 600 s.f. per tree) / 43,560 s.f. /acre
= 2.5 acres future canopy planted/year

Summary of Estimated Canopy Benefits from Tree Project Proposal*

	Acres Preserved	Future Acres Planted
Tree Permits	0.35	7
Development	62	60-121**
Land Use Reviews	5	
Environmental Zones		4.4
TOTAL	**67.35**	**72 .4 - 132 .4**

* These estimates may change to a limited extent based on amendments approved by the City Council. The estimates should be updated after Council takes final action.
* *The City's current landscaping standards also generate additional tree canopy, however the Tree Density Standards provide assurances that baseline tree capacity is maintained even if landscape standards do not apply or are modified or waived. Trees planted to meet Tree Density Standards may also be used to meet Zoning Code landscaping standards so these rules are complementary and reinforcing. If it is assumed that only half of the additional tree canopy is attributable solely to the Tree Project proposal then the total annual net increase in tree canopy for development would be about 60 acres.

Comparing Tree Canopy Generated By the Tree Project Proposal with Canopy Generated By Tree Planting Alone

	Acres Preserved	Future Acres Planted
Tree Project Proposal (net)	67.35	72.4
City Tree Planting Alone		12.3

During the Planning Commission and Urban Forestry Commission hearings process stakeholders asked how much tree canopy benefit would be generated if the City invested the equivalent of the project implementation costs solely on planting trees.

The ongoing implementation costs of the project proposal are estimated to be $535,000 to support the staffing necessary put these programs into action.

According to Urban Forestry staff, the per tree cost of planting and establishing a 2 inch tree is estimated to be $600:

Tree cost	each/incl. acquisition and delivery	$175
Volunteer planting	1 hr coordinator	$60
Establishment	20 visits X .25 hr for 2 seasons	$375
	Total	$600

By applying the ongoing implementation costs to plant trees instead of administering the proposed regulations, the City could plant approximately 892 trees per year. Assuming the trees were medium canopy type trees (on average), this planting effort would generate approximately 12.3 acres of future canopy annually. However, no trees would be preserved through this approach.

($535,000/$600 per tree)=892 trees

(892 trees planted/year x 600 s.f. per tree) / 43,560 s.f./acre
= 12.3 acres of future canopy planted/year

Considering that the project proposal would generate a total of almost 200 acres of current and future tree canopy, the proposed regulatory programs would achieve over 16 times the amount of tree canopy than City planting efforts alone.

(199.75 acres gross/12.3 acres)=16.24 times more canopy

Accounting for the fact that existing landscaping requirements of the Zoning Code also generate additional tree canopy that could be reflected in the acres planted through development, the net tree canopy that is solely attributable to this proposal remains well over 130 acres per year and more than 10 times the canopy that would be generated than had the City invested an amount equivalent to the project costs to plant trees only. Moreover, City tree plantings tend to be public property, while the proposal will foster equitable distribution of trees on public and private land throughout the city.

(139.75 acres net/12.3 acres)=11.36 times more canopy

Costs and Budget Proposal

Introduction

Although the Citywide Tree Project proposal is intended to streamline and standardize current City programs the proposal also increases the level of service provided by the City and will require a net additional investment to achieve desired benefits.

Together the City bureaus estimated the cost to implement the Tree Project, including changes in workload, staffing, equipment, and professional services. Staff also identified likely funding sources for each element of the proposal.

Approach

Staff assessed the financial impact for:

- Tree Permits in Non-Development Situations
- Trees in Development Situations and Land Use Reviews
- Customer Service and Community Education Projects

First staff itemized the main tasks for these program areas. Additional tasks and/or time associated with the tasks were noted. The additional time was then multiplied by the estimated number of permits or cases to arrive at a total additional time and associated staffing needs per task. FTE (Full Time Equivalents) were translated into salary using appropriate job classifications. Benefits were included at a rate of 40% of salary. Staff was advised that the level of recommended staffing increases should not trigger additional overhead, however, vehicles and technical services costs were accounted for separately.

Land use review, building permit, and tree permit activity assumptions were generally based on historical data provided by BDS and Urban Forestry, and some assumptions as to how this activity could change based on proposed code updates.

The estimates represent the project incremental changes in time spent on tasks affected by the proposal - not the full time spent on that task. For example, BDS land use review staff currently spend time evaluating tree preservation standards and writing findings. An incremental increase in time is estimated only for staff to apply new and updated tree preservation criteria. . Any current deficiencies in staffing are not captured or addressed by this analysis.

Trees in Non-Development Situations

The proposal includes recommendations to update the City's tree permit system for City, Street and Private trees when no development is occurring. The proposal will streamline the system overall by creating the Type A and Type B permits. The addition of a minimum 3 inch diameter threshold for permitting City and Street Trees will also streamline the system. Other recommendations are not expected to increase permit system staffing costs for City and Street Trees.

For private tree removal permits the proposal to extend City permitting authority to all properties in the city, including currently exempt single family lots, will increase staffing needs.

The staffing estimates for the proposed private tree removal permit program reflect an assumed number of permits each year. A range of potential permitting activity was considered to account for uncertainty. The staff and budget estimates summarized below reflect the high end of the range to ensure that fiscal impacts are not underestimated. An increase in permitting activity is expected as the tree removal permit program will apply to more properties. Public outreach is proposed to occur before and after updated requirements become effective, which will increase awareness of the permit program. The staffing estimates do not reflect program efficiencies and economies of scale that are expected as the number of tree permit applications increase and procedures are become routine.

Currently, this City's tree permit system is paid for with general fund dollars. The $35 application fee is charged does not cover the City's to administer the permit, inspect trees, deal with appeals, etc. The proposal is to continue charging a nominal fee for the permit to encourage compliance so the program would not be fee-supported.

Trees in Development Situations

The proposal includes a number of recommendations to better address trees in development situations. Additional staff time will be needed to review, inspect and enforce the proposed standards and criteria related to trees. The proposal will also expand the role of Urban Forestry to provide technical assistance.

Land Use Reviews and Private Development Permits

Staff initially used an annual average case load based on the years 2000 to 2008 for land use reviews and 2004 to 2009 for development permit activity. The data from these higher development years were used to ensure that the fiscal impact is not underestimated if and when development activity increases. Staff also sued caseloads from 2009 to 2010 to estimate changes staff needs and costs during a period of lower development activity. The bureaus estimated the percentage of cases that would be affected by the proposal and additional time spent on individual tasks.

Additional costs are associated with increased Urban Forestry staff review and consultation and increased BDS staff time to apply updated standards and criteria related to trees, and to inspect for compliance with tree-related preservation, planting and protection requirements.

These activities will be funded through modest increases in land use review and development fees. Potential fee increases were estimated by applying the cost of the program across affected permit/case types. The projected fees include staff salaries, benefits and overhead. Some fees could be pro-rated based on project value or procedure type so that simpler projects pay a lower fee and more complicated projects pay a higher fee. Preliminary estimates of development fees

show ranges between $50 and $60 for building permits. For land use reviews, fees could range from $60 to $70, to several hundred dollars, depending on how they are applied across cases. BDS and Parks will propose specific fees for City Council adoption.

Capital Improvement Projects and Public Works

The Citywide Tree Project proposal standardizes current infrastructure bureau practice for involving Urban Forestry when public projects are likely to affect trees. Staff estimated the costs for more routine and frequent coordination between Urban Forestry and the infrastructure bureaus or more projects. Costs were also estimated for additional surveying and CADD time to identify trees within and adjacent to the project area on plan sheets. When considered in relation to the overall budget for capital projects, the increase is expected to be minor.

Infrastructure bureau staff also noted that the proposal could result in increased construction costs for City projects in order to avoid impacting trees. These potential costs should be acknowledged, but because they would not be routine and would be very difficult to anticipate or quantify, they have not been estimated in this fiscal impact assessment.

Required mitigation for tree removal could also increase the cost of some CIP projects. However, mitigation requirements are generally equal to or less than current requirements. The proposal will also allow City projects to plant replacement trees on another site in the same watershed, rather than requiring payments for required mitigation. This flexibility should make it possible for most City projects to mitigate without significant cost increases.

Customer Service and Community Education

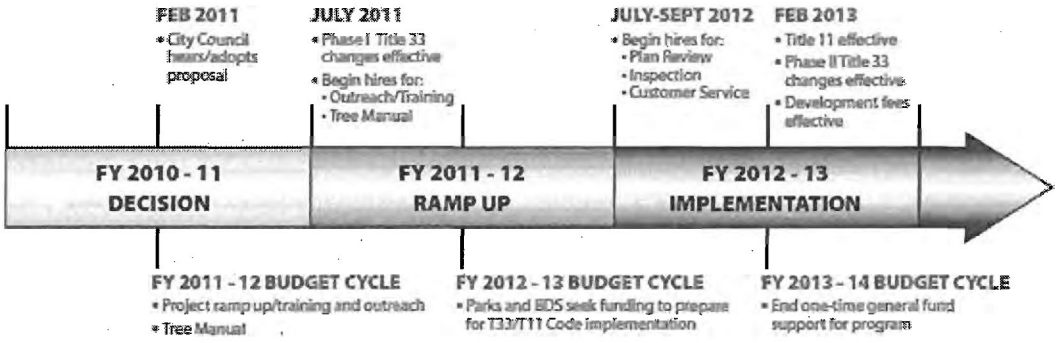
The bureaus worked together to generate projected costs and staffing for customer service improvements as described in previous report sections,.

To summarize, the primary implementers of the Tree Project proposal, the Bureau of Development Services (BDS) and the Urban Forestry Division of Portland Parks and Recreation will need additional staff resources to administer and enforce the new tree regulations and provide a single point of contact for the public. There are also additional one-time costs for staffing and services to upgrade the TRACS permitting system, pilot a 24 hour Tree Hotline, and pay for new permit review and inspection staff until sufficient development fee revenue has accrued to allow the BDS to shift to fee-based funding. Other infrastructure bureaus (Water, BES and PBOT) will also experience relatively minor cost increases to address trees more systematically in conjunction with City capital improvement and public works projects.

During the Planning Commission and Urban Forestry Commission hearings the Citywide Tree Project proposal was revised to reduce complexity and implementation costs. Ongoing costs were reduced by 43 percent, and total costs by 33 percent. For example the commissions approved the use of spot-check approach for tree-related inspections to reduce costs, at least for the near term.

In addition, the commissions approved a phased project implantation strategy and funding strategy. The phased approach will provide time to prepare for the new codes to go into effect, including development of informational materials for staff and the public, conducting public outreach, upgrading the TRACS tree permit tracking system, and producing the community tree manual. This approach also allows the initial start up costs to be gradually spread over a longer period, reducing the burden on annual budget. The phased project implementation strategy is outlined below, followed by the three sets Budget Proposal Summary Tables. The first set of tables was submitted to Council in the Recommended Draft to Council (December 2010). The second and third sets of tables represent 2 updated budget estimates that are also provided as attachments in the updated Financial Impact Statement (Exhibit D). Both reflect reduced costs for FY 11-12 and FY 12-13 relative to the December 2010 proposal. Cost reductions are based eliminating funding for the tree manual in FY 11-12 and scaling staffing costs to reflect anticipated mid-year hiring in FY 12-13. Additional costs reductions could be achieved by deferring portions of the tree permit program as shown in Option 2. Note that in each of these scenarios, much of the one-time funding needed for projects and ramp up activities in the first two fiscal years will end or shift to fee supported funding for ongoing program implementation.

- **Decision (spring 2011) - City Council adopts the project proposal** and implementation strategy; directs the bureaus to budget for Phase I program activities.



- **Phase I (Fiscal Year 2011-12) – "Ramp Up", Tree Manual , Phase I T33 Improvements**
    a. City Council approves one-time general funds for project "ramp up" activities, i.e., permit tracking system upgrades, staffing in the Bureaus of Parks and Recreation and Development Services to develop administrative procedures and information on the new development standards and tree permit requirements
    b. Cost-neutral Title 33, Planning and Zoning amendments effective July 2011

- **Phase II (Fiscal Year 2012-13) - Implementation "Transition"**
    a. City Council approves increases in development and land use review fees and allocates general fund for staff to administer Title 11, Trees and remaining Title 33, Planning and Zoning improvements, to purchase vehicles for new tree inspectors, to hire the single point of contact, and to launch 24-hour tree hotline pilot project.
    b. In this first year of implementation, fees will need to accrue before fee supported staff can be hired. For this reason, the proposal reflects one time support of these positions through the general fund, the Urban Forestry Fund, or another alternate source. After this first year, sufficient reserves should be available to support the required staffing.

c. Title 11, Trees, and remaining amendments to Title 33, Planning and Zoning and other City titles are effective February 1, 2013, unless deferred based on funding availability

d. Code and program monitoring begins.

- **Phase III (Fiscal Year 2013-14 and future) - Ongoing Program Implementation**

a. One-time general fund allocations are terminated

b. Code and program monitoring continues

Budget Proposal Summary Table – Recommended Draft to Council (Dec, 2010)

FY 2011 - 2012

Program Start Up	Use of Funds			Total	Source of Funds				
	Bureau	Use	FTE		GF - OG	time	Fees	CIP	UF Fund
Program Organization and Start-up									
PPR Functions	Parks	Botanic Spec II	0.5	$48,000		$48,000			
BDS Functions	BDS	Planner II	0.5	$47,000		$47,000			
TRACS upgrade – Tree permits									
PTE	Parks	Contract		$32,000		$32,000			
Tree Manual									
Project manager	Parks	Botanic Spec II	0.5	$48,000		$48,000			
"Code Made Easy" Content	BDS	Planner II	0.5	$47,000		$47,000			
"Watershed Services" Content	BES	Program Specialist	0.5	$0					
PTE, M&S	Parks	Contract		$40,000		$40,000			
TOTAL			**2.5**	**$262,000**		**$262,000**			

FY 2012 - 2013

Year 1 of Full Program	Use of Funds			Total	Source of Funds				
	Bureau	Use	FTE		GF - OG	GF 1-time	Fees	CIP	UF Fund
Land Use Reviews									
Application Review	BDS	Planner II	0.5	$0					
Arborist Consultation	Parks	Tree Inspector	0.2	$17,000			$17,000		
Building Permits									
Plan Review	BDS	Planner II	1.0	$95,000		$95,000			
Building Permit Inspection	BDS	Tree Inspector	1.0	$85,000					$85,000
Capital and Public Works Projects									
CIP/PW Plan Preparation	Water, BOT,BES	Survey/CADD	0.5	$90,000				$90,000	
CIP/PW Review/Inspection	Parks	Tree Inspector	0.3	$25,000				$25,000	
Tree Permit Program									
Tree Permit Inspector	Parks	Tree Inspector	1.0	$85,000	$85,000				
Vehicles and Equipment				$60,000		$60,000			
Single Point of Contact/Permit Assistance									
Delta Park Location	Parks	Botanic Spec I	1.0	$91,000	$91,000				
24 hour Hotline (pilot)									
Spill Response Line	BES	Overtime (existing staff)		$10,000		$10,000			
TOTAL			**5.5**	**$558,000**	**$176,000**	**$165,000**	**$17,000**	**$115,000**	**$85,000**

FY 2013 - 2014 and future years ongoing

On-going of Full Program	Use of Funds			Total	Source of Funds				
	Bureau	Use	FTE		GF - OG	GF 1-time	Fees	CIP	UF Fund
Land Use Reviews									
Application Review	BDS	Planner II	0.5	$47,000			$47,000		
Arborist Consultation	Parks	Tree Inspector	0.2	$17,000			$17,000		
Building Permits									
Plan Review	BDS	Planner II	1.0	$95,000			$95,000		
Building Permit Inspection	BDS	Tree Inspector	1.0	$85,000			$85,000		
Capital and Public Works Projects									
CIP/PW Plan Preparation	Water, BOT,BES	Survey/CADD	0.5	$90,000				$90,000	
CIP/PW Review/Inspection	Parks	Tree Inspector	0.3	$25,000				$25,000	
Tree Permit Program									
Tree Permit Inspector	Parks	Tree Inspector	1.0	$85,000	$85,000				
Single Point of Contact/Permit Assistance									
Delta Park Location	Parks	Botanic Spec I	1.0	$91,000	$91,000				
TOTAL			**5.5**	**$535,000**	**$176,000**	**$0**	**$244,000**	**$115,000**	**$0**

Attachment 1 - Modified Tree Project Budget Proposal #1

~~Red~~ = cut Green = reduction Blue = shift/increase (from 12/2010 Recommended Draft)

FY 2011 - 2012 [Project Ramp Up; absorb/scale initial Tree Manual, shift TRACS funding to Tree Fund]

Program Start Up	Use of Funds			Total	Source of Funds					
	Bureau	Use	FTE		GF - OG	GF 1-time	Fees	CIP	Tree Fund	BES Rates
Program Organization and Start-up										
PPR Functions	Parks	Botanic Spec II	0.50	$48,000		$48,000				
BDS Functions	BDS	Planner II	0.50	$47,000		$47,000				
TRACS upgrade – Tree permits										
PTE	Parks	Contract		$32,000		$9,000			$23,000	
Tree Manual										
Project manager	Parks	Botanic Spec II	~~0.50~~	~~$48,000~~		~~$48,000~~				
"Code Made Easy" Content	BDS	Planner II	0.50	$47,000		$47,000				
"Watershed Services" Conte	BES	Program Specialis	~~0.50~~	~~$0~~						
PTE, M&S	Parks	Contract		~~$40,000~~		~~$40,000~~				
TOTAL			1.00	$127,000		$104,000			$23,000	
12/2010 Draft Budget			*2.50*	*$262,000*	*$0*	*$262,000*	*$0*	*$0*	*$0*	*$0*

FY 2012 - 2013 [costs scaled to reflect January 1, 2013 staff hire date & Feb 2013 effective date for T11, Phase 2 T33 amendments, 24-hr hotline]

Year 1 of Full Program	Use of Funds			Total	Source of Funds					
	Bureau	Use	FTE		GF - OG	GF 1-time	Fees	CIP	Tree Fund	BES Rates
Land Use Reviews										
Application Review	BDS	Planner II (Jan.)	0.25	$0						
Arborist Consultation	Parks	Tree Insp. (Feb.)	0.05	$4,250			$4,250			
Building Permits										
Plan Review	BDS	Planner II (Jan.)	0.50	$47,500		$47,500				
Building Permit Inspection	BDS	Tree Insp (Jan.)	0.50	$42,500		$42,500			~~$85,000~~	
Capital and Public Works Projects										
CIP/PW Plan Preparation	Water, BOT,BES	Survey/CADD(Feb.)	0.13	$23,400				$23,400		
CIP/PW Review/Inspection	Parks	Tree Insp. (Feb.)	0.08	$6,800				$6,800		
Tree Permit Program										
Tree Permit Inspector	Parks	Tree Insp (Jan.)	0.50	$42,500	$42,500					
Vehicles and Equipment (2 vehicles BDS & UF)				$60,000		$60,000				
Single Point of Contact/Permit Assistance										
Delta Park Location	Parks	Bot. Spec I (Jan.)	0.50	$45,500	$45,500					
24 hour Hotline (pilot)										
Spill Response Line	BES	Existing Staff OT (Feb.)		$4,000		~~$10,000~~				$4,000
TOTAL			2.50	$276,450	$88,000	$150,000	$4,250	$30,200	$0	$4,000
12/2010 Draft Budget			*5.50*	*$558,000*	*$176,000*	*$165,000*	*$17,000*	*$115,000*	*$85,000*	*$0*

FY 2013 - 2014 and future [Remaining 1-time adds shift to ongoing and fees, 24-Hour Pilot extended 1 year]

On-going of Full Program	Use of Funds			Total	Source of Funds					
	Bureau	Use	FTE		GF - OG	GF 1-time	Fees	CIP	Tree Fund	BES Rates
Land Use Reviews										
Application Review	BDS	Planner II	0.50	$47,000			$47,000			
Arborist Consultation	Parks	Tree Inspector	0.20	$17,000			$17,000			
Building Permits										
Plan Review	BDS	Planner II	1.00	$95,000			$95,000			
Building Permit Inspection	BDS	Tree Inspector	1.00	$85,000			$85,000			
Capital and Public Works Projects										
CIP/PW Plan Preparation	Water, BOT,BES	Survey/CADD	0.50	$90,000				$90,000		
CIP/PW Review/Inspection	Parks	Tree Inspector	0.30	$25,500				$25,500		
Tree Permit Program										
Tree Permit Inspector	Parks	Tree Inspector	1.00	$85,000	$85,000					
Single Point of Contact/Permit Assistance										
Delta Park Location	Parks	Botanic Spec I	1.00	$91,000	$91,000					
24 hour Hotline (pilot)										
Spill Response Line	BES	Existing Staff OT		$10,000						$10,000
TOTAL			5.50	$545,500	$176,000	$0	$244,000	$115,500	$0	$10,000
12/2010 Draft Budget			*5.50*	*$535,000*	*$176,000*	*$0*	*$244,000*	*$115,000*	*$0*	*$0*

Attachment 2 - Modified Tree Project Budget Proposal Scenario

~~Red~~ = cut Green = reduction Blue = shift/increase (from 12/2010 Recommended Draft)

FY 2011 - 2012 [Defer/absorb Tree Manual, shift TRACS funding to Tree Fund]

Program Start Up	Use of Funds			Total	Source of Funds					
	Bureau	Use	FTE		GF - OG	GF 1-time	Fees	CIP	Tree Fund	BES Rates
Program Organization and Start-up										
PPR Functions	Parks	Botanic Spec II	0.50	$48,000		$48,000				
BDS Functions	BDS	Planner II	0.50	$47,000		$47,000				
TRACS upgrade – Tree permits										
PTE	Parks	Contract		$32,000		$9,000			$23,000	
Tree Manual										
Project manager	Parks	Botanic Spec II	~~0.50~~	~~$48,000~~		~~$48,000~~				
"Code Made Easy" Content	BDS	Planner II	~~0.50~~	~~$47,000~~		~~$47,000~~				
"Watershed Services" Conte	BES	Program Specialis	0.50	$0						
PTE, M&S	Parks	Contract		~~$40,000~~		~~$40,000~~				
TOTAL			1.00	$127,000		$104,000			$23,000	
12/2010 Draft Budget			*2.50*	*$262,000*	*$0*	*$262,000*	*$0*	*$0*	*$0*	*$0*

FY 2012 - 2013 [costs scaled to reflect January 1, 2013 staff hire date, permits for SFR lots <10,000s.f. and SPoC deferred to July 1, 2013]

Year 1 of Full Program	Use of Funds			Total	Source of Funds					
	Bureau	Use	FTE		GF - OG	GF 1-time	Fees	CIP	Tree Fund	BES Rates
Land Use Reviews										
Application Review	BDS	Planner II (Jan.)	0.25	$0						
Arborist Consultation	Parks	Tree Insp. (Feb)	0.05	$4,250			$4,250			
Building Permits										
Plan Review	BDS	Planner II (Jan.)	0.50	$47,500		$47,500				
Building Permit Inspection	BDS	Tree Insp (Jan.)	0.50	$42,500		$42,500			$85,000	
Capital and Public Works Projects										
CIP/PW Plan Preparation	Water, BOT,BES	Survey/CADD(Feb)	0.13	$23,400				$23,400		
CIP/PW Review/Inspection	Parks	Tree Insp. (Feb)	0.08	$6,800				$6,800		
Tree Permit Program										
Tree Permit Inspector	Parks	Tree Inspector	1.00	$85,000	$85,000					
Vehicles and Equipment (1 vehicle for BDS Insp.)				$30,000		$30,000				
Single Point of Contact/Permit Assistance										
Delta Park Location	Parks	Botanic Spec I	1.00	$91,000	$91,000					
24 hour Hotline (pilot)										
Spill Response Line	BES	Existing Staff OT (Feb.)		$4,000		~~$10,000~~				$4,000
TOTAL			1.50	$158,450	$0	$120,000	$4,250	$30,200	$0	$4,000
12/2010 Draft Budget			*5.50*	*$558,000*	*$176,000*	*$165,000*	*$17,000*	*$115,000*	*$85,000*	*$0*

FY 2013 - 2014 and future [Homeowner Permit and SPoC are implemented, 24-Hour Pilot extended for full year]

On-going of Full Program	Use of Funds			Total	Source of Funds					
	Bureau	Use	FTE		GF - OG	GF 1-time	Fees	CIP	Tree Fund	BES Rates
Land Use Reviews										
Application Review	BDS	Planner II	0.50	$47,000			$47,000			
Arborist Consultation	Parks	Tree Inspector	0.20	$17,000			$17,000			
Building Permits										
Plan Review	BDS	Planner II	1.00	$95,000			$95,000			
Building Permit Inspection	BDS	Tree Inspector	1.00	$85,000			$85,000			
Capital and Public Works Projects										
CIP/PW Plan Preparation	Water, BOT,BES	Survey/CADD	0.50	$90,000				$90,000		
CIP/PW Review/Inspection	Parks	Tree Inspector	0.30	$25,500				$25,500		
Tree Permit Program										
Tree Permit Inspector	Parks	Tree Inspector	1.00	$85,000	$85,000					
Vehicles and Equipment (1 vehicle for UF Insp.)				$30,000		$30,000				
Single Point of Contact/Permit Assistance										
Delta Park Location	Parks	Botanic Spec I	1.00	$91,000	$91,000					
24 hour Hotline (pilot)										
Spill Response Line	BES	Existing Staff OT		$10,000						$10,000
TOTAL			5.50	$575,500	$176,000	$30,000	$244,000	$115,500	$0	$10,000
12/2010 Draft Budget			*~~5.50~~*	*$535,000*	*$176,000*	*$0*	*$244,000*	*$115,000*	*$0*	*$0*

EXHIBIT D

City of Portland, Oregon

FINANCIAL IMPACT STATEMENT
For Council Action Items

(Deliver original to Financial Planning Division. Retain copy.)

1. Name of Initiator Roberta Jortner		2. Telephone No. 503.823.7855	3. Bureau/Office/Dept. Planning & Sustainability
4a. To be filed (date)	4b. Calendar (Check One) Regular X / Consent ☐ / 4/5ths ☐	5. Date Submitted to FPD Budget Analyst:	

1) Legislation Title: Citywide Tree Policy Review and Regulatory Improvement Project

Amend and consolidate existing tree regulations into new Code Title 11, Trees, adopt companion amendments in other Titles, and direct the establishment of customer service improvements and implementation funding (Ordinance; add Code Title 11 and amend related Titles)

2) Purpose of the Proposed Legislation: Create clear, consistent, cohesive regulatory framework to address trees in Portland and to protect and enhance the urban forest by:

1. **SUBJECT OF THIS ORDINANCE: Updating City regulations relating to the Urban Forestry Program and trees in development and non-development situations, and consolidating these regulations into a new City code title – Title 11, Trees. Title 11 contains provisions to authorize the City's Urban Forestry Commission and Urban Forestry Program, standardizes the City's tree permit system and enforcement procedures, establishes new tree preservation and tree density standards that apply through development permits, and establishes technical specifications and definitions. Title 11 clarifies that trees on the City's Nuisance Plants List may not be planted on City property or rights of way.**

2. **TO BE ADOPTED THROUGH SEPARATE ORDINANCE**: Amendments are proposed to the existing Intergovernmental Agreement to Transfer Land Use Planning Responsibilities between the City of Portland and Multnomah County, to address the administration of tree-regulations that apply in situations requiring a development permit.

3. **TO BE ADOPTED THROUGH SEPARATE ORDINANCE**: Updating City land use regulations in Title 33 to improve tree preservation and tree planting in land divisions and other specified land use reviews, to encourage tree preservation through new flexible development standards, and improving consistency of tree regulations in specified overlay zones and plan districts. Amendments to the Ladd's Addition Conservation District Guidelines are proposed to clarify that the prohibition on planting nuisance species trees applies and that the street plan guidelines will inform the selection of species to replace nuisance species street trees in the future.

3. **SUBJECT OF THIS ORDINANCE**: Taking actions to improve customer service and access to tree-related information including upgrading the City's tree permit tracking system and establishing a single point of contact to assist the public, a 24-hour tree hotline pilot project, and a community tree manual.

3) Revenue:

Will this legislation generate or reduce current or future revenue coming to the City? If so, by how much? If new revenue is generated please identify the source. While intended to improve program efficiency and cost-effectiveness, this legislation does not, in itself generate or reduce current or future revenues for the City. Portions of the program are envisioned to be funded by increases in tree permit, development and land use fees, however changes to fee schedules would be done through separate legislation

4) Expense:

What are the costs to the City as a result of this legislation? What is the source of funding for the expense? *(Please include costs in the current fiscal year as well as costs in future years) (If the action is related to a grant or contract please include the local contribution or match required)*

The estimated costs to prepare for and implement the project proposal are shown in Attachments 1 and 2. The attachments represent two potential cost and funding scenarios, both showing changes in cost compared to the Financial Impact Statement submitted as an exhibit to ordinances contained in Volumes 3 and 4 of the Recommended Draft to Council (December 2010). In addition, these costs do not reflect amendments that City Council has approved 'in concept' on March 9, 2011, and that have the potential to affect workload. These amendments are listed blow, with an initial estimate of the general direction of impact on workload.

Council Tentative Direction on 3/9/11

Tree Permits

1. New exemption for lots less then 5,000 sq. ft. - workload reduction

2. Eliminating the street tree pruning permit - workload neutral (shift resources to monitoring/enforcement)

3. Adding a programmatic permit option where the City may allow removal of trees larger than 6" diameter with opportunity for public appeal - workload increase

Development Situations

4. Counting street trees toward on-site tree density requirements on lots <3,000 sq. ft. - workload neutral

5. Increasing tree preservation lot size exemption from 3000 to <5000 sq. ft.; changing building coverage exemption from 90% to 85% - both workload reductions

6. Adding tree preservation exemption for sites in several industrial, commercial and employment zones - workload reduction

7. Establishing Comprehensive Natural Resource Management Plans - workload redistribution/reduction

Two scenarios are provided to reflect the fact that certain decisions for staffing and funding will be best made closer to the proposed implementation date.

Attachment 1 outlines the services and cost as follows:

a. FY 2011-2012 – Funding for tree permit tracking system upgrades, "ramp up" for new code, and – Source: one-time general fund. (Cost for the Community Tree Manual will be absorbed and the project scaled to comport with existing staff resources.)
b. FY 2012-13 – Funding to staff and implement Title 11, phase 2 Title 33 amendments, vehicles purchase, single point of contact, 24-hour hotline pilot; amendments to Ladd's Addition Conservation District Guidelines – mix of one-time and ongoing general fund, development and land use review fees, capital improvement project dollars, Urban Forest fund
c. FY 2013-14 – Funding for ongoing program activities (code administration and enforcement) – ongoing general fund, capital improvement project dollars, development and land use review fees

Attachment 2 reflects a scenario where the costs for the single point of contact and an additional tree inspector (and vehicle) needed to implement the updated Private Tree Removal permit system are deferred to 2014. In actuality, before the FY 12-13 budget process the Bureau of Parks and Recreation (Parks) will determine whether additional General Fund is needed to support these services in FY 12-13, or whether these costs can be deferred to FY 13-14 or covered by an alternative funding source. Parks consider potential savings associated with streamlining of permitting procedures and any potential increases in efficiency or funding opportunities identified during an upcoming discussion of implementation issues and opportunities. If insufficient funding is available Parks could elect to defer program elements such as the new permit requirement for single family zoned lots. Similarly the Bureau of Development Services will consider its funding availability. If insufficient funding is available BDS might need to scale back services such as inspections for the Title 11 tree preservation and density standards.

Staffing Requirements:

5) Will any positions be created, eliminated or re-classified in the current year as a result of this legislation? *(If new positions are created please include whether they will be part-time, full-time, limited term or permanent positions. If the position is limited term please indicate the end of the term.)* - None.

6) Will positions be created or eliminated in *future years* as a result of this legislation? - Positions proposed to be created in future years, and budget proposal, are shown in Attachments 1 and 2 (see explanation in 4) above.

Complete the following section if you are accepting and appropriating a grant via ordinance. This section should only be completed if you are adjusting total appropriations, which currently only applies to grant ordinances.

7) Change in Appropriations *(If the accompanying ordinance amends the budget, please reflect the dollar amount to be appropriated by this legislation. If the appropriation includes an interagency agreement with another bureau, please include the partner bureau budget adjustments in the table as well. Include the appropriate cost elements that are to be loaded by the Grants Office and/or Financial Planning. Use additional space if needed.)*

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

APPROPRIATION UNIT HEAD (Typed name and signature)

Attachment 1 - Modified Tree Project Budget Proposal #1

~~Red~~ = cut Green = reduction Blue = shift/increase (from 12/2010 Recommended Draft)

FY 2011 - 2012 [Project Ramp Up; absorb/scale initial Tree Manual, shift TRACS funding to Tree Fund]

Program Start Up	Use of Funds			Total	Source of Funds					
	Bureau	Use	FTE		GF - OG	GF 1-time	Fees	CIP	Tree Fund	BES Rates
Program Organization and Start-up										
PPR Functions	Parks	Botanic Spec II	0.50	$48,000		$48,000				
BDS Functions	BDS	Planner II	0.50	$47,000		$47,000				
TRACS upgrade – Tree permits										
PTE	Parks	Contract		$32,000		$9,000			$23,000	
Tree Manual										
Project manager	Parks	Botanic Spec II	~~0.50~~	~~$48,000~~		~~$48,000~~				
"Code Made Easy" Content	BDS	Planner II	~~0.50~~	~~$47,000~~		~~$47,000~~				
"Watershed Services" Conte	BES	Program Specialis	~~0.50~~	~~$0~~						
PTE, M&S	Parks	Contract		~~$40,000~~		~~$40,000~~				
TOTAL			1.00	$127,000		$104,000			$23,000	
12/2010 Draft Budget			*2.50*	*$262,000*	*$0*	*$262,000*	*$0*	*$0*	*$0*	*$0*

FY 2012 - 2013 [costs scaled to reflect January 1, 2013 staff hire date & Feb 2013 effective date for T11, Phase 2 T33 amendments, 24-hr hotline]

Year 1 of Full Program	Use of Funds			Total	Source of Funds					
	Bureau	Use	FTE		GF - OG	GF 1-time	Fees	CIP	Tree Fund	BES Rates
Land Use Reviews										
Application Review	BDS	Planner II (Jan.)	0.25	$0						
Arborist Consultation	Parks	Tree Insp. (Feb.)	0.05	$4,250			$4,250			
Building Permits										
Plan Review	BDS	Planner II (Jan.)	0.50	$47,500		$47,500				
Building Permit Inspection	BDS	Tree Insp (Jan.)	0.50	$42,500		$42,500			~~$85,000~~	
Capital and Public Works Projects										
CIP/PW Plan Preparation	Water, BOT,BES	Survey/CADD(Feb.)	0.13	$23,400				$23,400		
CIP/PW Review/Inspection	Parks	Tree Insp. (Feb.)	0.08	$6,800				$6,800		
Tree Permit Program										
Tree Permit Inspector	Parks	Tree Insp (Jan.)	0.50	$42,500	$42,500					
Vehicles and Equipment (2 vehicles BDS & UF)				$60,000		$60,000				
Single Point of Contact/Permit Assistance										
Delta Park Location	Parks	Bot. Spec I (Jan.)	0.50	$45,500	$45,500					
24 hour Hotline (pilot)										
Spill Response Line	BES	Existing Staff OT (Feb.)		$4,000		$10,000				$4,000
TOTAL			2.50	$276,450	$88,000	$150,000	$4,250	$30,200	$0	$4,000
12/2010 Draft Budget			*5.50*	*$558,000*	*$176,000*	*$165,000*	*$17,000*	*$115,000*	*$85,000*	*$0*

FY 2013 - 2014 and future [Remaining 1-time adds shift to ongoing and fees, 24-Hour Pilot extended 1 year]

On-going of Full Program	Use of Funds			Total	Source of Funds					
	Bureau	Use	FTE		GF - OG	GF 1-time	Fees	CIP	Tree Fund	BES Rates
Land Use Reviews										
Application Review	BDS	Planner II	0.50	$47,000			$47,000			
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Building Permits										
Plan Review	BDS	Planner II	1.00	$95,000			$95,000			
Building Permit Inspection	BDS	Tree Inspector	1.00	$85,000			$85,000			
Capital and Public Works Projects										
CIP/PW Plan Preparation	Water, BOT,BES	Survey/CADD	0.50	$90,000				$90,000		
CIP/PW Review/Inspection	Parks	Tree Inspector	0.30	$25,500				$25,500		
Tree Permit Program										
Tree Permit Inspector	Parks	Tree Inspector	1.00	$85,000	$85,000					
Single Point of Contact/Permit Assistance										
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24 hour Hotline (pilot)										
Spill Response Line	BES	Existing Staff OT		$10,000						$10,000
TOTAL			5.50	$545,500	$176,000	$0	$244,000	$115,500	$0	$10,000
12/2010 Draft Budget			*5.50*	*$535,000*	*$176,000*	*$0*	*$244,000*	*$115,000*	*$0*	*$0*

Attachment 2 - Modified Tree Project Budget Proposal Scenario

~~Red~~ = cut Green = reduction Blue = shift/increase (from 12/2010 Recommended Draft)

FY 2011 - 2012 [Defer/absorb Tree Manual, shift TRACS funding to Tree Fund]

Program Start Up	Use of Funds			Total	Source of Funds					
	Bureau	Use	FTE		GF - OG	GF 1-time	Fees	CIP	Tree Fund	BES Rates
Program Organization and Start-up										
PPR Functions	Parks	Botanic Spec II	0.50	$48,000		$48,000				
BDS Functions	BDS	Planner II	0.50	$47,000		$47,000				
TRACS upgrade – Tree permits										
PTE	Parks	Contract		$32,000		$9,000			$23,000	
Tree Manual										
Project manager	Parks	Botanic Spec II	~~0.50~~	~~$48,000~~		~~$48,000~~				
"Code Made Easy" Content	BDS	Planner II	0.50	$47,000		$47,000				
"Watershed Services" Conte	BES	Program Specialis	0.50	$0						
PTE, M&S	Parks	Contract		$40,000		$40,000				
TOTAL			1.00	$127,000		$104,000			$23,000	
12/2010 Draft Budget			*2.50*	*$262,000*	*$0*	*$262,000*	*$0*	*$0*	*$0*	*$0*

FY 2012 - 2013 [costs scaled to reflect January 1, 2013 staff hire date, permits for SFR lots <10,000s.f. and SPoC deferred to July 1, 2013]

Year 1 of Full Program	Use of Funds			Total	Source of Funds					
	Bureau	Use	FTE		GF - OG	GF 1-time	Fees	CIP	Tree Fund	BES Rates
Land Use Reviews										
Application Review	BDS	Planner II (Jan.)	0.25	$0						
Arborist Consultation	Parks	Tree Insp. (Feb)	0.05	$4,250			$4,250			
Building Permits										
Plan Review	BDS	Planner II (Jan.)	0.50	$47,500		$47,500				
Building Permit Inspection	BDS	Tree Insp (Jan.)	0.50	$42,500		$42,500			~~$85,000~~	
Capital and Public Works Projects										
CIP/PW Plan Preparation	Water, BOT,BES	Survey/CADD(Feb)	0.13	$23,400				$23,400		
CIP/PW Review/Inspection	Parks	Tree Insp. (Feb)	0.08	$6,800				$6,800		
Tree Permit Program										
Tree Permit Inspector	Parks	Tree Inspector	~~1.00~~	~~$85,000~~	~~$85,000~~					
Vehicles and Equipment (1 vehicle for BDS Insp.)				$30,000		$30,000				
Single Point of Contact/Permit Assistance										
Delta Park Location	Parks	Botanic Spec I	~~1.00~~	~~$91,000~~	~~$91,000~~					
24 hour Hotline (pilot)										
Spill Response Line	BES	Existing Staff OT (Feb.)		$4,000		~~$10,000~~				$4,000
TOTAL			1.50	$159,450	$0	$120,000	$4,250	$30,200	$0	$4,000
12/2010 Draft Budget			*5.50*	*$558,000*	*$176,000*	*$165,000*	*$17,000*	*$115,000*	*$85,000*	*$0*

FY 2013 - 2014 and future [Homeowner Permit and SPoC are implemented, 24-Hour Pilot extended for full year]

On-going of Full Program	Use of Funds			Total	Source of Funds					
	Bureau	Use	FTE		GF - OG	GF 1-time	Fees	CIP	Tree Fund	BES Rates
Land Use Reviews										
Application Review	BDS	Planner II	0.50	$47,000			$47,000			
Arborist Consultation	Parks	Tree Inspector	0.20	$17,000			$17,000			
Building Permits										
Plan Review	BDS	Planner II	1.00	$95,000			$95,000			
Building Permit Inspection	BDS	Tree Inspector	1.00	$85,000			$85,000			
Capital and Public Works Projects										
CIP/PW Plan Preparation	Water, BOT,BES	Survey/CADD	0.50	$90,000				$90,000		
CIP/PW Review/Inspection	Parks	Tree Inspector	0.30	$25,500				$25,500		
Tree Permit Program										
Tree Permit Inspector	Parks	Tree Inspector	1.00	$85,000	$85,000					
Vehicles and Equipment (1 vehicle for UF Insp.)				$30,000		$30,000				
Single Point of Contact/Permit Assistance										
Delta Park Location	Parks	Botanic Spec I	1.00	$91,000	$91,000					
24 hour Hotline (pilot)										
Spill Response Line	BES	Existing Staff OT		$10,000						$10,000
TOTAL			5.50	$575,500	$176,000	$30,000	$244,000	$115,500	$0	$10,000
12/2010 Draft Budget			*5.50*	*$535,000*	*$176,000*	*$0*	*$244,000*	*$115,000*	*$0*	*$0*

Exhibit E
Amendments to Citywide Tree Project December 2010 Recommended Draft

Title 33 Planning and Zoning and Ladd's Addition Conservation District Guidelines

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Title 33, Planning and Zoning - Discussion Item Amendments

Item No.	Code Ref. (Page No.)	Description Notes "Page No." refers to the page number in the Title 33 portion of Volume 4 of the Dec, 2010 Recommended Draft	Staff Recommendation Amendments proposed in the Dec, 2010 Recommended Draft are shown in **single** underline and ~~strikethrough~~. Revisions to the Recommended Draft that add or delete language are shown with **double** underline or ~~strikethrough~~. Language previously proposed to be added that is being deleted is shown with ~~underline/strikethrough~~.
1	33.110.235.C.3 (p.9)	**Required outdoor area.** Delete the proposed "flexible development standard" that would allow the required outdoor area to be located partially in the front setback when a tree is preserved in the front setback. City Council directed this amendment to be included on 3/9/11 due to concerns about the possible loss of private defensible outdoor space due to this provision. Delete related commentary.	Delete the amendment proposed in the Dec, 2010 draft, as shown below: **33.110.235.C Required Outdoor Areas - Requirements** 3. Location. General landscaped areas which are included as part of the required outdoor area may extend into the required side and rear building setback~~., but the~~ The required outdoor area may ~~not~~ extend into the front setback up to one-half the depth of the setback ~~be located in the front building setback~~ if at least one tree that is at least 12 inches in diameter is proposed to be preserved within the front setback. Result is no amendment to existing code, shown below: **33.110.235.C Required Outdoor Areas - Requirements** 3. General landscaped areas which are included as part of the required outdoor area may extend into the required side and rear building setback, but the required outdoor area may not be located in the front building setback.
2	33.630.200.A *(renumbered from 33.630.200.C.1 in Dec 2010 draft - see Att. 3)* (p.153)	**Land division approval criteria.** Add a reference to the criteria that refers to information contained in the Portland Plant List about the size and growth rates of native trees. The Portland Plant List will also be amended to incorporate the information in the "Significant Tree Table" that will be deleted from Chapter 33.630. Revise commentary as follows: A. Guide priorities for preservation toward larger trees and groves and/or trees that provide the greatest environmental and aesthetic benefits for the site and surrounding area. A reference to the Portland Plant List is added to ensure that information on native tree growth rates and priority tree sizes is considered. This information will be moved from the former Significant Tree Table in this Chapter to the Portland Plant List. That information will serve as a resource for applicants and staff when evaluating the relative importance of native trees on the site; See Attachment A, for a recommendation for how the Portland Plant List would be amended. The Portland Plant List will be updated through a separate rulemaking process.	Revise code as shown below: **33.630.200 Land Division – Tree Preservation Approval Criteria** A. To the extent practicable, trees proposed for preservation provide the greatest benefits as identified in the purpose of this chapter. In general, healthy, native or non-nuisance species trees that are 20 or more inches in diameter and tree groves, are the highest priority for preservation. However, specific characteristics of the trees, site and surrounding area, should be considered and may call for different priorities, such as ~~preserving native species~~ native tree growth rates and priority tree sizes as described in the Portland Plant List, buffering natural resources, preventing erosion or slope destabilization and limiting impacts on adjacent sites; *(renumbered from 33.630.200.C.1 in Dec 2010 draft, see Attachment 3)*
3	33.860 New Chapter (See Vol. 1 Report, p.101)	**Add new Chapter 33.860 Comprehensive Natural Resource Plans.** This chapter was originally adopted in 2010 as part of the River Plan/North Reach code package. It will not be going into effect in the near-term because of the recent LUBA decision remanding the North Reach River Plan. This chapter was not challenged as part of the LUBA case. It is recommended that it be adopted as part of the Citywide Tree Project because it provides an important tool for applicants that wish to take a master plan approach to sites that contain natural resource overlay zones. Some minor changes are proposed to what was originally adopted to clarify that the Comprehensive Natural Resource Plan tool is intended to support the management of natural areas and other open spaces uses, such as golf courses or cemeteries, as well as for traditional development proposals. The new chapter will go into effect with the first phase of Zoning Code amendments on July 1, 2011.	See Attachment 2, New Chapter 33.860, Comprehensive Natural Resource Plans.

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2	33.120.255 B.1.a (p.19) 33.130.240 B.1.a (p.27) 33.140.240 B.1.a (p.31)	**Pedestrian standards.** Reword to refer to a "connection" rather than a "straight line connection" to provide for consistent code construction. Applies in multi-dwelling, commercial and employment/industrial base zones.	Revise the code as shown below: **33.120.255.B.1 Pedestrian Standards – Connections** (Multi-dwelling zones) a. Connection between streets and entrances. (1) Sites with one street frontage. • Generally. [No change] • Household Living. Sites where all of the floor area is in Household Living uses are only required to provide a ~~straight line~~ connection to one main entrance on the site~~;~~. The connection may not be more than 20 feet longer or 120 percent of the straight line distance, whichever is less. • Tree preservation. [No change]. **33.130.240.B.1 Pedestrian Standards – Connections** (Commercial zones) a. Connection between streets and entrances. (1) Sites with one street frontage. • Generally. There must be a ~~straight line~~ connection between one main entrance of each building on the site and the adjacent street. The ~~straight line~~ connection may not be more than 20 feet longer or 120 percent of the straight line distance, whichever is less. • Household Living. Sites where all of the floor area is in Household Living uses are only required to provide a ~~straight line~~ connection to one main entrance on the site. The connection may not be more than 20 feet longer or 120 percent of the straight line distance, whichever is less. • Tree preservation. [No change] (2) Sites with more than one street frontage. • The standard of B.1.a(1) must be met to connect the main entrance of each building on the site to the closest sidewalk or roadway if there are no sidewalks. Sites where all of the floor area is in Household Living uses are only required to provide a ~~straight line~~ connection meeting the standard of B1.a(1) to one main entrance on the site; **33.140.240.B.1 Pedestrian Standards – Connections** (Employment and Industrial zones) a. Connection between streets and entrances. (1) Sites with one street frontage. • Generally. There must be a ~~straight line~~ connection between one main entrance of each building on the site and the adjacent street. The ~~straight line~~ connection may not be more than 20 feet longer or 120 percent of the straight line distance, whichever is less. • Household Living. Sites where all of the floor area is in Household Living uses are only required to provide a ~~straight line~~ connection to one main entrance on the site. The connection may not be more than 20 feet longer or 120 percent of the straight line distance, whichever is less. • Tree preservation. [No change] (2) Sites with more than one street frontage. Where the site has more than one street frontage, the following must be met: • The standard of B.1.a(1) must be met to connect the main entrance of each building on the site to the closest sidewalk or roadway if there are no sidewalks. Sites where all of the floor area is in Household Living uses are only required to provide a ~~straight line~~ connection meeting the standard of B1.a(1) to one main entrance on the site;

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5	33.430.080. C.8/9 (p.59)	**Environmental zone pruning exemptions.** Add an amendment that will be effective July 1, 2011 to remove the "6' from the ground" restriction on pruning evergreen trees in Wildfire Hazard zones. This same allowance will be incorporated into the pruning permit exemptions in Title 11 when it goes into effect. Revise commentary as follows: Pruning Exemptions The pruning exemption will be updated in two phases. In the first phase of amendments (effective July 1, 2011), the restriction on pruning evergreen trees in Wildfire Hazard zones only within "6' from the ground" will be removed. In the second phase that will go into effect with Title 11, all tree pruning will be exempt provided the requirements under Title 11 are met. ~~C.8: Consolidates pruning related exemptions and references Title 11 pruning permit requirements.~~ Title 11 will allows limited pruning of native trees in environmental zones subject to a permit, instead of requiring environmental review as is the case under the current regulations. The permit will provide a means to track approved pruning and will involve arborist oversight and the City's Urban Forestry program expertise in considering these requests. Current exemptions for limited pruning in e-zones, including the first phase change described above, are deleted here and are reinstated in Title 11. Pruning of non-native trees is also exempt from the pruning permit requirement.	Revise the code section as shown below to allow for early implementation of the allowed pruning in Wildfire Hazard areas. **33.430.080.C, Items Exempt From These Regulations** **Effective July 1, 2011:** 9. Pruning coniferous trees that are within 30 feet of a structure ~~to remove branches up to 6 feet above the ground~~, when the structure is within the wildfire hazard zone as shown on the City's Wildfire Hazard Zone Map; **Effective February 1, 2013 (or same date as Title 11):** ~~9~~ 8. Pruning trees in accordance with Title 11 permit requirements. ~~coniferous trees that are within 30 feet of a structure to remove branches up to 6 feet above the ground, when the structure is within the wildfire hazard zone as shown on the City's Wildfire Hazard Zone Map~~;
6	33.430.140. J.4 (p.67)	**Environmental zone tree replacement requirements.** Add allowance for applicants to pay a revegetation fee in lieu of planting on site for removal of trees in transition areas and removal of non-native trees. This will ensure that these tree replacement standards would not trigger a land use review unless the applicant chose to that option, as is intended. Revise commentary as follows: Standard J is broken into separate ~~sub-sections~~ paragraphs. Paragraphs 1-3 ~~that~~ address the three categories of trees (native, non-native non-nuisance, and nuisance). Paragraph 4 provides an option for replacement. 4) An allowance is added for applicants to pay a revegetation fee in lieu of planting on site for removal of trees in transition areas and removal of non-native trees. This will ensure that the code is consistent with the intent that these tree replacement standards not trigger a land use review unless the applicant chooses that option.	Add new code language as follows: **33.430.140.J General Development Standards - Tree removal and replacement standards** 4. For replacement of non-native trees and trees in transition areas, applicants may pay a revegetation fee as described in Table 430-2 in lieu of planting on the site. The fee is based on the number of trees required under Table 430-3, Option A.

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8	33.480.040. B.2.g(4) and h (p.109 and 111)	**Scenic corridor tree preservation standards.** Reword the standard for tree removal related to utility installation to apply to a "site" as opposed to a "lot". The intent was to apply the allowance to development sites which can be made up of several lots. Revise commentary as follows: The requirements for utilities (2.g (4)) now specify that the tree removal is necessary for some aspect of the utility, i.e. maintenance or installation. As currently written, the tree need only be located in an easement to allow its removal, even if removal is not necessary for the utility to be installed or operated. The utility allowance also provides for installation of utilities outside of easements, provided they are restricted to a single 10-foot wide corridor. This allowance has been added to provide for installation of individual service lines to ~~lots~~ development sites, which are typically not located in an easement. Clarify that a Title 11 tree permit is required in non-development situations where the zoning code allows removal without specific replacement requirements (i.e. dead, dying dangerous and nuisance trees). For situations where the zoning code specifies replacement requirements (i.e. removal and replacement of small trees), it is simpler and more consistent for that standard to be reviewed and enforced by BDS through a zoning permit. Revise commentary as follows: A reference to Title 11 is added since Title 11 tree removal permits are required to remove trees if no development is proposed, except where the Zoning Code includes specific replacement requirements (i.e. removal and replacement of small trees). A Title 11 permit can only be issued if the tree qualifies for removal under the plan district standards. ~~In that situation, the tree removal criteria for plan districts and overlay zones in 11.400 would have to be met.~~ *Note: The same revisions are proposed for Rocky Butte and Johnson Creek Plan District chapters (Technical Items 9 and 10 below).*	Revise the code as shown below: **33.480.040.B.2 Development Standards - Scenic Corridors.** g. Preservation of trees. (~~3~~ 4) The tree must be removed due to installation, repair, or maintenance of ~~is within a~~ water, sewer, or stormwater services ~~or other utility easement~~. For new installation of services, tree removal allowed under this provision is limited to a single 10 foot wide utility corridor on each ~~lot~~ site; h. Tree removal without development. When no development is proposed, tree removal allowed by the standards of Subparagraph 2.g(1) through (6) above is subject to the tree permit requirements of Title 11, Trees.

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11	33.630 (p.141-163) 33.730.D.1.d (2), 3rd bullet (p.187)	**Renumbering in the land division tree preservation chapter.** Renumber to provide a more logical flow that is closer to the organization of the existing chapter. Renumber and reorganize commentary to match code sections.	Renumber sections, and related subsections, as shown below and in Attachment 3: Sections: 33.630.010 Purpose 33.630.020 Where These Regulations Apply ~~33.630.030 Exempt From These Regulations~~ 33.630.030 Exempt From These Regulations ~~33.630.100 Tree Preservation Standards~~ 33.630.100 Minimum Tree Preservation Standards 33.630.200 Tree Preservation Approval Criteria ~~Requirements for Trees Located on the Site Methods~~ ~~33.630.300 Mitigation Option~~ 33.630.400 Modifications That Will Better Meet Tree Preservation Requirements 33.630.500 Tree Preservation Credit ~~33.630.600 Standard for Trees in Existing Rights-of-Way~~ 33.630.~~7~~600 Recording Tree Preservation Plans and Related Conditions 33.630.~~6008~~700 Relationship To Other Tree Regulations *See Attachment 3 for remainder of renumbering changes.*
12	33.630 Title, List of Sections 33.630.010 (p.141) 33.630.600 (p.163) 33.654.120.H (p.169)	**Street tree standards for land divisions.** Consolidate land division standards regarding street trees from two chapters into the Rights-of-way chapter, which applies to all land divisions. Make corresponding change to the purpose statement and title of 33.630 since street tree planting will be addressed in a different chapter. Revise commentary as follows: **CHAPTER 33.630, TREE PRESERVATION** ~~This chapter currently addresses tree preservation on land division sites. While the provisions still focus primarily on tree preservation on the site, the scope is being expanded somewhat to address the preservation and planting of street trees. The chapter title is changed from "Tree Preservation" to "Trees" to reflect this broadening in scope of requirements.~~ Delete commentary for 33.630.600 and revise commentary in 33.654.120.H as follows: **H. Standard for Street Trees.** A new standard is added that requires the preservation of existing street trees and planting ~~within new rights-of-way~~ of new street trees be considered during the preliminary land division review. The decision about whether the preliminary plan adequately addresses street tree preservation and planting in public streets will be made by the City Forester, in consultation with the and City Engineer. This coordination is necessary as the City Engineer makes decisions about street improvements and the provision of other services within the right-of-way. For private streets, the Bureau of Development Services will make the decision about street trees in accordance with the Administrative Rule for Private Rights-of-Way, which was recently updated to include requirements for street trees. ~~Street tree planting within existing streets will be addressed in 33.630.~~	Delete street tree standard in 33.630, change title of Chapter 33.630 back to "Tree Preservation" throughout code and update purpose statement consistent with change. Add relevant language to 33.654, Rights-of-way. See code changes below: **AMEND CHAPTER 33.630, TREES ~~PRESERVATION~~ PRESERVATION** Change chapter title back to "Tree Preservation" where referenced throughout code. Sections: ~~33.630.600 Standard for Trees in Existing Rights-of-Way~~ **33.630.010 Purpose** The land division process provides the flexibility and opportunity to promote creative site design that considers multiple objectives, including integration of trees. The regulations of this chapter ~~preserve trees and mitigate for the loss of trees to~~ require that trees be considered early in the design process with the goal of preserving high value trees, and mitigating for the loss of trees ~~and ensuring space is available for street trees~~. Desired benefits of trees include: [No change] **~~33.630.600 Standard for Trees in Existing Rights-of-way~~** ~~A. Where the regulation applies. This standard applies to existing public rights-of-way that are adjacent to the land division or planned development site.~~ ~~B. The City Forester, in consultation with the City Engineer, has preliminarily approved the proposal and found it acceptable for retention of street trees and providing adequate areas for future street tree planting.~~ **33.654.120 Design of Rights-of-Way** **H. Standard for Street Trees.** For ~~new~~ existing and proposed public streets, the City Forester, in consultation with the City Engineer, has preliminarily approved the proposal ~~street tree planting plan~~ and found it acceptable for the retention of existing street trees and providing adequate areas for future street tree planting. For private streets, the Bureau of Development Services has preliminarily approved the street tree planting plan.

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15	33.730.060. C.3 (p.185)	**Submittal standards for land use reviews.** Reword land use review site plan requirements to refer to the development impact area option in Title 11, as opposed to "areas to be disturbed".	Revise site plan submittal standards as shown below: **33.730.060.C.3 Required information for land use reviews except land divisions.** 5th bullet: • The location, size and species of a~~All~~ trees ~~greater than~~ 6 inches and larger in diameter~~, measured 5 feet above the ground, in areas to be disturbed and within 25 feet of areas to be disturbed~~. On sites where the development impact area option for large sites in Chapter 11.50 will be used, only trees within that area must be shown;

ATTACHMENT 1
Example Portland Plant List Amendment

COMMENTARY

EXAMPLE PORTLAND PLANT LIST AMENDMENT

The following is a recommendation for how the Portland Plant List could be amended to address tree growth rates as provided in the Significant Tree table formerly contained in 33.630. Since the Portland Plant List is an administrative rule, the amendment would be done prior to the code going into effect through a separate administrative rulemaking process.

EXAMPLE PORTLAND PLANT LIST AMENDMENT

Portland Plant List, Section 3 Native Plants in Detail

Add new subsection:

3.4, Native Trees Growth Rates and Priority Tree Sizes

Portland's native trees grow at varying rates and reach different sizes at maturity. For example, some native trees, such as the Pacific yew or Garry oak, might be considerably smaller but older than larger trees such as a Douglas fir. These differences should be taken into consideration when developing priorities for the care, management, preservation and protection of native trees. When trees reach sizes outlined in the table below, they should be prioritized for retention where practical on development and land division sites. Smaller native trees may also be prioritized for preservation and protection, particularly when part of a grove or when they are healthy and appropriately situated. This does not substitute for evaluating specific site conditions, approval criteria or other code requirements that may affect priorities.

Priority Native Tree Sizes

Common Name	Scientific Name	Diameter
Big-leaf Maple	Acer macrophyllum	18 inches
Bitter Cherry	Prunus emarginata	10 inches
Black Cottonwood	Populus balsamifera ssp. trichocarpa	18 inches
Black Hawthorn	Crataegus douglasii var. douglasii	8 inches
Black Hawthorn	Crataegus suksdorfii	8 inches
Cascara	Rhamnus purshiana	6 inches
Douglas Fir	Pseudotsuga menziesii	18 inches
Garry Oak	Quercus garryana	4 inches
Grand Fir	Abies grandis	10 inches
Madrone	Arbutus menziesii	4 inches
Oregon Ash	Fraxinus latifolia	10 inches
Pacific Yew	Taxus brevifolia	2 inches
Ponderosa Pine	Pinus ponderosa	8 inches
Red Alder	Alnus rubra	18 inches
Scouler Willow	Salix scouleriana	6 inches
Western Flowering Dogwood	Cornus nuttallii	6 inches
Western Hemlock	Tsuga heterophylla	10 inches
Western Red Cedar	Thuja plicata	10 inches

[Renumber current Section 3.4. (Tree Silhouettes) to Section 3.5]

COMMENTARY

33.860.030 Duration of a Comprehensive Natural Resources Plan
The plan may be approved for up to 10 years and must include all proposed development and disturbance activities on the site.

33.860.040 Procedure
Comprehensive Natural Resource Plans will originally be approved through a Type III review. Tentative proposals may be identified in the plan that are generally anticipated, but lack sufficient detail to evaluate their full impact and necessary mitigation. For example, construction management plans may not be available until the specific designs are completed. These tentative proposals can be approved subject to a second Type 1 review to evaluate those details.

33.860.050 Amendments to a Comprehensive Natural Resource Plan
This section specifies the review procedure that will be required if an applicant proposes an activity that is not included in the approved Comprehensive Natural Resource Plan. A Type III procedure is required for significant new impacts, such as new development or disturbance within an environmental protection zone or an increase of more than 10 percent in the area proposed to be developed or disturbed. Other amendments are processed through a Type II procedure.

33.860.030 Duration of a Comprehensive Natural Resources Plan
The Comprehensive Natural Resource Plan may be approved for up to 10 years. The plan must include proposed development, disturbance, or resource enhancement activities, and possible future development, disturbance, or resource enhancement activities that might occur within the next 10 years.

33.860.040 Procedure

A Comprehensive Natural Resource Plan is processed through a Type III procedure. Some proposals in a Comprehensive Natural Resource Plan may be identified as tentatively approved, and subject to an additional Type 1 procedure at a later date. The additional review will evaluate more detailed proposals and ensure conformance with the plan.

33.860.050 Amendments to a Comprehensive Natural Resource Plan
Amendments to a Comprehensive Natural Resource Plan are required for any development within the boundaries of the River Natural, River Water Quality, Pleasant Valley Natural Resources, environmental conservation, or environmental protection overlay zones that is not in conformance with the approved Comprehensive Natural Resource Plan. Amendments are not required for development listed as exempt from the relevant overlay zone regulations. Amendments are subject to the same approval criteria as the initial resource plan. The thresholds and procedures for amendments are stated below.

A. Type III procedure. Unless the resource plan specifically provides differently, the following amendments to a resource plan are processed through a Type III procedure:

1. Any proposed development or disturbance within the environmental protection overlay;
2. A proposed reduction in the area of the environmental protection overlay;
3. An increase in the area proposed for development or disturbance more than 10 percent from what was included in the original resource plan;
4. Substantial changes to conditions of approval; and
5. Proposed development that was previously reviewed, but was denied because it was found not to be in conformance with the approval criteria.

B. Type II procedure. Unless the resource plan specifically provides differently, amendments to a resource plan not specifically stated in Subsection A. above are processed through a Type II procedure.

COMMENTARY

33.860.200 Approval Criteria

The approval criteria for a Comprehensive Natural Resource Plan have been modeled on the approval criteria for a Conditional Use Master Plan. The criteria focus comprehensively on the proposed development actions that will occur over the life of the plan. The criteria address the cumulative impacts of development over time, mitigation and phasing for mitigation actions, and the integration of resource conservation, protection and enhancement into the overall goals for the site.

33.860.200.D This criterion describes how to balance the need for detailed plans with the level of detail possible with a comprehensive plan. It allows certain actions to be identified for additional review. Tentative approval is appropriate for development that is generally anticipated but lacks specific development plans at the time of the resource plan submittal. The plan may also specify standards that will apply to projects at the time of development permitting. This allows additional flexibility for projects to occur without a future land use review when the scope of impacts can be limited through standards.

Criterion "D", requires that the Comprehensive Natural Resource Plan meet all relevant approval criteria for other reviews that would be required if the proposal was going through a resource review, such as Environmental Review. Therefore, resource enhancement projects will be subject to the relevant criteria for those reviews.

Criterion "D" also requires that the criteria of adopted Natural Resource Management Plans (NRMP) be met. NRMPs govern projects and mitigation for certain geographic areas. During the Citywide Tree Project process, property owners located within these areas raised concerns about adopted NRMPs being out of date and no longer allowing for projects that they would like to undertake. Property owners have expressed interest in using the Comprehensive Natural Resource Plan process to obtain long-term approval of planned activities, however in some cases that may not be possible because the projects do not conform to the current NRMP criteria. NRMPs are difficult to update because a legislative process is required. Because approval and amendment of a Comprehensive Natural Resource Plan is a quasi-judicial process, they can be developed and updated at the request of the applicant.

Applicants in NRMP areas will have the option to use the Comprehensive Natural Resource Management Plan tool, provided they meet the criteria of the adopted NRMP. If they are not able to meet the criteria of the NRMP, they would need to undergo a legislative process to change the NRMP criteria or to remove their property from the boundary of the NRMP.

33.860.200 Approval Criteria

A Comprehensive Natural Resource Plan, or an amendment to a Comprehensive Natural Resource Plan, will be approved if it meets the following approval criteria:

A. The plan establishes coordinated phasing of the development, disturbance, or resource enhancement actions within the natural resource overlay zones, with the goal of avoiding impacts that might arise if each action were planned separately. The plan includes the timing of anticipated construction access routes, building construction sequencing, and disturbance area boundaries for the site as a whole;

B. The plan will integrate natural resource conservation, protection and enhancement with other site planning plan goals and objectives;

C. On balance, the proposed mitigation plan demonstrates that all anticipated significant detrimental impacts on identified resources and functional values will be compensated for within the life of the plan. Each mitigation action is not required to directly correlate with a specific development proposal, but the overall mitigation plan will be evaluated against the overall list of anticipated uses and development actions, including cumulative impacts. The mitigation plan must include performance standards for judging mitigation success, a specific timetable for mitigation actions during the life of the plan, and a specific monitoring schedule;

D. The plan must demonstrate that all relevant approval criteria that would apply if the proposal was proceeding through an Environmental Review, Pleasant Valley Natural Resource Review, or Greenway Review, including approval criteria from an adopted Natural Resource Management Plan, are met. Consideration will be given to the level of detail provided with the plan application. Proposals that address most of the relevant approval criteria, but are not detailed enough to address all of the relevant approval criteria may be identified for tentative approval. Conditions of approval may be imposed to list those aspects of the plan subject to tentative approval, and to specify which approval criteria need further evaluation through a later review. The decision may also specify standards for future development or resource enhancement activities.

Attachment 3
Renumber 33.630, Tree Preservation

Note: Existing commentary in December 2010 draft will be renumbered and reorganized to match code as revised below.

Sections:
33.630.010 Purpose
33.630.020 Where These Regulations Apply
~~33.630.030 Exempt From These Regulations~~
33.630.030 Exempt From These Regulations
~~33.630.100 Tree Preservation Standards~~
33.630.100 Minimum Tree Preservation Standards
33.630.200 Tree Preservation Approval Criteria ~~Requirements for Trees Located on the Site Methods~~
~~33.630.300 Mitigation Option~~
33.630.400 Modifications That Will Better Meet Tree Preservation Requirements
33.630.500 Tree Preservation Credit
~~33.630.600 Standard for Trees in Existing Rights-of-Way~~
33.630.~~7~~600 Recording Tree Preservation Plans and Related Conditions
33.630.~~600~~800 Relationship To Other Tree Regulations

33.630.020 Where These Regulations Apply
~~Unless exempted by Section 33.630.030, t~~This ~~chapter applies to all~~ land divisions ~~in all zones where: proposals outside of the Central City plan district.~~

~~33.630.100~~200 ~~**Tree Preservation Standards** Requirements for Trees Located on the Site~~
~~A. Where these regulations apply.~~

A.~~1~~. Generally. The regulations of this ~~section~~ chapter apply to all proposals for land divisions on sites outside of the Central City plan district that have at least one tree that is at least 6 inches in diameter, except where all trees on the site are exempt under ~~A.4~~ 33.630.030. Where a tree trunk is partially on the land division site, it is considered part of the site.

B~~2~~. [see changes in Technical Amendments, Item 13]

C~~3~~. Proposals to divide sites that are partially within an environmental overlay zone or the Pleasant Valley Natural Resources overlay zone and include a concurrent environmental review or Pleasant Valley Resource review are not subject to the tree preservation standards of Section 33.630.100~~200.B~~. However, the tree preservation approval criteria in 33.630.200.~~C~~ apply to these proposals.

33.630.030 Exempt From These Regulations

~~4. Trees exempt from these regulations.~~ The following trees are exempt from the tree preservation requirements of this ~~section~~ chapter:

(Renumber a-f to A-F)

33.630.100 ~~B~~. Minimum Tree Preservation Standards.

A~~1~~. The applicant must show how existing trees will be preserved. The options listed below represent minimum tree preservation standards. Additional tree preservation may be required to meet the approval criteria of ~~Subs~~section 33.630.200.~~C~~. The total tree diameter on the site is the total diameter of all trees completely or partially on the site, minus the diameter of trees that are listed in ~~Paragraph~~ Section 33.630.030~~200.A.4~~, Trees exempt from these regulations. The applicant must choose one of the following options:

[Re-number 1.a-f to A.1-6 and B.2-4 to 33.630.100.B-D]

33.630.200 ~~C~~. Tree Preservation Approval Criteria.
(Renumber C.1-4 to 33.630.200.A-D)

D4. Mitigation. Where the minimum tree preservation standards of 33.630.100~~200.B~~ can not be fully met, as determined by evaluating the above criteria, or when there is a concurrent Environmental Review and the minimum tree preservation standards do not apply, mitigation must be provided as needed to replace the functions of trees removed from the site. Options for mitigation may include preservation of smaller diameter or native trees, permanent preservation of trees within a tree preservation or environmental resource tract, tree planting, payment into the City's Tree Planting and Preservation Fund, or other options that are consistent with the purpose of this chapter.

33.630.400 Modifications That Will Better Meet Tree Preservation Requirements

A. Site-related development standards. The review body may consider ~~adjustments~~ modifications to site-related development standards as part of the land division review. These modifications are done as part of the land division process and do not require an adjustment. Adjustments to use-related development standards ~~(such as FAR, or number of units)~~ are subject to the adjustment process of Chapter 33.805, Adjustments. Modification to a regulation that contains the word "prohibited," or a regulation that is a qualifying situation or threshold is prohibited.

~~In order t~~To approve the modification, the review body must find that the modification will result in the ~~application~~ proposal better meeting the ~~requirements~~ criteria of Subsection 33.630.~~100~~200.~~C~~100, and will, on balance, be consistent with the purpose of the regulation being modified.

B. Minimum density.
2.b. The review body will approve the reduction in minimum density if the following are met:

(1) The reduction in minimum density will result in the proposal better meeting the criteria of Section 33.630.200.~~C~~; and

33.630.~~700~~ 600 Recording Tree Preservation Plans and Related Conditions

33.630.~~600~~ ~~800~~ 700 Relationship To Other Tree Regulations

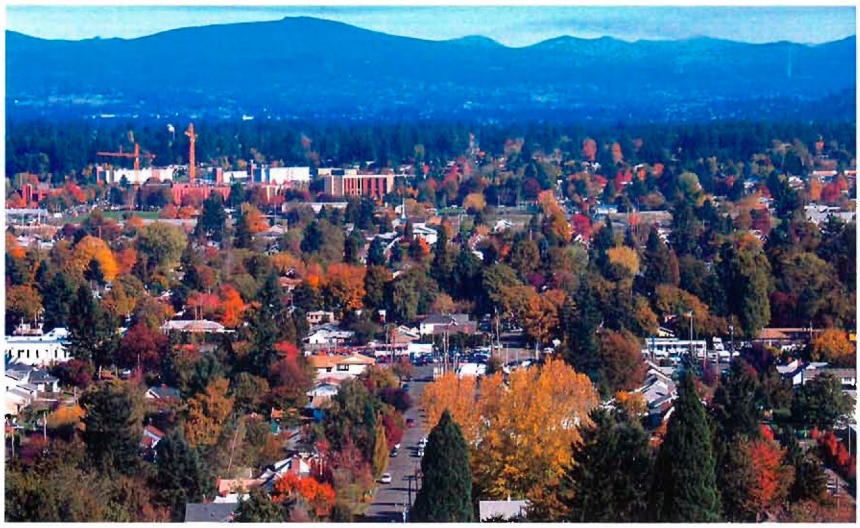
33.730.060 Application Requirements

D.1.d(2) Required information for land divisions

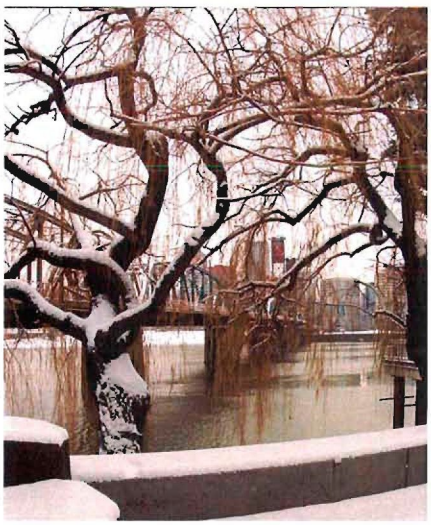
Surveyed information: [3rd bullet]
- All trees completely or partially on the site that are ~~at least~~ 6 or more inches in diameter. Trees more than 25 feet inside a tract within which all trees will be preserved do not have to be surveyed. ~~Trees o~~ On ~~a Land Division~~ sites ~~that propose~~ where the proposal is to preserve tree canopy under ~~use~~ Option 5 or 6 of the Tree Preservation Standard in 33.630.~~200.B.1.e or f 100.A.5~~ 100.A.5 or 6 ~~Option 5~~, the trees do not have to be surveyed.

Volume 1

Recommended Draft Report to City Council















Citywide Tree Policy Review and Regulatory Improvement Project

City of Portland
Bureau of
Planning and Sustainability
Sam Adams, Mayor
Susan Anderson, Director

Citywide Tree Project
Policy Review & Regulatory Improvement

Recommended Draft to Portland City Council
December 2010

The Bureau of Planning and Sustainability is committed to providing equal access to information and hearings.

If you need special accommodation, please call 503-823-7700, the City's TTY at 503-823-6868, or the Oregon Relay Service at 1-800-735-2900.

For more information about the **Citywide Tree Policy Review and Regulatory Improvement Project**, please contact:

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Portland Bureau of Planning and Sustainability
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Portland, Oregon 97201-5380
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A digital copy of this report can be found at:
www.portlandonline.com/bps

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MEMORANDUM

To: Citywide Tree Project Stakeholder

From: Roberta Jortner, Morgan Tracy, and Stephanie Beckman

Date: December 29, 2010

SUBJECT: Recommended Draft Report to City Council – Public Hearing February 2nd

The enclosed four volumes together comprise the *Citywide Tree Policy Review and Regulatory Improvement Project (Citywide Tree Project)* Recommended Draft to the Portland City Council. The Citywide Tree Project will help Portland meet its Urban Forestry Management Plan goals through a comprehensive review and update of City tree policies and regulations. The Recommended Draft is intended to meet the following primary objectives:

- Establish a clear, cohesive, consistent regulatory framework for trees in Portland, and
- Enhance the urban forest, particularly through development and redevelopment.

The Recommended Draft package includes:

Volume 1 –Recommended Draft Report to City Council – includes a project overview, descriptions of the project origin and process, the draft proposal, and proposed budget.

Volume 2 – Appendices – includes various background documents such as testimony received by the Planning and Urban Forestry commissions, the Southwest Tree Committee Report (2005), Urban Tree Canopy Report (2007), and project issue papers.

Volume 3 – Title 11, Trees and other related code amendments – presents the ordinance adopting a new, comprehensive "tree code" for the City, minor amendments to other City titles, and directs implementation of several customer service improvements. Also included is an ordinance to amend the intergovernmental agreement between Multnomah County and the City for certain development related provisions of Title 11 in the urban county pockets.

Volume 4 – Title 33, Planning and Zoning and Ladd's Addition Conservation District Guideline Amendments – contains the ordinance and supporting exhibits amending various provisions of the zoning code, as well as clarifying language for the Ladd's Addition guidelines related to the prohibition of planting nuisance species trees.

We hope you will share your views with the City Council on February 2nd. You can also submit written testimony, as follows:

Testify at the City Council hearing. The hearing, on February 2nd at 6 p.m., will be in Council Chambers at City Hall (1221 SW Fourth Avenue). Metered and pay parking is available in the vicinity. For transit info call TriMet at 503-238-7433 or check their internet site at http://www.trimet.org/schedule/ for routes and schedules.

Write to City Council. Send written testimony to the Council Clerk at 1221 SW Fourth Avenue, Room 140, Portland, OR 97204, or FAX comments to 503-823-4571. **Written testimony must be received by the time of the hearing and must include your name and address.**

Please submit any questions or comments to the project staff by mail to the Bureau of Planning and Sustainability offices or electronically to BPSCTP@portlandoregon.gov or call us at (503) 823-7700.

Thank you for your interest in this project.

Acknowledgements

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Nick Fish, *Commissioner*
Amanda Fritz, *Commissioner*
Randy Leonard, *Commissioner*
Dan Saltzman, *Commissioner*

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Stephen Peacock
Joe Poracsky
Dick Pugh
Meryl Redisch
Dianna Shervey
Kendra Smith
John Warner

* On August 11, 2010 the City established the Planning and Sustainability Commission (Ord. No. 184046)

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Bob Eaton – *Multnomah County Drainage District*

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Jim McCauley, Darryl Abe (alternate) – *Portland Homebuilders Association*

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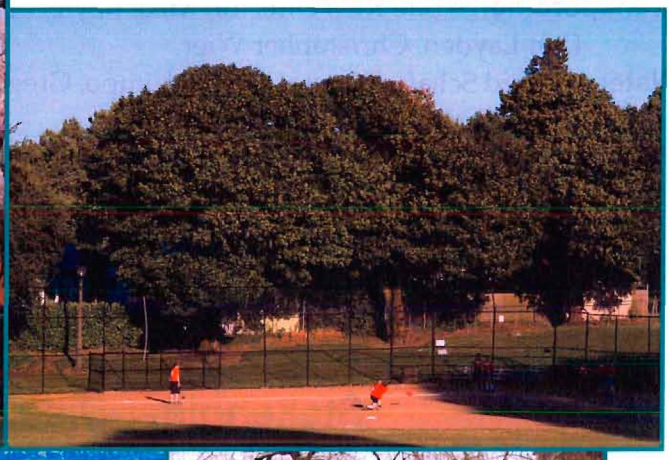
"To exist as a nation, to prosper as a state, and to live as a people, we must have trees."

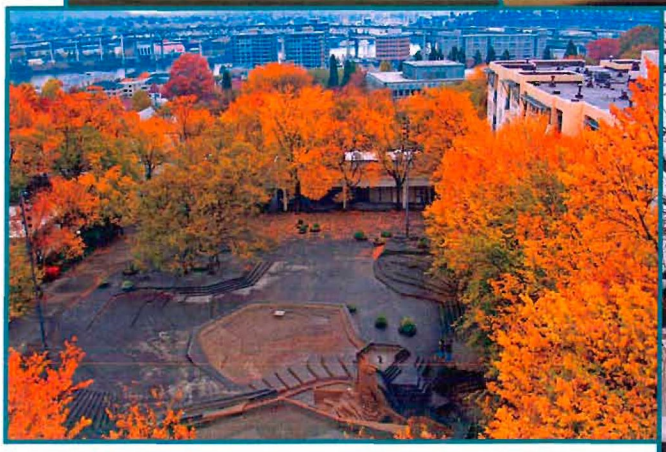
– Theodore Roosevelt



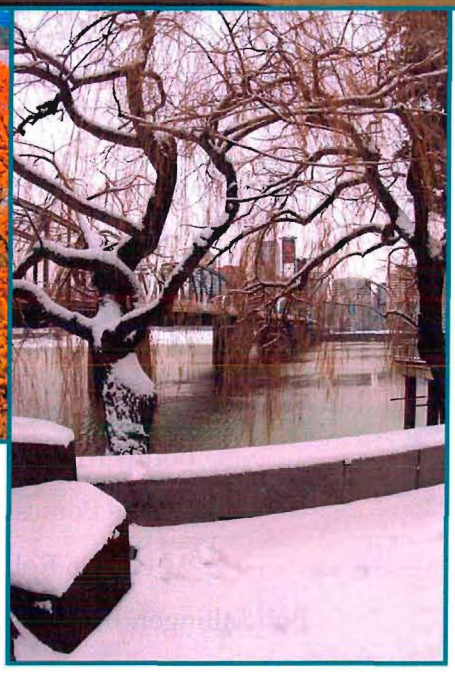
Spring: downtown cherry trees in bloom

Summer: mature trees buffer residential from baseball field





Fall: seasonal color of Lovejoy Plaza trees



Winter: bare trees along the east bank of the Willamette River

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Bureau of
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December 10, 2010

Portland City Council
Portland City Hall
1221 SW Fourth Ave
Portland, OR 97204

Dear Mayor Adams and City Council Members:

On July 27 and July 29, 2010, the Portland Planning Commission* and the Urban Forestry Commission voted unanimously to forward the *Citywide Tree Policy Review and Regulatory Improvement Project* to City Council for approval. Specifically, the commissions recommend that the Council:

1. Accept the Tree Project report to the City Council
2. Adopt the new, Title 11, Trees, and companion amendments to other City titles
3. Adopt amendments to Title 33, Planning and Zoning
4. Accept the phased project implementation and funding strategy
5. Fully fund the proposal, including regulatory and customer improvements

The Planning Commission and Urban Forestry Commission held their first ever joint public hearing spanning four meetings between March and June 2010. The commissions received extensive public testimony during this period. Testimony included:

1. General support for consolidating Portland's tree regulations in a new Title 11, Trees, and treating trees as a key component of the City's "green infrastructure";

2. Recognition that trees provide benefits to the ecosystem and increase property resale values;

3. Concern over the loss of trees (particularly large trees) citywide, and as a social equity issue in dense infill areas;

4. Support from residents, neighborhood organizations, environmental and watershed organizations for stronger requirements to preserve trees and groves during development, and for improved mitigation, inspections and enforcement;

5. Concern from the housing and development community that proposed requirements would increase development and housing costs, and impede infill development;

6. General support for a more standardized tree removal permit system and some concern about the impact of new tree permit requirements on private homeowners;

7. Concern that prohibiting the planting of nuisance tree species, e.g., Norway maple, in City rights-of-way will impair city streetscapes and the historic character of Ladd's Addition;

8. Support for customer service improvements including a single point of contact for tree-related issues, 24-hour tree hotline, improved tree permit tracking, community tree manual, and neighborhood tree plans; and

9. General agreement that staff's original proposal was overly complex and costly to implement but deserving refinement to make it effective.

The Planning and Urban Forestry commissions held three joint work sessions and two separate sessions each. They focused attention on how to:

*On August 11, 2010, the City established the Planning and Sustainability Commission. (Ord. No. 184046)

1. Streamline and reduce the cost of proposed requirements for tree preservation and mitigation in development situations. The commission approved revisions intended to address these issues, while also aiming to accomplish most of the estimated additional tree canopy benefits.

2. Simplify the tree permit system proposal. The commissions supported a permit system to encourage retention of large healthy trees, ensure tree replacement, prevent site clearing on lots with development potential, and engage the public. The commission members had mixed views about how the regulations should apply to the typical homeowner. Some supported retaining the existing exemption for built single family lots due to potential reaction about property rights. Others felt stronger regulations with permits for smaller trees coupled with a widespread education campaign would be more effective in creating a citywide culture of tree protection. Ultimately, both commissions approved a standardized citywide permit system, including a "call before you cut" educational campaign and a streamlined permit option for homeowners.

In addition, the Urban Forestry Commission helped shape provisions to broaden and strengthen the policy-making and advocacy role of that commission, and to broaden the duties of the City Forester to include coordination and tracking of City programs affecting the urban forest. The Planning Commission also directed staff to ensure that policy recommendations of the Tree Project proposal will be coordinated with the policy decisions of the Portland Plan and implementation of the Climate Action Plan.

Both commissions recognize the current budget constraints and have worked with staff to significantly reduce project costs. In addition, to provide time for public outreach and for adequate budget stabilization, the commissions endorse the phased implementation and funding strategy recommended by Parks, BDS, BES and BPS directors.

As a result we believe that the Tree Project proposal before you is cost effective and practical, responds to community grassroots concerns, and will yield a high rate of return to the city as a whole. It will establish cohesive, equitable and cost-effective regulatory framework for Portland's trees. The project is a step toward establishing trees as vital city infrastructure. This proposal supports the environmental, social, and economic sustainability principles, and will advance the City's compliance with federal, state and regional mandates.

In summary, regulations are only one tool in the City's urban forest "asset management toolbox." Investment in public education, continued City tree planting, incentives for private tree planting, and systematic, ongoing tree maintenance are key to achieving the long-term goals for a thriving urban forest and a livable, sustainable city.

The unprecedented process of having the two commissions work together on this complex and important issue was both successful and highly beneficial for the commissions' members and for the public. We hope to work together again if the need arises and commend city staff for their work.

Thank you for considering our recommendations.

Very truly yours,

Don Hanson, President
Portland Planning Commission

Brian Krieg, Immediate Past Chair
Urban Forestry Commission

Citywide Tree Policy Review and Regulatory Improvement Project

Recommended Draft • Volume 1

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B. Record of Testimony to the Portland Planning Commission and Urban Forestry Commission (March - July 2010)

C. Public Comments and Staff Response Report (June 21, 2010)

D. Citywide Tree Project Outreach Log (December 10, 2010)

E. Norway Maple Invasive Species Information

F. Southwest Tree Committee - Tree Protection and Preservation in Portland, A Call for Reforms (October 25, 2005)

G. Portland Urban Forest Action Plan (February 2007)

H. Citywide Tree Project Newsletters

I. Citywide Tree Project Scope

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PROJECT SUMMARY

Background

Portland's trees provide more than a sense of identity as a "green city" - they clean and cool our air and water, capture greenhouse gases, reduce energy demand, make streets more "walkable," enhance residential property values and business district vitality, and provide food for people and wildlife habitat. A Portland Bureau of Parks and Recreation urban tree canopy values the annual environmental and aesthetic benefits of Portland's street and park trees at about $27 million and the replacement value of all trees in the city at roughly $5 billion (Portland Bureau of Parks and Recreation, 2007).

Portland's 2004 Urban Forestry Management Plan set goals to protect and enhance the urban forest, distribute tree-related benefits equitably, and increase the citywide canopy from 26 to 33 percent. The City's 2007 Urban Forest Action Plan calls for public education, tree planting and maintenance, and policy and regulatory updates to help achieve these goals and targets.



Portlanders have long expressed concern that existing City tree rules are overly complex, confusing, inconsistent, and ineffective in protecting and preserving trees as the city grows. In 2007 the City Council responded to community concerns by directing the Bureau of Planning and Sustainability to lead a multi-bureau effort called the "Citywide Tree Policy Review and Regulatory Improvement Project" (Citywide Tree Project).

The Urban Forest Action Plan calls for the project to:

- Create a consistent, cohesive regulatory framework for Portland's trees; and
- Enhance the urban forest through development and redevelopment.

Issues with Current System

A wide range of stakeholders, including community groups, developers and staff, identified concerns about the City's current tree regulations. Key concerns include:

- No clear City contact for tree inquiries
- Inconsistent regulations contain gaps, overlaps, conflicts
- Trees addressed inconsistently in development and non-development situations
- Development regulations overly rigid
- Tree preservation standards don't preserve quality trees

- Many types of development do not address tree preservation at all
- Large, native trees are replaced with small ornamentals that provide less benefits
- Inadequate inspections and enforcement



Success Criteria for the Project

The regulatory framework must be:

- Designed to support multiple City goals
- Clear and transparent
- Consistent, cohesive and comprehensive
- Fair and equitable
- Complementary and reinforcing
- Efficient and cost-effective
- Customer friendly – easy to understand and work with
- Funded adequately for implementation and enforcement

Relationship to other City Goals, Programs and Regulatory Mandates

The project will complement and support multiple programs such as the City's Grey to Green initiative, City Urban Forestry programs, and community investments in tree planting and tree care. The Portland Watershed Management Plan (2005) and the City's Climate Action Plan (2009) call for protecting and expanding the urban forest to improve watershed health and reduce greenhouse gas emissions. The project is also intended to support City goals for neighborhood livability, sustainable development, and a prosperous economy, as well as advance City compliance with regulations such as Title 13 of the Metro Urban Growth Management Functional Plan (Nature in Neighborhoods) and elements of the Clean Water Act.

Collaborative Process

Led by the Bureau of Planning and Sustainability, the Citywide Tree Project has involved ongoing, extensive collaboration with the Bureaus of Parks and Recreation, Development Services, Environmental Services, Transportation and Water. City bureaus also worked with a diverse stakeholder group of neighborhood representatives,

developers, arborists and environmental organizations to scope the project, examine key issues, and evaluate and the pros and cons of potential solutions.

Input from the stakeholder discussion group helped to shape a set of initial proposals. Staff vetted the initial proposals with the Urban Forestry Commission, Portland Planning Commission, and other community organizations in early 2009. Based on their feedback and general support for the initial solution package, staff drafted a project report and proposed code and report for public review and consideration by the Portland Planning Commission and Urban Forestry Commission. The proposed draft to the Planning and Urban Forestry commissions was published in February 2010.

The Planning and Urban Forestry Commissions held a joint public hearing and a series of work sessions from March through July 2010. The Planning Commission and Urban Forestry Commission received extensive oral and written comments on the Proposed Draft. The commissions heard from neighborhood associations located throughout the city, developers and consultants, arborists, architects, environmental organizations, and Portland residents. City bureaus also provided detailed comments and suggestions on the project proposal. Most supported the proposal for stronger tree preservation and planting requirements, while some were concerned about the impact of the proposal on the cost and feasibility of development. There was also general agreement that the proposal was too complex and costly to implement.

The commissions worked closely with City staff to develop targeted revisions to the proposal – revisions that would address public concerns, including measures to streamline the proposed rules and procedures, and to reduce cost. The commissions also endorsed a phased project implementation strategy to provide time to prepare for the new rules, including development of procedures and informational materials for staff and the public, production of the community tree manual, TRACS upgrades to support the City's tree permit system.

From this collaborative process emerged the Recommended Draft Proposal that is presented in this report. The recommended proposal will create a cohesive, consistent regulatory framework for Portland's trees – a framework that will advance City goals to protect, enhance, and equitably distribute the benefits of the urban forest, while supporting Portland's broader environmental, social and economic sustainability goals.

Benefits and Costs

Implementing the recommended proposal will preserve approximately 68 acres of tree canopy annually and will generate roughly 130 acres of future canopy through tree planting. Trees planted can be used to meet other City landscape and stormwater

requirements as well. In summary, the net increase in tree canopy attributed solely to the proposal is projected to be more than 100 acres per year.

The proposed regulatory improvements and tree manual will help maintain and enhance the quality of Portland's tree canopy, focusing attention preserving large, healthy trees, native trees and tree groves, phasing out invasive trees in parks and along city streets, and fostering appropriate tree care. The proposal will also help ensure that tree preservation and planting are equitably dispersed in the city, including areas where future development is occurring.

Implementing the proposal will require additional investment of public resources to achieve the desired benefits. It is projected that 2.0 FTE will be needed during the initial project ramp up phase, to prepare for the code update and to develop the community tree manual. Once the new codes are in effect, up to an additional 5.5 FTE will be needed at the Bureaus of Parks and Recreation and the Development Services to administer and enforce the updated tree development standards and tree permitting system, and to provide a single point of contact for public inquiries. There are also some up-front, one-time costs for equipment and TRACS permit system upgrades.

Roughly two-thirds of the ongoing costs will be covered by modest increases in development fees and capital project funding. The remainder of the project costs will need to be covered by the general fund. The required Financial Impact Statements are provided as exhibits to the adopting ordinances.

What documents are attached?

Appendices to this report are included in a separate volume. Appendices A, B, and C document the testimony received during the Planning Commission and Urban Forestry Commission hearing, and recommendations approved by the commissions. Appendix D lists outreach activities occurring during the project. Appendix E provides information on invasive plants, particularly the popular street tree - Norway maple. Appendices F and G are two key drivers for the Citywide Tree Project, the 2005 Southwest Tree Committee report calling for reform of Portland's tree rules and the City's adopted Urban Forest Action Plan. Appendices H, I, and J include early project newsletters and Issue Papers. Appendix K includes the spreadsheets and approach used to estimate the financial impacts of the project.

A summary of the project proposal, benefits and phased implementation strategy is shown on the next two pages.

Proposal Summary of Key Elements

Code Consolidation and Restructuring
New Title 11 – "Trees" focuses on the Urban Forest. Title 11 Trees consolidates City tree rules into a cohesive framework -- addressing trees on public and private property in development and non-development settings. Title 11 elevates the Urban Forestry Program and treats trees as infrastructure. Title 11 contains technical standards and procedures, clarifies bureau roles, and simplifies enforcement.
Tree Canopy Enhancement
Designing with trees through land use reviews. Code amendments will improve tree preservation in land divisions, prioritizing large healthy trees, native trees, and groves. Tree plans will be recorded and will eventually sunset. Tree preservation will now be considered in Design Reviews & Conditional Use Reviews.
Tree Density Standards to meet canopy targets. New Tree Density Standards will maintain a minimum level of tree canopy on development sites. Applicants can meet the standard by preserving trees, planting new trees, or paying into the Tree Fund. The standards would not trigger a review or delay permits.
Tree Preservation Standard adds incentive to preserve. New tree preservation standards will also apply through building permits. The standard requires preserving 35 percent of trees at least 12" in diameter, or a mitigation payment to the Tree Fund. Includes exemptions for small lots and lots with high building coverage.
Trees on Property Lines and Adjacent Sites better protected. Applicants will be allowed to count trees on property lines toward preservation and density standards as long as the root zone is protected. The proposal will help protect trees on adjacent sites through land divisions, design reviews, and conditional uses.
Consistent treatment for trees in sensitive environmental resource areas. Trees in environmental zone transition areas will be replaced, and water body setbacks in existing environmental zones are consistently applied to help protect riparian trees and vegetation.
Streamlined, Standardized Tree Permit System. An updated tree permit system will apply citywide, generally to trees at least 12" in diameter. A simple "homeowner" permit will require replacement of 20" diameter trees. Limited tree pruning in environmental zones will now be allowed through a simple permit instead of review. The new Programmatic Permit will support routine public agencies activities and encourage restoration.
Customer Service Improvements
Single point of contact, 24-hour hotline and automated permit tracking system will improve public access to tree-related information, improve City program efficiency, and support compliance efforts.
Community Tree Manual will provide a user-friendly guide to tree rules, tree care and best practices.
Neighborhood Tree Plan. Working with residents to inventory trees and set priorities at a neighborhood scale

CITYWIDE TREE PROJECT PRODUCTS AND BENEFITS

Citywide Tree Project
Policy Review & Regulatory Improvement

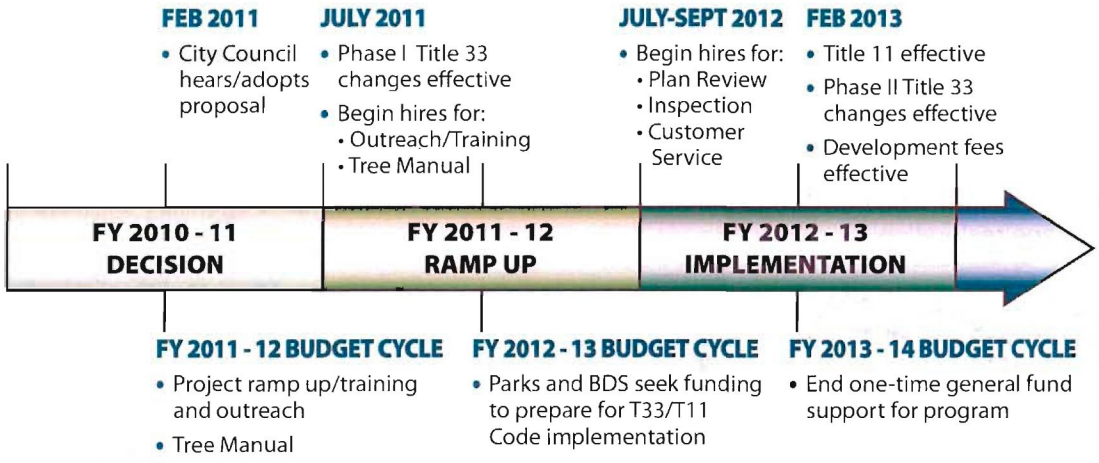
1. Responds to City Council and community demand for a cohesive, consistent, and equitable regulatory system for Portland's trees

2. New consolidated tree code "Title 11, Trees"
   - elevates role of Portland's urban forest and Urban Forestry Program
   - shifts paradigm to trees as "green infrastructure"
   - addresses tree preservation and planting in development
   - updates and streamlines tree removal and replacement requirements when no development is proposed

3. More than 100 additional acres of future tree canopy established per year

4. Customer service improvements
   - single point of contact for public inquiries
   - community tree manual for improved education and outreach
   - permit tracking system upgrades and ability to track permits on line
   - 24-hour tree hotline

5. Most implementation costs can be supported through modest development fee increases



Chapter 1 • Background

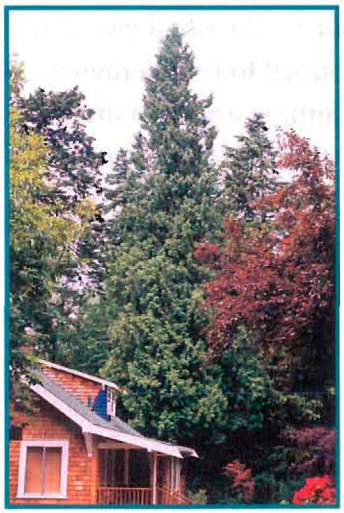
This chapter summarizes the project origin, benefits of the urban forest and emerging city policy, some examples of tree regulations in other localities, and the project approach.

Project Origin

The Citywide Tree Policy Review and Regulatory Improvement Project (Citywide Tree Project) was initiated by the Portland City Council in fiscal year 2007 – 2008 to respond to community concerns about the City's tree regulations. A group of citizens called the Southwest Tree Committee presented Council with a 2005 report entitled *Tree Protection and Preservation in Portland – A Call for Reforms.* The report highlighted the following key concerns:

Someone's sitting in the shade today because someone planted a tree a long time ago

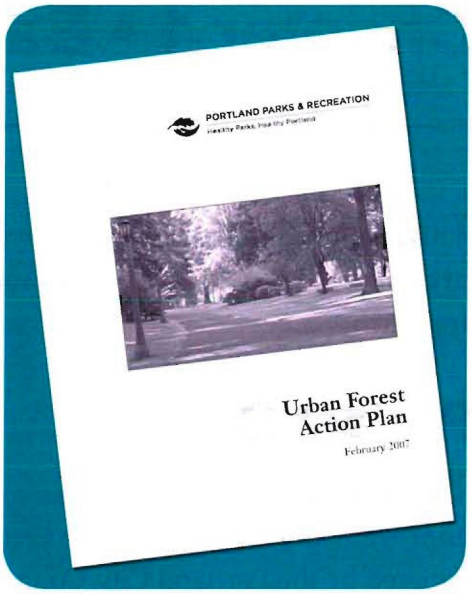
- Warren Buffet



Heritage tree, Western red cedar (thuja plicata)

- regulatory complexity
- loss of trees to development and tree damage during construction
- tree removal prior to submittal of a building permit or land use review application
- trees located on property lines were not adequately addressed by the codes
- effectiveness and monitoring of tree replacement
- confusion about tree removal permit requirements
- how tree code violations are addressed and how to report tree removal concerns on weekends or after regular office hours
- how tree and planting requirements address wildfire risk
- tree related code enforcement
- the need for improved public outreach and education

The Southwest Tree Committee report also provided recommendations to address these concerns (Appendix F).



In 2006, the Bureau of Parks and Recreation led a multi-bureau effort to produce the ***Portland Urban Forestry Management Plan (UFMP) Draft Action Plan (Urban Forest Action Plan).*** The Urban Forest Action Plan (Appendix G) establishes a prioritized multi-faceted work plan comprised of 64 actions to achieve the goals of the 2004 ***Urban Forestry Management Plan***.

City staff was aware of community concerns and agreed that the existing regulations are overly complex, inconsistent, and challenging to implement. The bureaus included a project to review and update the City's tree policies, regulations, and associated procedures in the *Urban Forest Action Plan*. The bureaus designated this project a "high priority action item" in the plan, noting that there was no funding for the work. The City Council approved the Urban Forest Action Plan on March 14, 2007.

During the fiscal year 2007-2008 budget process, community members asked the City Council to fund a review and update of the tree policies and regulations. The Bureau of Planning and Sustainability (then the Bureau of Planning) FY 2007-08 Budget Advisory Committee also expressed strong support for the project.

The Bureau of Planning worked with the Bureaus of Parks and Recreation, Development Services, and Environmental Services, to provide the City Council with an initial project proposal, scope of work, and funding request, noting that the project would take two years to complete. The City Council funded the project beginning in FY 2007-2008, directing the Bureau of Planning to lead the multi-bureau effort to improve the City's tree regulations.

Portland's Urban Forest and Emerging Policy

At the time the early European settlers came to Portland the city's native trees included stands of Douglas fir, western hemlock and western red cedar. Deciduous trees included bigleaf maple and red alder. Vegetated corridors along streams and wetlands were also comprised of Oregon ash, willows and black cottonwood trees. Oregon oak and pacific madrone grew in the drier uplands such as the bluffs along the eastern banks of the Willamette River.



Native forest

The settlers cleared trees and native vegetation to build the city, leading to the Portland's nickname of "Stumptown." Many types of ornamental trees were imported from the homelands of the settlers and planted in parks, along city streets, and gardens. Portland's first street inventory in 1938 recorded 78,886 street trees.

Cultivars were developed to enhance the health and aesthetic properties of the trees, such as pest resistance and fall color.

Although trees were planted as the city began developing, the City's Urban Forestry program is only about 36 years old. In 1972 the Bureau of Parks and Recreation (PP&R) was assigned responsibility for trees on city owned and managed property, including public rights of way. The first City Forester was hired in 1974. The Urban Forestry Division, funded by the Portland Housing and Community Development Commission, planted 20,000 street trees from 1975 to 1980 as part of large-scale tree planting projects, in several Portland neighborhoods such as Brooklyn, Buckman, Elliot, and parts of Irvington (UFMP, 1995).



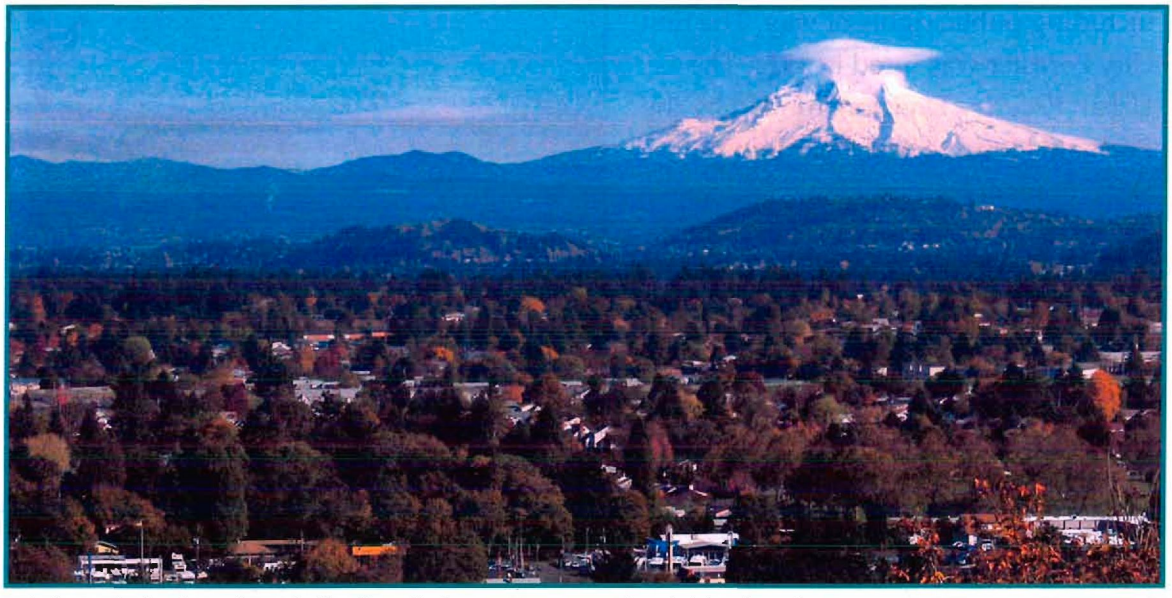
Stumptown, early settlement along the Willamette River

The City also established the Urban Forestry Commission in 1974. The Urban Forestry Commission is appointed by the Mayor in consultation with the Parks Commissioner. The Urban Forestry Commission is comprised of volunteers who have demonstrated an interest in the preservation of trees and the beautification of Portland. The Commission serves as an advisory group to the PP&R Director and to the City Forester. The Commission reviews large capital improvement plans and assesses the impact on the urban forest. It also acts as an appeal board for tree permits, sponsors the Heritage Tree Program, and educates the community about urban forestry issues.

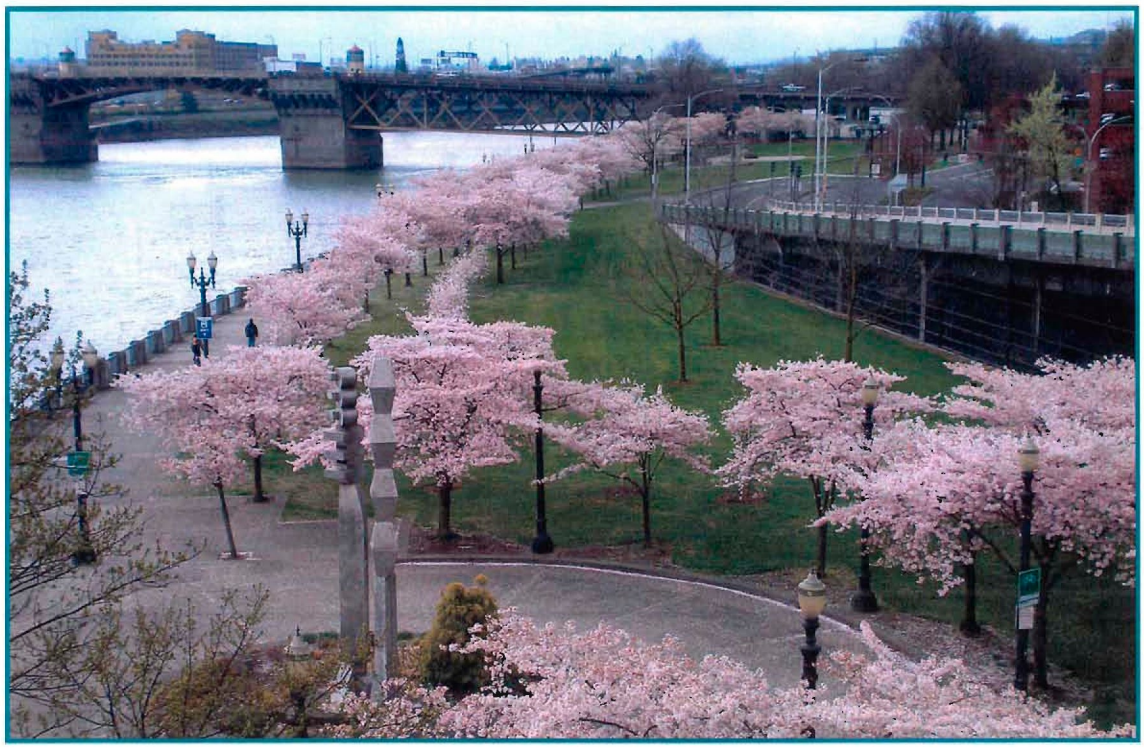
The Urban Forestry Management Plan

The City's first Urban Forestry Management Plan (UFMP) was developed in 1995 to provide direction and coordination for the management and administration of Portland's urban forest. The plan was updated in 2004 to respond to new regulatory mandates associated with the Endangered Species Act and the Clean Water Act, and to improve inter-agency coordination for management of tree resources. Today, multiple bureaus participate in activities relating to the management of Portland's urban forest, as described further in this report.

The UFMP describes the urban forest as "...more than trees on streets or in city parks. It is the complex system of trees and smaller plants, wildlife, associated organisms, soil, water, and air in and around our city. It is the trees along our streets, the plants and trees around our homes, businesses, and institutions, the multi-layered forests in our natural areas, and the plants in our parks. A healthy and diverse urban forest is essential to our quality of life and important in the City's coordinated efforts to restore the quality of its rivers and streams and improve the environment of the city."



Integrated urban forest, Portland's tree canopy and neighborhoods



Cherry trees in full bloom in Waterfront Park along the Willamette River

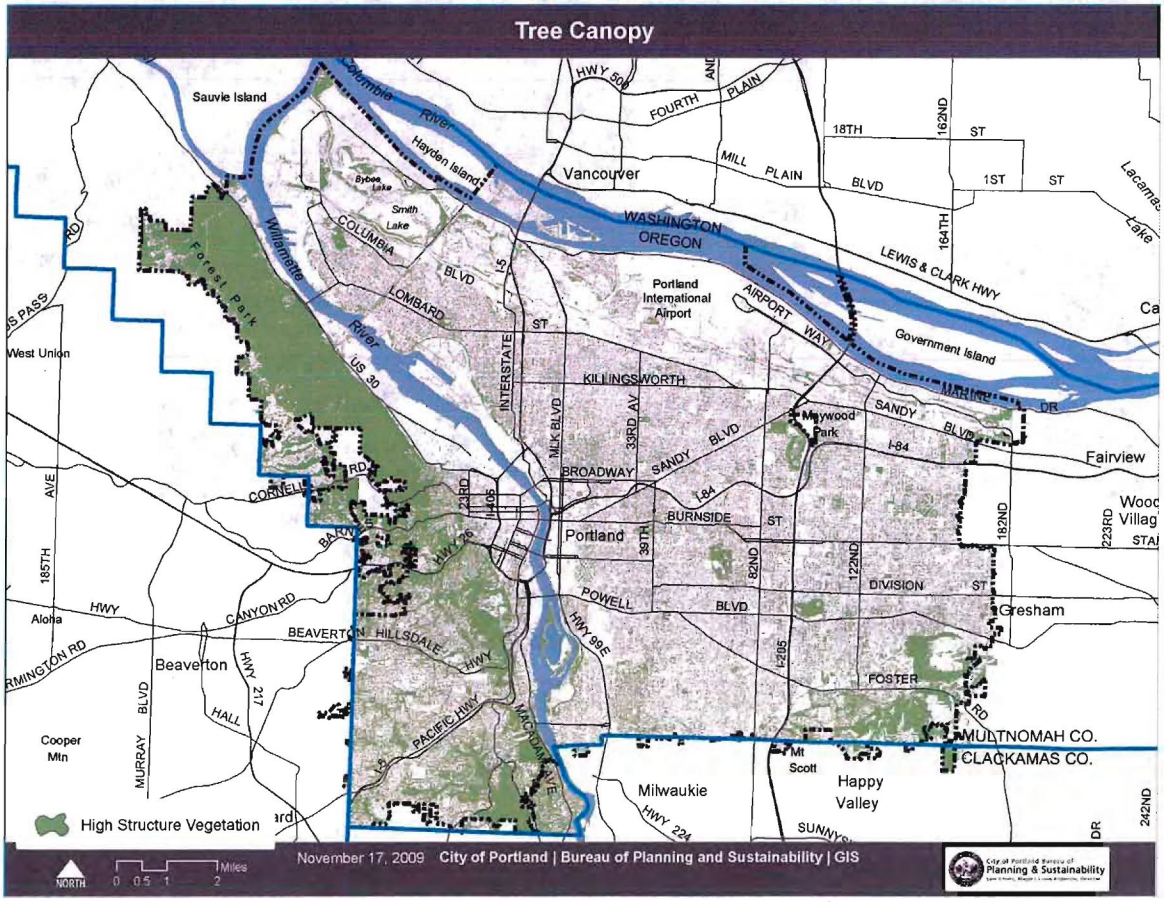
The UFMP includes the following three main goals:

- **Goal 1:** Protect, preserve, restore, and expand Portland's urban forest
- **Goal 2:** Develop and maintain support for the urban forest
- **Goal 3:** Manage the urban forest to maximize community benefits for all residents.

The UFMP also establishes tree canopy targets that vary for different land use types. The following table compares the canopy targets with existing canopy levels.

Land Uses	Current Canopy*	Target Canopy
Residential	30%	35-40%
Commercial/Industrial	7%	15%
Parks and Open Spaces**	28%	30%
Rights-of-way	17%	35%
Citywide	26%	33%

* from 2002 as cited in Portland's Urban Forest Canopy, Parks and Recreation 2007.
**not including City-managed natural areas



Map depicting the distribution of Portland's urban tree canopy

The City's tree regulations have been adopted in a piecemeal fashion over several decades. The rules relating to management and permitting of City Trees and Street Trees (currently referred to in Title 20 as "Public" Trees) were first adopted in 1972. Tree removal permits were first required for trees on private property in 1995. Tree protections in environmental overlay zones began in the 1980s with adoption of stream setbacks to protect streams and riparian vegetation. Additional protections were established during the 1990s and early 2000s with the adoption of environmental overlay zones and a number of Natural Resource Management Plans and Plan Districts. In 1999, tree standards (T1) were adopted to require new single family development to provide a certain quantity of tree inches per lot area by preserving existing trees, planting or paying into the Tree Fund. The first and only real tree preservation requirements were established through the Land Division Re-write project which was adopted in 2002.



Western scrub jay, Columbia Slough

The goals and commitments outlined in the City's Urban Forest Management Plan and associated Action Plan reflect a growing awareness of trees as a community asset that provide important services and benefits. Portland's trees contribute to public safety and watershed health by intercepting precipitation and reducing and cleaning stormwater runoff, capturing air particulates and greenhouse gases, stabilizing slopes and preventing erosion and landslides. Trees also provide important habitat benefits including food, cover, and nesting sites, for wildlife including resident birds and birds that migrate through Portland each year along the Pacific Flyway. Trees also provide shade, organic inputs, and a source of large wood that are vital to maintaining habitat for native fish and aquatic species, including threatened salmonids.

Portland Watershed Management Plan

These functions are recognized in the *Urban Forestry Management Plan*, and further elaborated in the first *Portland Watershed Management Plan*, which was approved by City Council in early 2006. This plan establishes citywide watershed health goals and objectives including protection of aquatic and terrestrial habitat, protecting and restoring native plant communities, reducing populations of non-native plants and organisms. The *Portland Watershed Management Plan* recognizes how trees and vegetation contribute positively toward the City's watershed objectives for hydrology, water quality, habitat and biological communities.



Forested Riparian, Johnson Creek

The Portland Watershed Management Plan calls for actions to protect existing vegetation and increase the quantity, quality, and composition of tree canopy and other vegetative cover in Portland's watersheds.

Climate Action Plan

Trees also sequester carbon dioxide which will help meet City goals to reduce greenhouse gas emissions as outlined in Portland's recently adopted ***Climate Action Plan (2009).*** The *Climate Action Plan* recognizes that today the urban forest removes 88,000 metric tons of carbon dioxide from the atmosphere per year. Tree shade can help reduce demand for air conditioning which in turn helps reduce carbon emissions. The *Climate Action Plan* calls for an increase in tree canopy to cover one-third of Portland, and along streams and rivers, so that the city may be more resilient to the impacts of climate change.



Trees shade N. Dekum

The *Climate Action Plan* calls for clarifying codes and policies to maximize preservation of long living trees and expanding the urban forest over time. The plan encourages diverse tree types and ages and more tree canopy in tree deficient areas.

Today Portland's trees contribute to the City's reputation as a beautiful, green city, and to the character and identity of most Portland neighborhoods. Portland's trees are diverse, ranging from the native conifer forests of the west hills and east buttes, to the remnant native oak stands on the Willamette east bluffs; from the attractive ornamental street and yard trees characteristic of Portland's inner eastside neighborhoods, to the remnant conifer stands of the outer eastside neighborhoods.

It is difficult to put a price tag on the emotional value that Portlanders place on their trees, but that value is real nevertheless, and helped spur the Citywide Tree Policy Review and Regulatory Improvement Project. Moreover, there is an increasing understanding of the inter-related environmental, social and economic value of tree-related benefits and ecosystem services.

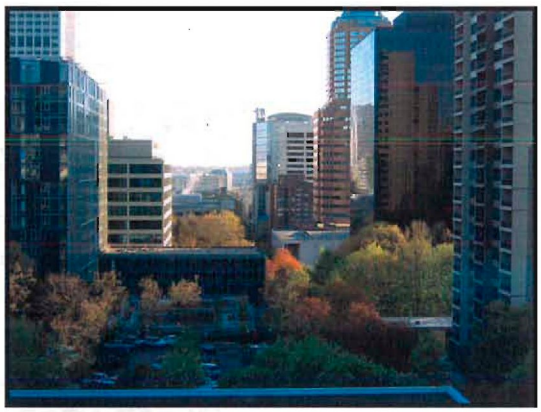


Tree preservation and the challenges of development



- Environmental benefits: *Urban trees help manage stormwater, improve air quality, reduce pollution and greenhouse gases, recharge groundwater, decrease flooding and erosion, stabilize slopes, provide wildlife habitat, and shade streams. A recent report produced by the Bureau of Environmental Services notes that each tree intercepts 572 gallons of rainfall, will remove 0.2 pounds of air particulates, and can sequester 0.076 metric tons of carbon dioxide per year. (Entrix, 2010)*

- Social benefits: *Urban trees improve physical and mental health, reduce heat island effects, create visual and noise buffers, enhance neighborhood appearance. Large trees have also been linked to reduced rates of neighborhood crime in Portland (Donovan and Prestemonn, 2010). There are also studies indicating that contact or exposure to trees and greenspaces are associated with improved test scores, fewer illnesses, positive psychological effects, and shortened hospital stays (University of Minnesota, 2007)*



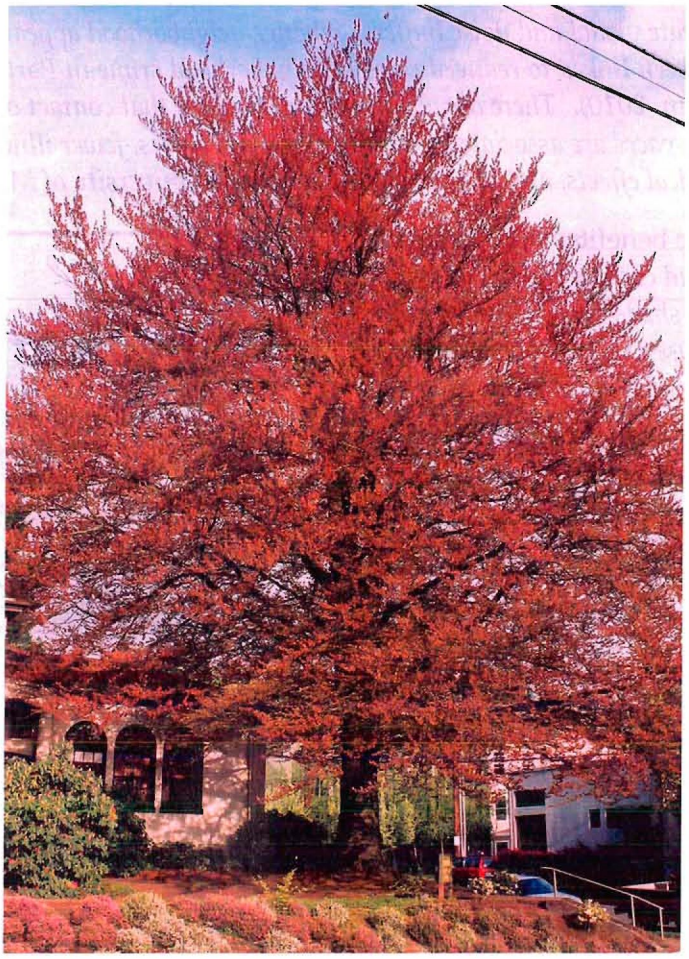
- Economic benefits: *Urban trees reduce heating and cooling costs for buildings by providing shade and wind breaks. They also increase property values and reduce landslide and flood damage. A local study found that the presence of street trees increased east-side home values by almost $9,000 on average (Donovan and Butry, 2010). Another study showed a positive effect on median home sales process from tree canopy within one-quarter mile of the home (Netusil, Chattopadhyay, and Kovacs, 2010).*

Urban Forest Canopy Assessment

Portland's Bureau of Parks and Recreation studied the trees in parks and public streets to estimate the benefits they provide (***Portland's Urban Forest***, Karps et al. 2007). The study evaluated the number, type, and relative age and health of the tree population based on existing sample data and estimated the value of the environmental and aesthetic benefits, or "ecosystem services", provided by trees in the city. Although the study focused on public trees it recognized the value of trees on private property as well.

Parks estimated that the replacement value of street trees is just under $500 million, and the replacement value of trees in Portland's parks and natural areas exceeds $1.8 billion.

Since about 53 percent of the tree canopy in Portland shades privately owned property Parks extrapolated that the replacement value of the entire urban canopy is roughly $5 billion. Parks estimated that Portland's street trees return approximately $3.80 in environmental and aesthetic benefits (such as clean air and stormwater retention) for each dollar invested in their care and maintenance, and values the annual environmental and aesthetic benefits provided by City street and park trees at approximately $27 million (Portland Parks and Recreation, 2007).



Tree Regulations in Other Localities

To help gauge the regulatory landscape that exists in other cities, the Citywide Tree Project team interviewed staff from several neighboring jurisdictions to evaluate the opportunities and shortcomings of various tree regulations. In addition, staff reviewed information on tree regulatory approaches used by municipalities across the country. Sources included "Guidelines for Developing and Evaluating Tree Ordinances" (Swiecki and Bernhardt, 2001), "Urban Tree Conservation: a White Paper on Local Ordinance Approaches" (Nichols, 2007), "Management of City Trees" (City of Seattle, 2009), and the "Survey of Community Tree Regulations in Georgia" (Head, 2006).

There seems to be as many approaches to address trees as there are jurisdictions that actively manage their urban forest asset. A number of jurisdictions, large and small, are updating or have recently updated their tree regulations -- from Seattle, Washington to Little Elm, Texas. Several jurisdictions within the Portland metro area have recently been evaluating or updating their tree codes including Tigard, Sherwood and Washington and Clackamas Counties.

A 2009 report by the Audubon Society of Portland, Metro, and Portland State University inventoried the current approaches of the 25 cities and 3 counties in the metro region (plus Vancouver and Clark County). The following table illustrates to diverse approaches to tree permitting in these jurisdictions.

Other localities addressing tree codes:

- Nanaimo, BC
- Vancouver, BC
- Chico, CA
- Danville, CA
- Pacific Grove, CA
- Palo Alto, CA
- Santa Clarita, CA
- San Jose, CA
- Truckee, CA
- Pensacola, FL
- Des Moines, IA
- Princeton, NJ
- Charlotte, NC
- Clackamas County, OR
- Sherwood, OR
- Tigard, OR
- Washington County, OR
- Mauldin, SC
- Myrtle Beach, SC
- Austin, TX
- San Antonio, TX
- Glen Allen, VA
- Issaquah, WA
- Kirkland, WA
- Lake Forest Park, WA
- Lynnwood, WA
- Seattle, WA

Summary of Local Tree Permitting Regulations in the Portland Metro Area

Jurisdiction	Street Trees Regulated?	What Size?	Private Trees Regulated?	What Size?
Beaverton	yes	all	yes	10"
Developed properties less than 1/2 acre entirely exempt. Four trees with 10" dbh or greater or 10% of trees greater than 10" dbh (which ever is greater) can be removed annually without a permit on developed properties larger than 1/2 acre. Provisions allow for the removal of hazardous, diseased, damaged or dead trees.				
Cornelius	no	n/a	no	n/a
Damascus	no	n/a	yes	6"
Hazardous trees; fewer than 10 trees from a parcel or from adjoining parcels in common ownership, within any twelve (12)-month period; or the removal of less than five trees from a parcel that leaves more than an average of one tree per 1,000 square feet of lot area				
Durham	yes	5"	yes	5" at 4 feet
Provisions allow for removal of trees that are hazardous, diseased, dead, or damaged.				
Fairview	yes	all	no	6" at 4 feet
Hazardous or invasive trees.				
Forest Grove	yes	all	maybe	6" and 3" for Oregon White Oaks
Permits exempt regular maintenance involving removal of no more than 20% of the tree canopy or disturbance of no more than 10% of the root zone. Provisions allow removal of hazardous, diseased or dead trees.				
Gladstone	no	n/a	no	n/a
Gresham	yes	8"	maybe	8" at 4.5 feet
Three to six trees can be removed within a 12 month period depending on lot size.				
Happy Valley	yes	all	no	6" at 4 feet
Trees on developed properties. Provisions allow for removal of trees that are hazardous, diseased, dead, or damaged.				
Hillsboro	no	n/a	no	n/a
Johnson City	no	n/a	no	n/a
King City	no	n/a	no	6" at 4 feet
Landowners are allowed to remove two trees a year without a permit. Provisions allow removal of trees that are hazardous, diseased, dead, or damaged.				
Lake Oswego	yes	5"	yes	5" at 2 feet
Permits are granted for two trees less than 10" in diameter within a 12-month period within residential zones. Provisions allow removal of hazardous or dead trees				
Maywood Park	yes	unknown	yes	7" conifers, 12" deciduous

Jurisdiction	Street Trees Regulated?	What Size?	Private Trees Regulated?	What Size?
Milwaukie	yes	all	no	6"
Outside Water Quality Resource Areas, only trees on flag lots are regulated				
Oregon City	yes	all	no	6" at 4.5 feet
Trees can be removed if they are located inside the building area or public utility easements.				
Portland	yes	all	maybe	12" but lower in natural resource zones and for some species
Trees on developed single-family lots are not regulated. Trees that are a confirmed hazard, located on a property line, are on the nuisance or prohibited plant list, located within 10-feet of an existing structure are exempt under the land division regulations.				
Rivergrove	yes	11.5"	yes	11.5" at 4.5 feet
Permits are granted promptly for up to three trees within a 12-month period on lots located outside a Water Quality Resource Area.				
Sherwood	yes	2"	no	5"-10" depending on species
Douglas fir, ponderosa pine, red cedar, white oak, big leaf maple and American chestnuts less than 10". Provisions allow for removal of trees that are hazardous, diseased, dead, or damaged.				
Tigard	yes	2"	yes	6"
Regulations do not apply to developed properties. Provisions allow removal of hazardous or dead trees.				
Troutdale	yes	all	no	6"
Regulations do not apply to developed properties. Provisions allow removal of hazardous, diseased or dead trees.				
Tualatin	yes	all	yes	8"
Up to four trees can be removed per calendar year. Additional exemptions apply for tree removal for commercial forestry or agriculture and in parks and golf courses. Also staff permits outright removal of trees within 10 feet of building footprints. Provisions allow for removal of trees that are hazardous, diseased, dead, invasive or damaged.				
West Linn	yes	all	yes	6"
Trees greater than 6" that are determined to be "significant" by the City Arborist are subject to preservation criteria. Trees less than 12" or white oaks, madrone, and dogwood less than 6" are not regulated if development is not proposed. Provisions allow for removal of trees that are hazardous, diseased, dead, or dying.				
Wilsonville	yes	all	yes	6" at 4.5 feet
Approval to remove up to three trees within a 12-month period is granted if trees proposed for removal are not in a zoned natural resource area, are not a street or Heritage tree, and were not required to be retained as a condition of past development. Provisions allow for removal of trees that are hazardous, diseased, dead, or damaged.				

Jurisdiction	Street Trees Regulated?	What Size?	Private Trees Regulated?	What Size?
Wood Village	no	n/a	no	n/a
Vancouver	yes	all	yes	6"
Trees cut for emergency purpose (that must be verified retroactively); as part of commercial nurseries, Christmas tree farms, and some commercial forestry operations; on developed single-family lots less than 1-acre. Also six trees or less within a 3-year period can be removed from lots that will remain undeveloped for six years. Provisions allow for removal of trees that are hazardous, diseased, dead, or invasive.				
Urban Multnomah County*	no	n/a	no	n/a
Urban Clackamas County*	no	n/a	no	Staff discretion.
Regulations only apply to new single-family subdivisions and development and no permit is required for tree removal outside the development review process.				
Urban Washington County*	no	n/a	no	Staff discretion.
Hazardous trees can be removed. Tree removal or preservation is at discretion of staff.				

Source: Audubon Society of Portland, Portland State University, and Metro, 2009

The report also contained extensive information on how these Portland metro area jurisdictions address trees in the context of development.

More recently the City of Seattle completed a study of tree regulations in the Pacific Northwest. The study compares twelve Pacific Northwest cities, including 3 large (Seattle, Portland, OR, Vancouver, BC), 2 medium (Bellevue, Olympia) and 4 small cities (Kirkland, Shoreline, Redmond and Issaquah). Again, there is considerable variability in the approaches currently employed. A summary of this report and comparison to the Citywide Tree Project proposal is provided below.

Summary of Pacific Northwest Municipal Tree Regulations

Addressing Trees in Development Situations

TREE DENSITY STANDARDS

a. Most cities have minimum tree density standards for single family, multifamily and commercial development (certain number of tree credits per lot area).
b. Can meet by retaining or planting trees and give credit for larger trees.
c. Standards vary by development type.
d. Landscape standards are predominant tree planting requirement for non-single family development.

CTP proposal includes tree density standards consistent with this approach.

TREE PRESERVATION AND REPLACEMENT

a. Some cities (e.g., Seattle, Portland, Bellevue apply discretion to determine requirements for retention and planting.
b. Some cities, including Vancouver BC, require replacement of all trees with flexibility to vary the requirement.
c. Some cities use landscape requirement to set replacement requirements.

CTP proposal retains and strengthens Portland's discretionary tree preservation requirements. Non-discretionary standards provide a "backstop," but require a percentage of trees on a development site to be retained or replaced (not all trees).

Addressing Trees when no Development is Occurring

SINGLE FAMILY PROPERTY

a. Wide variety of approaches
b. Most larger cities require permits for substantial removal or removal on undeveloped or sub-dividable lots
c. Most smaller jurisdictions require permits for all tree removal, and for trees >=6" diameter
d. Most allow a removal of a certain number of trees w/out explanation
e. Some allow removal only of dead, dying, hazardous. Many require arborist report to certify that removal is necessary
f. Most do not vary requirements by tree species
g. Most cities have fees between $50 and $250

CTP proposal retains current permit requirement for vacant and sub-dividable single family lots. Adds streamlined permit requirement to remove trees >= 20" in diameter on developed, non-sub-dividable lots. New "homeowner" permit would require "tree for tree" replacement, with no review and no public appeal.

NON-SINGLE FAMILY PROPERTY

a. Most cities apply permit requirements similar to single family permit requirements.

CTP proposal retains current permit requirement for non-single family property, and for vacant and sub-dividable lots. Fees under discussion with option to charge "by the tree" (like City of Toronto).

Source: Seattle Department of Planning and Development and Sound Tree Solutions, February 8, 2010.

Learning about other local tree regulatory approaches helped inform the development of the Citywide Tree Project proposal. However, no one approach could be simply translated into City of Portland parlance. While Portland shares its borders with other jurisdictions and is a part of the regional urban forest, there are many factors to consider when developing municipal tree regulations. It would be unwise to unquestioningly adopt another jurisdiction's regulatory approach, just as it would be unwise to substitute another jurisdiction's community vision for our own.

The approach for Portland must consider the City's unique characteristics (size, density, growth rate and form, topography, and diversity in landscapes), objectives of the Urban Forest Management Plan and other existing policy directives, as well as continue to be a leader in innovation.

Project Approach

The Citywide Tree Policy Review and Regulatory Improvement Project (Citywide Tree Project) was completed in stages to establish a strong foundation of information, engage in collaborative problem solving, and seek input on potential solutions before developing detailed proposals. Project stages include the following and are detailed below.

- Project set up and scoping
- Collaborative Problem Solving and Evaluation of Solution Options
- Vetting Initial Proposals and producing the Proposed Draft
- Public Review and Legislative Process

Stage 1 • Project Set-Up and Scoping

The project set up and scoping phase took place during fall 2007 and into early 2008. During this period the Bureau of Planning hired staff to work on the project and established an inter-bureau team consisting of the Bureaus of Parks and Recreation, Development Services, Environmental Services, and Transportation. Inter-bureau agreements were established to assign roles and responsibilities and funding terms.

The project staff team, as noted previously, interviewed several local jurisdictions in the region to learn about their tree policies and regulations, how they were working in those localities. Project staff also conducted individual or small group interviews with neighborhood representatives, developers and arborists to help refine the project scope.

Project staff presented a draft project scope to a number of committees and organizations, including the Urban Forestry Commission, Development Review Advisory Committee, Citywide Land Use Group, and the Planning and Development Bureau Directors. These groups provided feedback on the draft scope priority issues for the project to address. The goal was to establish mutual, realistic City and community expectations for the project.

A summary of the project scope and list of briefings delivered during this project stage is provided in Appendix I. Based on this scoping process project staff drafted "issue papers" (Appendix J) intended to provide a launching point for discussion with stakeholders during the next phase of the project.

Stage 2 • Collaborative Problem Solving and Evaluation of Solution Options

In spring 2008, the project staff convened a 20-member Stakeholder Discussion Group (SDG) to foster an open dialogue on the issues and potential solutions. SDG members represented the following organizations and interests:

- Urban Forestry Commission
- Johnson Creek Watershed Council
- Multnomah County Drainage District
- Friends of Trees
- NW District Coalition
- Columbia Corridor Association
- Homebuilders Association
- East Side and West Side Neighborhoods
- Audubon Society of Portland,
- Residential and non-residential development community

The Stakeholder Discussion Group volunteered nearly 1,000 hours to inform and shape the solutions currently under consideration.

The Bureau of Planning facilitated the meetings, providing presentations on the various topics to fuel the discussions. Staff from the other City bureaus provided technical support and participated in the SDG discussions. The SDG members were invited to share their views and expertise to inform the project, so all participants could learn how others felt about trees and related policy and regulatory issues. The SDG was asked to provide advice but not expected to generate consensus recommendations or reports.

The SDG met from April through October 2008. Discussions focused on the issue paper topics, including current tree regulation inconsistencies and complexities, trees and public infrastructure conflicts, tree preservation, planting protection in development situations, inspections and enforcement, and uses of Tree Fund revenues. The SDG members provided input on staff's initial analyses of these issues and potential solutions. The SDG also came up with many additional suggestions, including both specific solutions and tree-related policy issues that should be addressed through the urban form and growth management discussions of the Portland Plan.

The stakeholders brought many viewpoints to the discussions. Neighborhood groups expressed concern over the loss of trees, especially large trees and tree groves that contribute to neighborhood character and identity. There was also concern about impacts of tree removal on slope stability and landslides, and tree failure during windy periods.

Neighborhood representatives expressed frustration about the complexity and inconsistency of the City's tree cutting permit system. They also noted that large, native trees are often replaced with smaller ornamental trees that provide fewer ecological social and economic benefits. Audubon representatives shared concerns about the impacts of development on trees, and associated reductions in the amount and quality of wildlife habitat. Neighborhood and Audubon representatives generally supported strengthening rules to protect large trees and tree groves, as well as a 24-hour hotline to allow citizens to report tree cutting activities on weekends or after work hours



Tree cutting

Development community representatives explained how challenging it can be to meet the array of City requirements, including tree protection, especially when developing smaller sites. Industrial representatives noted that it is difficult to preserve trees even on large development sites given space requirements for industrial building, storage, maneuvering, and access. Developers are concerned about how tree requirements affect project costs and affordability, and review and construction timelines. Developers also expressed concern about how tree regulations could affect City growth and density goals, and increase pressure to expand the Urban Growth Boundary. Developers supported flexible standards to encourage tree preservation where feasible. They generally agreed that requiring reasonable tree replacement or mitigation would be acceptable, but cautioned against unduly adding to project costs or review times.

Local arborists and Friends of Trees staff expressed concern about impacts on trees during development and the need for more public information about tree care after planting. Arborists also noted that the City's development process did not generally require careful monitoring of tree protections during construction.

Members of the SDG generally agreed that trees are important amenities in the City, and that existing regulations and the regulatory structure could be much clearer, simpler, and more effective in enhancing the urban forest. There was also interest in exploring opportunities to manage trees as a component of the City's "green infrastructure." SDG members supported establishing a single point of contact for tree-related inquiries and permit application submittal. They also supported consolidation and increased consistency of City regulations for trees on public and private property, and in development and non-development situations. They strongly supported the creation of

a "Tree Manual" to provide user-friendly information on tree care, and to house technical specifications in a document that can be readily updated.

SDG members and some City bureau staff expressed concerns or cautions about some of the potential solutions discussed during the meetings. The strongest opinions related to the City's tree removal permit system, specifically, whether or not the City should retain or eliminate the existing exemption for tree removal on non-dividable single family property. Some expressed support for a more uniform permitting system, as long as the permit requirements would not be onerous. Some stakeholders suggested designing the permit process to educate and connect with citizens, and to offer incentives to plant trees. Others were concerned that regulating trees on single family property might generate public resistance, impeding City efforts to develop partnerships with citizens and discouraging tree planting.

All told, the SDG volunteered nearly 1,000 hours to inform and shape the solutions under consideration. The stakeholders were respectful and candid, and provided invaluable input. A table summarizing the key issues and initial proposals follows in the next section of this report. The public outreach log for the project is provided in Appendix D.



Stage 3 • Vetting Initial Project Proposals and Producing the Proposed Draft

Building on SDG discussions and suggestions, project staff produced an initial set of conceptual proposals. In winter and early spring 2009, staff shared the preliminary proposals with a number of neighborhood groups, Citywide Land Use Group, Citywide Parks Group, Watershed Advisory Council, Development Review Advisory Committee, Urban Forestry Commission, Sustainable Development Commission, Planning Commission, and with City Council members or their staff. The intent of this vetting process phase was to share the project, key issues, and potential solutions with a broader audience, determine whether people felt that initial proposals were "headed in the right direction," and identify areas of strong support or concern.

The table on the following pages was produced in January 2009 to summarize key issues and stakeholder input, and to outline the initial proposed proposals. The table was provided as a handout to inform discussions during the vetting process.

Citywide Tree Policy Review and Regulatory Improvement Project Key Issues and Initial Proposals – DRAFT January 28, 2009	
Key Issues	
Regulatory complexity and inconsistency	**Current system - overview** ▪ Regulations apply to trees on public and private property, in development and non development situations ▪ Established in piecemeal fashion over 36 years ▪ Regulations spread across multiple titles ▪ Regulations have evolved over time; trend is toward tree preservation but rules are inconsistent ▪ Tree cutting permit system is inconsistent and inequitable, particularly relating to single family property ▪ Permitting has been responsibility of several bureaus –bureaus have different responsibilities – some overlap ▪ Many inquiries require citizens to contact multiple bureaus **What have we heard from stakeholders (neighborhood, developers, arborists, environmental):** ▪ Rules hard to understand ▪ Can't always get a clear answer to questions ▪ Have to chase down staff at multiple bureaus ▪ Unfair – permitting requirements treat similar situations differently, especially on single family property ▪ Want a single point of contact

Citywide Tree Policy Review and Regulatory Improvement Project
Key Issues and Initial Proposals – DRAFT January 28, 2009

Ineffective preservation and enhancement of the urban forest – summary of issues	▪ **Trees not well integrated into site and project design,** including public works projects – addressed after sites and projects are designed
	▪ **Tree preservation applied too narrowly and not achieving goals**
	  ▪ Apply only in context of land divisions – no other land use reviews
	  ▪ Not applied to most building permits
	  ▪ Rules may encourage site clearing before applying for land divisions
	  ▪ Numeric standards can result in preserving lower-functioning trees and loss of trees, including large trees and tree groves
	  ▪ Rules that provide additional credit for preservation of "significant trees" (i.e., large and important tree species), do not appear effective
	▪ **"Significant Trees" not addressed through most development –** Rules address significant trees only in the context of land divisions
	▪ **Tree mitigation/replacement rules inadequate** to compensate for lost function; many trees are "exempt" and not counted in calculations for preservation or replacement; rules do not address tree size, species diversity, function – result in replacement with smaller lower-functioning trees – cheaper to replant (or pay) than to preserve
	▪ **In-lieu of planting fees are out of date**
	▪ **Tree fund warrants clearer direction –** clarify criteria for use of funds
	▪ **Trees protection during construction can be improved –** fencing required only for preserved trees; no protections for trees on property lines / neighboring properties – results in damage and future hazards
	▪ **Frequency and timing of site inspections** could better address trees
	▪ **Enforcement system** is unclear; need standard protocols.
	▪ **What have we heard from stakeholders:**
	From neighborhood and community activists we have heard:
	  ▪ Concern about loss of big trees in neighborhoods and streets
	  ▪ Don't know when tree cutting is legal or a violation
	  ▪ Concern re: tree cutting after hours – need 24-hour response line
	  ▪ Concern about slope stability, neighborhood identity; loss of green
	  ▪ Large trees are replaced with small ornamental "lollipop tress" – conversion of Douglas fir to dogwood forest
	  ▪ Tree fund should be used to plant trees in tree deficient areas
	  ▪ Tree protection during construction not working well
	  ▪ Concern about level of inspection and enforcement of tree rules
	From development community we have heard:
	  ▪ Tree rules too rigid – result in preservation of unsuitable trees
	  ▪ Trees are an amenity but increase cost of development
	  ▪ Difficult to meet all city requirements for improvements, utilities, streets and sidewalks, and trees, especially on small, infill sites
	  ▪ Industrial/institutional development needs are different than residential, more difficult to preserve trees
	  ▪ Reasonable mitigation is appropriate but don't make it so costly that it makes development infeasible or unaffordable
	  ▪ Provide incentives and flexible standards to promote tree preservation
	  ▪ Disparity between private and public tree protection requirements

Citywide Tree Policy Review and Regulatory Improvement Project Key Issues and Initial Proposals – DRAFT January 28, 2009	
Criteria for Solutions	
Regulatory framework	**City's tree regulatory framework should be:** ▪ Clear and transparent ▪ Customer friendly – easy to understand and work with ▪ Consistent, cohesive and comprehensive ▪ Equitable and effective ▪ Complementary and reinforcing ▪ Efficient – putting process where it's due
Regulatory effectiveness	**City's tree regulations should:** ▪ Promote integration of trees into the development process by designing with trees ▪ Improve tree preservation, e.g., large healthy trees, groves and important native species ▪ Ensure tree replacement fully addresses lost functions and improves the urban forest ▪ Ensure that all Portlanders have a hand in replenishing the urban forest over time ▪ Provide adequate information to neighbors re: pending tree removal ▪ Apply consistently to non-development situations, land use reviews, building permits (prevents "cut the trees then apply for the permit ▪ Not make development infeasible or unaffordable ▪ Recognize and address the needs and constraints of different land use development types ▪ Provide incentives and flexibility to encourage and reward tree preservation and planting ▪ Enable the City to track tree removal and planting over time ▪ Allow citizens to determine whether tree preservation requirements apply to a property
Conditions and caveats	▪ Regulations must be accompanied by sufficient funding and staffing for implementation and enforcement (no unfunded mandates) ▪ The City must provide education to citizens and developers re: the value, care and protection of trees; and opportunities to design with trees ▪ The City should monitor the effectiveness of the regulations and adapt over time

Citywide Tree Policy Review and Regulatory Improvement Project Key Issues and Initial Proposals – DRAFT January 28, 2009	
Overview of Initial Proposals	
Project charge: Establish a clear, cohesive regulatory framework	▪ Establish a single point of contact for the public ▪ Pilot a 24-hour response line ▪ Create Comprehensive, Consolidated Tree/Urban Forestry Title ▪ Develop a Tree Technical Manual ▪ Create a consistent, equitable tree cutting permit system – private trees ▪ Clarify and build understanding of the public and street tree permit ▪ Consolidate permitting functions
Project Charge: Enhance the Urban Forest through development and redevelopment	▪ Establish flexible development standards ▪ Provide advanced mitigation credit for proactive tree planting ▪ Land Divisions and other discretionary reviews ▪ Tree Planting Standards for Building Permits ▪ Public works and capital projects ▪ Trees and solar energy systems, sign visibility, and views ▪ Update and clarify in-lieu of planting fees and tree fund ▪ Improve implementation, inspections, resolution of violations
Specific Initial Proposals To meet the project charge for a clear, consistent, cohesive regulatory framework:	
	Establish a single point of contact for the public ▪ One person and phone line to field public inquiries ▪ Determines if permits are needed ▪ Refers to appropriate bureau staff, documents, etc. ▪ Could also help process permits and keep databases current ▪ Could be housed at Development Services Center or elsewhere ▪ Single permit application form
	Pilot a 24-hour response line ▪ Explore use of existing BES Spill Response Line or Parks Dispatch line ▪ Collect key information from callers ▪ Determine if situation is urgent, requiring a immediate site visit (confer with Urban Forestry crews as needed) ▪ Contact police if needed ▪ Set up system for prompt call back on next business day
	Create Comprehensive, Consolidated Tree/Urban Forestry Title ▪ Would establish new comprehensive, cohesive Tree/Urban Forestry Title to elevate role of trees and the urban forest as a citywide asset , promote transparency, improve public awareness of City regulations; prevent code conflicts ▪ Would incorporate provisions authorizing the Urban Forestry Commission and Urban Forester, and specify authorities and responsibilities of different bureaus ▪ Would address trees on private and city-managed property, include tree permitting and planting standards for non-development and development situations, including development in City-managed rights of way

Citywide Tree Policy Review and Regulatory Improvement Project Key Issues and Initial Proposals – DRAFT January 28, 2009	
	▪ Would incorporate tree permit requirements from Parks Title - 20.42 for trees on private property; 20.40 for public trees and street trees ; T1 and tree landscaping standards from Zoning Code (environmental zone and land division rules remain in Zoning Code), and specific provisions of Title 17 Public Improvements, Title 24 Building ▪ Create tiered system of standards and criteria that are generally consistent across non-development and development situations (e.g., allowances; standards, discretionary reviews -- higher bar for large trees, important species)
	Develop a Technical Tree Manual ▪ Similar to City Erosion Control and Stormwater Management Manual ▪ Could be updated more frequently to reflect new information and technological advances ▪ Would contain information about trees, tree planting tree care, protection during construction, and various technical standards ▪ Would reduce review timelines and provide flexibility to address site specific conditions and opportunities ▪ One-time funding proposed as budget add-package
	Create a consistent, equitable tree cutting permit system – ▪ **Option 1:** Clarify private property tree cutting requirements while continuing not to regulate tree removal on single family lots where no additional building sites can be created. Requires discretionary review for trees >= 12", SF exception allows tree removal on 25 – 30% of land in the City with no registration, permit, or replacement. ▪ **Option 2:** Clarify private property tree cutting requirements and apply to all properties. Apply to trees >6" instead of >=12" to comport with other city codes. Establish low-cost registration process to track removal of trees 6 – 12". Apply current discretionary process for trees >12" and significant trees. ▪ -Clarify relationship between tree cutting permit and other codes ▪ -Update fee and tree mitigation requirements ▪ **For either Option 1 or Option 2:** ▪ Update replacement requirements to better achieve tree canopy targets, size and species diversity goals; ▪ Update criteria to apply to sites with multiple historic lots ▪ Update criteria to address significant trees and groves ▪ Update permit fees and provide in-lieu of mitigation payment option ▪ Continue to post all sites where trees will be removed ▪ Clarify enforcement procedures ▪ Option 1 and Option 2 both improve the existing system ▪ Option 1 continues City policy to exempt most single family properties ▪ Option 2 would allow for better tracking of tree removal and replacement, and distribute the responsibility to sustain the urban forest to all property owners. ▪ Option 2 would have a larger impact on staff work load and funding.

Citywide Tree Policy Review and Regulatory Improvement Project Key Issues and Initial Proposals – DRAFT January 28, 2009	
	Clarify and build community understanding of the public and street tree permit system ▪ Establish criteria to guide city decisions relating to tree removal and replacement - consider tree health, hazards, stormwater, aesthetics, habitat, carbon; nesting migratory birds, slope stability, neighborhood character, etc.) ▪ Retain discretion to address site-specific issues – consider developing administrative rules
	Consolidate permitting functions ▪ Consider shifting the responsibility for permitting tree removal on private property (in non-development situations) from Parks to Bureau of Development Services ▪ Retain and enhance the role of Urban Forestry arborists as neutral technical experts to inform and guide the permit process. ▪ Would improve efficiency, rely on existing BDS permitting and enforcement systems; Urban Forestry arborists to serve as "neutral" expert ▪ Would be consistent with Mayor/City Council initiatives
Specific Proposals Enhancing the urban forest through development and redevelopment	
Creating incentives	**Establish flexible development standards:** ▪ Allow front setback to zero feet (similar to e-zone) ▪ Allow reduction in side/rear setbacks of 20% but no closer than 3 feet ▪ Waive transit street setback ▪ Waive minimum building coverage requirement in CS and CM ▪ Allow reduction in required outdoor area ▪ Allow alterative pedestrian access configurations (e.g. not straight line) ▪ Waive minimum density (similar to e-zone) ▪ Provide amenity bonus provisions (extra points applied to density calculation in multi-family zone)
Designing with trees	**Provide advanced mitigation credit for proactive tree planting** ▪ Appropriate for larger sites, master plans, phased projects ▪ Would allow property owner to get future mitigation credit for planting trees today ▪ Tracking, monitoring, enforcement would be challenging ▪ Could be part of a site-specific urban forest plan **Land Division and other discretionary reviews** ▪ Apply tree preservation and mitigation requirements to conditional uses and design reviews, as well as to land division reviews ▪ Replace 35% tree preservation standard with variable standards by land use/zone - more consistent w/ landscaping requirements and Urban Forestry Management Plan canopy targets (e.g., 35-40% for residential; 15 – 20% commercial industrial ▪ Narrow tree exemptions - Account for watershed functions provided by nuisance trees: Include nuisance (and potentially hazard trees) in

Citywide Tree Policy Review and Regulatory Improvement Project Key Issues and Initial Proposals – DRAFT January 28, 2009	
	existing tree calculations. Applicants may (but would not be required to) preserve nuisance trees. Change will greatly increase total number of trees to be preserved or planted ▪ Strengthen credits and mitigation requirements to promote significant tree preservation ▪ Require initial "pre-design" tree assessment for larger projects to assess tree conditions, establish preservation/planting objectives and inform site design; could be used to modify tree preservation standard, or to require additional preservation ▪ Establish multi-objective criteria to guide preparation of a "tree plan" (to be submitted with application); address tree preservation and planting, address trees on-site, property lines and adjacent property within a set distance of proposed development ▪ Require application submittal to include the tree plan and explanation of how the site design meets the code criteria (and initial tree assessment objectives if applicable) to maximum extent practicable. ▪ Strengthen approval criteria – require findings that project design meets tree preservation and initial tree assessment objectives to the maximum extent practicable. Applicants would need to utilize flexible standards where practicable before staff could make this finding. ▪ Require replacement trees based on area at breast height; address tree size/species ▪ Update mitigation fees; require additional mitigation for significant trees
	Tree Planting Standards (aka T1/Landscape Standards) **General Recommendations:** ▪ Apply tree standards through the building permit process for all uses, instead of only to new SF permits). Existing trees used to meet T1 may be used to meet landscaping requirements. ▪ Retain option to preserve, plant or pay ▪ Establish allowances for hazard trees ▪ Establish higher bar for significant trees (e.g., require adjustment to remove healthy large trees) ▪ Identify and protect trees on property lines or on adjacent properties within X feet of development ▪ Revise tree/lot size ratio to increase trees – link to tree size and canopy using 10-year growth assumptions ▪ Establish tree size and species diversity requirements ▪ Update in-lieu of planting fees to reflect current cost **Option 1:** ▪ Maintain non-discretionary process w/ no adjustments ▪ Require additional planting or payment for removal of significant trees ▪ This approach will not significantly enhance tree preservation. **Option 2:** ▪ Proposals involving removal of significant trees would be required to go through an adjustment process to encourage revisions to site design. Would require updated adjustment criteria ▪ This option could help preserve big trees and important tree species.

Citywide Tree Policy Review and Regulatory Improvement Project Key Issues and Initial Proposals – DRAFT January 28, 2009	
	Public works facilities and capital projects ▪ Clarify intent and procedures to address trees in public works/capital projects ▪ Conduct initial tree assessment - include maps and tree inventory (including trees on property lines and adjacent sites with initial site design ▪ Address trees and consult with Urban Forestry staff early in project design/review ▪ Improve site posting ▪ Conduct training and provide information for contractor/crews ▪ Clarify tree-related objectives, rules, and allowances for maintenance and repair, for city-managed projects and other public projects such as flood control levees
	Trees and Solar Energy Systems, Sign Visibility and Views ▪ Seek opportunities to meet multiple objectives where possible
Leveraging resources	**Updating tree fund** ▪ Clarify criteria and procedures for collecting and expending funds
Implementation	**Improve implementation, inspections, resolution of violations**: ▪ site positing ▪ streamlined remedies for violations ▪ updated penalties ▪ BDS Tree Regulatory Implementation Study; Zoning Inspections Program, etc.
Key Questions	
	1. Is the Citywide Tree Project generally on the right track? Are any potential solutions missing? Which of the initial proposals seem most promising or troubling? 2. Should the City create a new comprehensive Tree/Urban Forestry Code Title to improve regulatory cohesiveness and highlight the urban forest as a citywide asset? That addresses trees on public and private property? That authorizes the Urban Forestry Commission and/or Urban Forester? 3. Should the City update its tree cutting permit system to apply to all trees of a certain size or greater, or keep the current exemption for trees on most single family property? 4. Should the City apply tree standards to all development types through the building permit process? Should tree preservation and planting standards vary by land use? 5. How can the regulations be more effective in promoting preservation of significant trees? In non-development and development situations? By establishing strong credit incentives and mitigation disincentives? 6. How can the City ensure replenishment of the urban forest without unduly burdening sites with a lot of trees or sites with few or no trees? (e.g., requiring full mitigation places burden on sites with more trees) 7. What additional information is needed to support the decision-making process?

Feedback on the initial project proposals during the vetting process was generally positive. Members of the Stakeholder Discussion Group expressed appreciation for collaborative discussions with staff and other community members. Various neighborhood organizations and commissions supported the single point of contact, 24-hour hotline, consolidated tree code title, and tree technical manual. There was also support for simplifying and improving consistency in the tree cutting permit system for trees on public and private property, applying tree preservation and mitigation policies more consistently and effectively during development.

Stakeholders expressed concern about some of the initial proposals as well. Like the SDG, there was particular interest in how the tree removal permit system should apply to single family homeowners. Support for establishing a clearer, more consistent permit system was mixed with concern about the potential for establishing an onerous permit system with unintended consequences such as discouraging tree planting or generating ill will toward the forestry program. Neighborhood representatives supported regulatory incentives to preserve trees but expressed concern about waiving building setbacks or height limitations without a public review process. Developers continued to warn against establishing regulations that would increase project costs or result in delay. City bureaus expressed support for the project as a whole, but questioned consolidating all tree regulations into a single title, and echoed concerns about the potential risks and costs of regulating tree removal on single family property.

Informed by this feedback, BPS project staff worked closely with other City bureaus from summer 2009 until early 2010 to transform the initial proposals into draft code language and program recommendations, and to analyze potential fiscal impacts and funding options. Ultimately the Recommended Proposal to the City Council embodies most of the initial solution concepts that were aired during the public vetting period in early 2009. However, the concepts have evolved considerably since that time, as outlined in the next section.

Stage 4 • Public Review and Legislative Process

The Bureau of Planning and Sustainability released the Proposed Draft of the *Citywide Tree Policy Review and Regulatory Improvement Project* to the Portland Planning Commission and Urban Forestry Commission on February 17, 2010. The Proposed Draft was comprised of three volumes: Volume 1 Project Report, Volume 2 Proposed Code Amendments, and Appendices. Staff provided briefings to the Citywide Land Use Group, Development Review Advisory Committee, the Homebuilders Association, and a number of neighborhood organizations. Staff also held two public open houses on March 9th and March 16th, 2010.

The commissions kept the public hearing record open during the April, May and June work sessions. They invited comments at the work sessions, and accepted written comments as well. In addition to the required mailing notice, staff sent electronic mail messages to notify those on the project mailing list that the public hearing remained open and the commissions were continuing to accept testimony. The Planning Commission closed its hearing on June 8th. The Urban Forestry Commission received testimony through June 17th.

The Planning Commission and Urban Forestry Commission received extensive comments on the Proposed Draft (February 2010) from neighborhood associations, developers and consultants, arborists, architects, environmental organizations, and Portland residents. City bureaus also provided detailed comments and suggestions on the project proposal. The following comment "themes" emerged during the public hearing and work sessions:

1. Support for consolidating the tree regulations into a new Title 11 Trees and treating trees as part of Portland's 'green infrastructure'
2. Support for stronger tree preservation, planting and protection requirements, flexible development standards to encourage tree preservation, consistent requirements for trees in environmental zones, and improved enforcement
3. Concern about loss of large trees and groves of trees; interest in native trees
4. Concern about impacts of the proposed tree preservation and protection standards on development costs and feasibility, particularly on smaller lots, and impacts on housing density and affordability
5. Support for a more standard tree permit system; desire for the system to be simple and non-onerous, concern about how the proposal would apply to homeowners

6. Varying views on tree size thresholds for permitting and development standards

7. Support for more standard replacement of trees removed, including dead, diseased, dangerous trees; mixed viewpoints requiring replacement of nuisance tree species

8. Support for proposed customer service improvements including: single point of contact for tree information, 24-hour tree hotline, community tree manual, and neighborhood tree plans

9. Concern about the complexity and cost of the proposal, especially given the current economic downturn and City budget cuts; requests to simplify and reduce cost

A variety of other comments and concerns were received, ranging from how the City Tree Fund is administered to how proposed restrictions on planting identified nuisance tree species, particularly Norway Maple, would affect the character of Portland's streets and the historic character of Ladd's Addition. Specific code suggestions were provided as well.

Oral public testimony was summarized in meeting minutes and posted on the project website, www.portlandonline.com/bps/treeproject. The written public comment record is provided in Appendix B. Staff also prepared a report titled Public Comment and Staff Response Report (Appendix C) to document how the February draft proposal would likely be revised in the next draft to address public concerns and to reflect direction provided by the Planning Commission and Urban Forestry Commission during their work sessions.

To help focus the discussion, staff arrayed the key elements of the project proposal into the Planning Commission/Urban Forestry Commission Discussion Guide. Elements addressed in the Work Session Discussion Guide included:

I. Trees in Development Situations

- Ia. Trees in Land Use Reviews
- Ib. Trees in Building Permits - Tree Preservation Standards
- Ic. Trees in Building Permits - Tree Density Standards
- Id. Trees in Building Permits – Protecting Trees on Property Lines & Adjacent Sites during Construction
- Ie. Trees in Environmental Zones
- If. Trees in Public Works and Capital Improvement Projects

II. Trees in Non-Development Situations

IIa. Permits for City Trees, Street Trees and Trees on Private Property

IIb. Pruning Permit in Environmental Zones

IIc. Programmatic Permit

IId. Requirements for Dead, Diseased, Dangerous and Nuisance Trees

III. Code Consolidation and Restructuring – Title 11, Trees

IV. Customer Service Improvements

IVa. Single Point of Contact

IVb. 24-hour Tree Hotline

IVc. Community Tree Manual

IVd. Improved Permit Tracking System

IVe. Neighborhood Tree Plan

The Discussion Guide was updated after each work session to reflect direction from the commissions, and to present discussion items for the next work session. The Discussion Guides and PowerPoint presentations were posted on the project website after each work session.

The Planning Commission and Urban Forestry Commission discussed the issues outlined in the Discussion Guide and worked with City staff to address concerns, and simplify and reduce the cost to implement the proposal. During this period staff also met with the directors of Parks and Recreation, Development Services, Environmental Services and Planning and Sustainability to discuss key policy, implementation and budget issues, and proposed revisions to the proposal.

Staff produced a comprehensive Citywide Tree Project Tracking Table that outlined all of the proposed code amendments contained in the Proposed Draft. It included the substantive elements contained in the Work Session Discussion Guide, as well as proposed code amendments that the Planning Commission and Urban Forestry Commission reviewed but did not discuss during the work sessions. The Project Tracking Table was updated after each work session to reflect the direction provided by the commissions, and was posted on the project website. The July 14, 2010 staff memo and Project Tracking and Staff Recommendations Table presented the full set of recommendations for Planning Commission and Urban Forestry Commission approval. (See Appendix A)

On July 27 and July 29, respectively, the Planning Commission and Urban Forestry Commission voted unanimously to approve the proposal with revisions to address key concerns, and to produce a revised draft proposal for City Council consideration. The commissions provided specific direction on the following components of the proposal:

I. Trees in Development Situations

Trees in Land Use Reviews –The proposal includes improved tree preservation criteria and standards for land divisions, requirements to record tree preservation plans with final plats, and a new duration period for approved tree preservation plans, after which they will expire. The commissions also endorsed the addition of tree preservation as a factor to consider in Design Reviews and certain Conditional Use Reviews and associated Conditional Use Master Plans.

Trees in Building Permits: Tree Preservation Standards – The proposal will establish a new tree preservation standard as an incentive to preserve trees. Mitigation payment will be required when the standard is not met. The standard will call for preserving 35 percent of the trees 12 or more inches in diameter. To address concerns raised by the development community, the commissions directed staff to add exemptions for lots 3,000 square feet and smaller, and for developments on sites where existing or proposed building coverage is 90 percent or more. Single family home additions are also exempt from the new tree preservation development standards. Tree Density Standards will still apply in these situations. Some commissioners questioned these exemptions, however most agreed that the exemptions would create an appropriate balance between Portland's goals to preserve trees and goals for development and infill.

The commissions also approved a simplified "preserve or pay" mitigation option for applicants that cannot or choose not to meet the tree preservation standard. The in lieu fee will go to the Tree Preservation and Planting Fund. The fee will cover City costs to plant and establish two trees for each tree removed in excess of that allowed under the standard. The preserve or pay approach was intended to be simple, and to prevent over-planting of development sites.

In response to public testimony urging more emphasis on native trees, the commissions approved a provision allowing native trees 6 or more inches in diameter to count toward preservation requirements.

The commissions also endorsed a spot-check inspection approach for the Tree Preservation and Tree Density Standards to reduce implementation costs.

Trees in Building Permits: Tree Density Standards – The commissions recommended approval of new Tree Density Standards to maintain a minimum amount of trees on development sites, and to help meet City tree canopy targets. The standard will apply to all development types for new construction, additions greater than 200 square feet and alterations that trigger non-conforming upgrades. The number of trees required for a given site area would vary by development type. The standards could be met by combinations of large, medium and small tree types. The approach is akin to the existing "T1" zoning code standards that currently apply to new single family development.

Trees in Building Permits – Protecting Trees on Property Lines & Adjacent Sites – The commissions endorsed a scaled-back set of code improvements to better protect trees on property lines and adjacent sites. The proposal will encourage preservation of trees on property lines by allowing them to count toward tree preservation and density standards as long as they are protected during construction. The proposal would also require trees on adjacent sites to be identified and considered during review of land divisions and public projects. Staff has developed provisions to allow limited encroachment into root protection zones which will provide applicants with greater flexibility. Staff will also provide educational materials to encourage protection of off-site trees and trees retained on a voluntary basis.

Trees in Environmental Zones – The commissions endorsed code amendments to require replacement of trees 6 inches and larger in diameter, specifically non-native non-nuisance trees, and trees in environmental zone transition areas. In addition, the code definitions section will be amended so that stream and wetland setbacks are applied more consistently in existing environmental zones.

Trees in Public Works and Capital Improvement Projects – The commissions endorsed new requirements to consult with Urban Forestry staff early in the design of public works and capital improvement projects. The commissions also approved provisions requiring tree-for-tree replacement when trees are removed from partially and unimproved public rights of way. The commissions recommended that the City Forester have the discretion to modify the mitigation requirement if the requirement is disproportional to the impact of the project.

II. Trees in Non-Development Situations

Tree Permits – After extensive discussion, the Planning Commission and Urban Forestry Commission approved an updated citywide tree permit system for City Trees, Street Trees, and Private Trees. To create a consistent permit system that supports the City's urban forest goals, the commissions agreed that the current exemption for trees on developed single family home sites should be replaced with a simple, non-onerous permit requirement for homeowners.

The permit system will generally apply to trees at least 12 inches in diameter, consistent with the current city permit system for trees on private property. In specified environmental resource zones and plan districts the tree size threshold will be 6 inches in diameter, consistent with Zoning Code regulations. On developed home sites, a permit will not be required for trees smaller than 20 inches in diameter. For City and Street Trees a minimum tree size threshold of 3 inches in diameter is proposed to further streamline the permitting system which presently applies to trees of any size.

The permit system is tiered for efficiency, and to focus City staff resources on reviewing permits for removal of large healthy trees or multiple trees.

- **Type A permits** will be processed through a simple administrative process, requiring no staff review and no opportunity for public appeal. Tree-for-tree replacement will be required.

- **Type B permits** will apply to healthy non-nuisance Private Trees and to any healthy City or Street Tree that meets the size threshold. The City Forester will consider a set of factors to prevent public safety risks or adverse impacts on neighborhood character. Escalating mitigation requirements for up to inch-for-inch replacement apply. The public may appeal City decisions on Type B permits to remove trees at least 20 inches in diameter or 5 or more trees at least 12 inches in diameter.

- **Pruning permit for trees in sensitive resource areas** - A new permit will allow limited native tree pruning in environmental zones subject to private arborist oversight. This will foster tree health, improved access to views, light and solar radiation, and vegetation management to reduce wildfire risks.

- **Programmatic Permit** – A new Programmatic Permit proposal will allow routine public agency and utility tree maintenance activities for up to five years. The commissions approved restrictions on removal of healthy non-nuisance trees 6 inches in diameter and larger, and called for annual

reporting on permit activity and compliance. The City Forester may revoke a permit for non-compliance and pursue enforcement for permit violations.

The commissions directed staff to continue exploring options to create a multi-year tree permit for private tree management activities for uses such as golf courses.

- **Dead, Dying, Dangerous and Nuisance Trees –** The commissions approved streamlined permit procedures and new replacement requirements for dead, dying, dangerous and nuisance species trees when they are removed. The replacement requirements will help ensure that Portland's urban forest is replenished without creating a complicated permit process.

  The commissions also approved a new citywide prohibition on planting trees that are on the City's Nuisance Plants List on any City owned or managed property, including City rights of way. This is consistent with current prohibitions on planting Nuisance species plants or trees in City-required landscaping. Several individuals and the Hosford-Abernathy Neighborhood Association (HAND) testified that this prohibition would disallow the future planting of Norway Maples, a popular street tree, and would adversely affect the character of the Ladd's Addition Historic District. Testifiers requested a delay in the prohibition and an exception to allow continued planting of Norway maples in Ladd's Addition.

  The commissions rejected the proposed delay and exception and directed staff to work with the neighborhoods to develop a list of suitable tree species to replace Norway Maples along City streets in the future. Staff has continued to coordinate with concerned individuals and HAND, and met with the Historic Landmarks Commission. Staff provided information on problems associated with invasive plants and Norway Maples, and has proposed potential tree replacement options. (See Appendix E) On November 22, the Historic Landmarks Commission agreed to support the request for an exception to allow planting of Norway Maples as Street Trees in Ladd's Addition.

III. Code Consolidation and Restructuring

The commissions enthusiastically endorsed consolidation of City tree regulations into a new Title 11, Trees. Title 11 elevates the role of trees as a critical element of Portland's "green infrastructure." Title 11 moves the City's Urban Forestry Program, the Urban Forestry Commission and the Urban Forest Plan from Title 20, Parks and

Recreation, and features them in the broader citywide context of the urban forest. Title 11 also establishes a cohesive regulatory framework for City Trees, Street Trees, and Private Trees in development and non-development situations.

IV. Customer Service Improvements

The commissions endorsed the proposed customer service improvements, specifically the single point of contact, for public inquiries, 24-hour tree hotline, community tree manual, tree permit tracking system upgrades, and neighborhood tree plans. The commissions felt these components are critical to the success of the project proposal.

Phased Implementation and Funding Strategy – The commissions directed revisions to simplify the initial project proposal, and to reduce cost. However the revised proposal continues to require an increase in City investment to achieve the desired benefits. The Planning Commission and Urban Forestry Commission endorsed the revised fiscal impact assessment and a phased project implementation and funding strategy, as proposed by the directors of the bureaus of Parks and Recreation, Development Services, Environmental Services, and Planning and Sustainability. The project phasing is intended to provide time to prepare for the new codes, and for economic and budget conditions to improve. The phasing strategy is outlined in the Tree Canopy Benefits, Financial Impacts and Budget Proposal section of Chapter 2, later in this report.



"Other holidays repose on the past. Arbor Day proposes the future."
- J. Sterling Morton







Trees in Portland's parks:
top - South Park Blocks, PSU
middle - Laurelhurst Park
bottom - Washington Park

Chapter 2 • Project Proposal

This chapter presents the Citywide Tree Project proposal by summarizing the charge of the project, describing the proposed regulatory framework, reviewing the non-regulatory customer service improvements, and presenting an overview of the project benefits, fiscal impacts, and funding options.

Project Charge

Recall that the proposal is designed to accomplish certain outcomes identified in the adopted *Urban Forestry Action Plan*, specifically:

- Create a clear, consistent, cohesive regulatory system; AND
- Protect and enhance the urban forest through development and redevelopment.

Success Criteria

The proposal is also designed to meet success criteria developed in consultation with the Stakeholder Discussion Group, and aired during the vetting of the initial proposals. To accomplish the outcomes above, the updated tree regulations must be:

- Clear and transparent
- Consistent, cohesive and comprehensive
- Equitable and effective
- Complementary and reinforcing
- Efficient – putting process where it's due
- Designed to support multiple city goals
- Customer friendly – easy to understand and work with
- Funded adequately for implementation and enforcement

As noted in the previous chapter, the Citywide Tree Project derives its policy direction primarily from the *Urban Forestry Management Plan* goals and canopy targets, and is also guided by the goals of the *Portland Watershed Management Plan*, and the *Climate Action Strategy*. The project is also intended to advance Portland's *Comprehensive Plan* goals to provide jobs, housing, a healthful environment, and overall neighborhood livability.

A number of additional objectives have emerged during the course of the Citywide Tree Project, and are interwoven throughout the draft project proposal.

Additional Project Objectives

- Build awareness of the benefits provided by trees and the role of trees as a community amenity and infrastructure asset.
- Reaffirm and increase the visibility of Portland's Urban Forestry Program, Urban Forest Plan and Urban Forestry Commission.
- Recognize that tree regulations are relational and inter-dependent across development and non-development situations.
- Acknowledge that the urban forest is a dynamic, living system, and that urban forestry goals can only be met through an effective mix of tree preservation, and ongoing planting and maintenance over the long-term.
- Add flexibility and strengthen tools to encourage and reward developers for "designing with trees."
- Increase consistency and equity in how trees are addressed on public and private property, and in public and private development situations.
- Increase focus on quality of tree preservation, tree replacement, and planting.
- Ensure that all affected trees are adequately protected during construction, including trees on property lines.
- Ensure that the tree removal permit system is, and is perceived as reasonable, fair, simple, and useful in helping meet urban forest management goals and canopy targets.
- Build on existing City programs and strengths to improve overall regulatory efficiency and effectiveness, and limit impacts on development and permitting costs.

Code Restructuring and Regulatory Framework

Clarifying and improving the consistency of Portland's tree regulations is a primary charge of the Citywide Tree Project. As noted previously, the City established its tree-related regulations over several decades. The regulations are spread among multiple City code titles and administered by several bureaus, primarily the Bureaus of Parks and Recreation, Development Services, and Transportation.

Summary of Current Tree Regulations and Bureau Responsibilities

City Code Title and Administering Bureau	Tree Related Regulations
Title 16 Vehicles and Traffic - Bureau of Transportation; Bureau of Maintenance	Pruning and tree removal for traffic safety and visibility in rights of way
Title 17 Public Improvements – Bureau of Transportation; Bureau of Maintenance	Pruning for street tree clearances; removal when in conflict with infrastructure (sewer, sidewalks, curbs); leaf pick-up responsibility
Title 20 Parks and Recreation – Bureau of Parks and Recreation	Authorizes the Urban Forestry Management Plan, Urban Forestry Commission and City Forester. Street and public tree pruning (any size tree), planting and removal; public safety nuisance abatement; tree removal (12" or more in diameter) on non-single family or dividable property except when subject to T24 or T33 requirements (e.g., building permit or environmental zone)
Title 24 Building Regulations – Bureau of Development Services	Clearing, grading and soil stability; tree removal on steep slopes
Title 29 Property Maintenance – Bureau of Development Services	Requires removal of dead and hazardous trees from private property
Title 31 Fire Regulations – Bureau of Fire and Rescue	Authorizes fire hazard abatement, including tree removal and fire truck access, including access through tree preservation areas or overlay zones.
Title 33 Planning and Zoning – Bureau of Development Services	Applies landscaping and tree standards to development sites; applies tree preservation through land divisions; regulates tree removal and replacement in overlay zones and some plan districts (generally trees 6" or more in diameter)

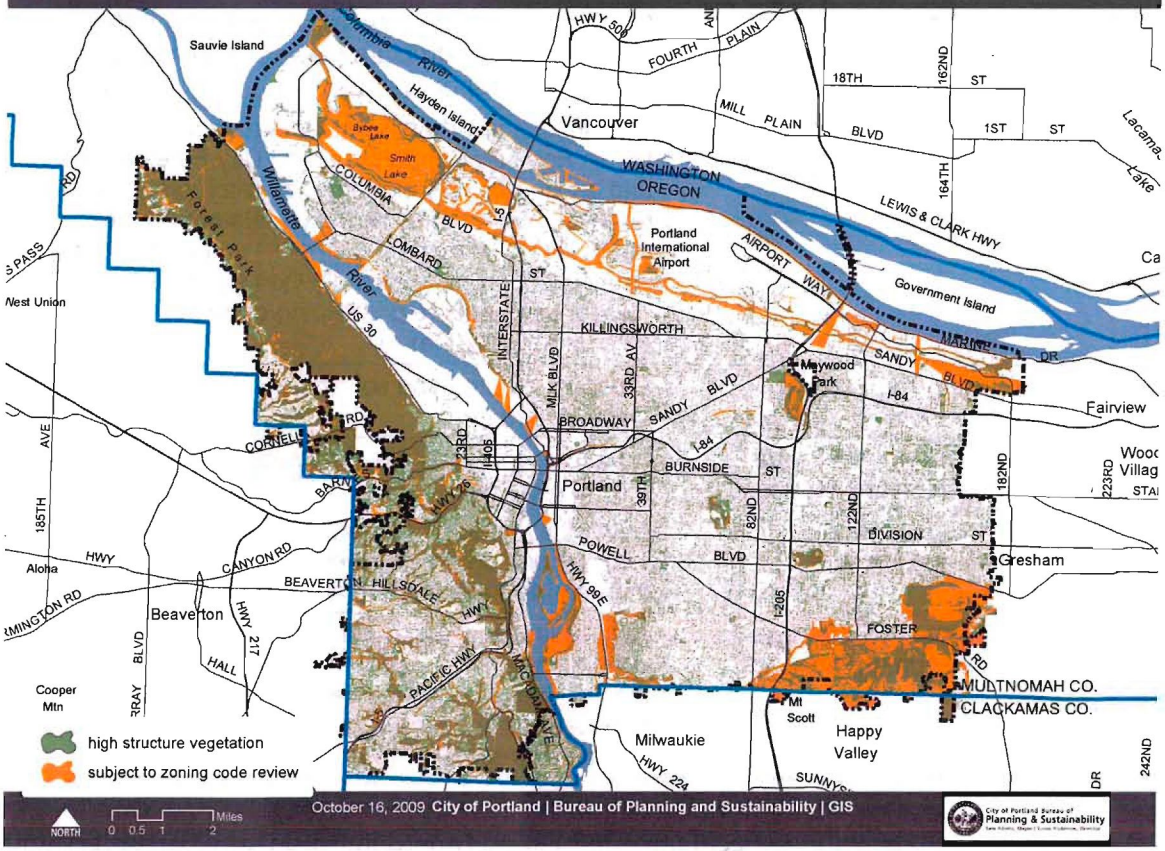
As a result, it is hard to find specific tree regulations and determine how they apply and relate to each other. Citizens also have a hard time determining which City bureau implements specific provisions, and who to call for information. In some instances regulatory requirements are overlooked, at least initially, resulting in subsequent project delays or inadvertent violations.

Moreover, because the Bureaus do not share a cohesive mission with regard to the urban forest, their objectives and approaches may sometimes conflict, increasing confusion and frustration among citizens and City staff.

Because the tree regulations were established at different times, by different bureaus and to address specific issues, numerous inconsistencies, gaps, and conflicts have been created along the way. A few examples:

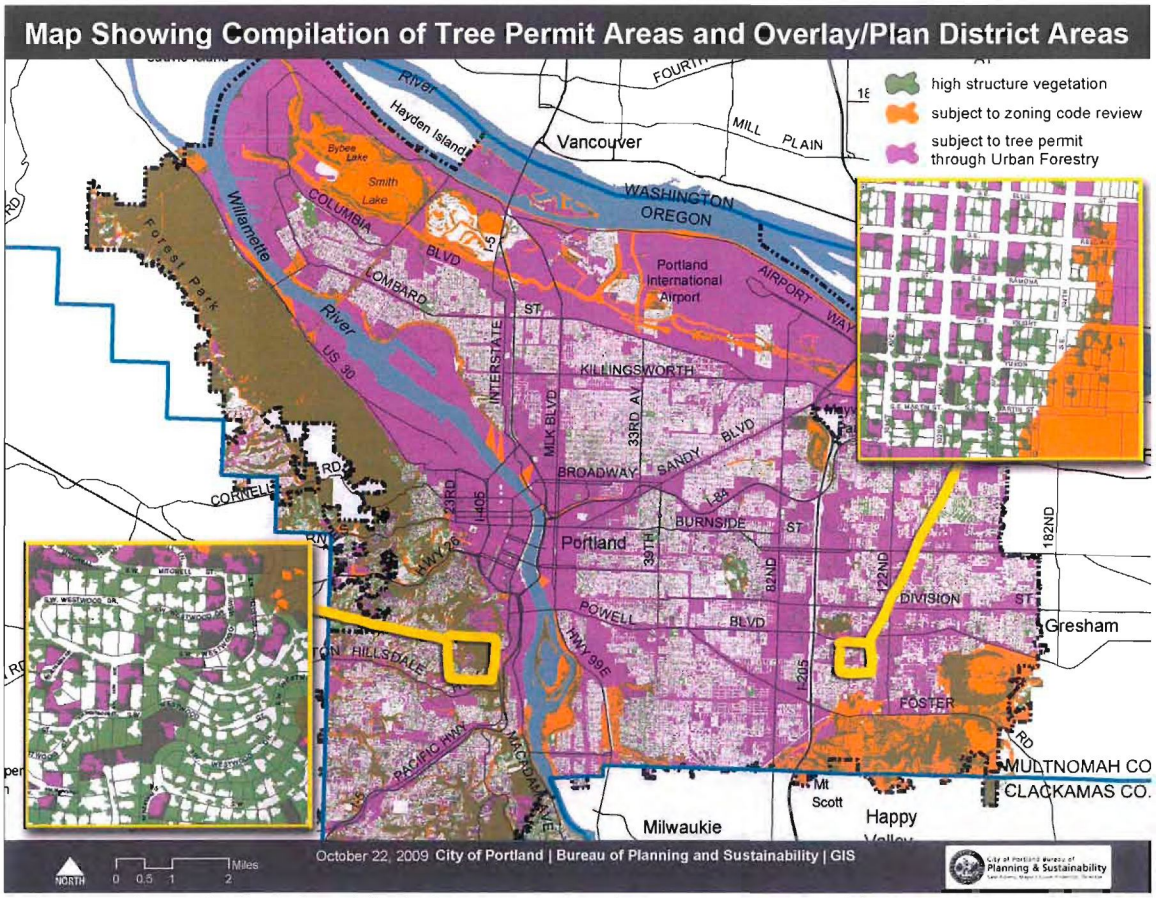
- The zoning code regulates tree removal in some overlay zone and plan district areas of the city. These requirements were developed independently from the tree cutting requirements that apply in other parts of the city. While there is reason to differentiate protections between these areas, some distinctions were merely the result of being in separate titles of city code.

Map Showing Overlay and Plan Districts with Specific Tree Regulations



- Tree preservation requirements were established during the most recent re-write of the City's land division regulations. However, with the exception of development proposals in certain overlay zones and plan districts, tree preservation requirements are not applied during any other type of land use review nor to most developments requiring a building permit.

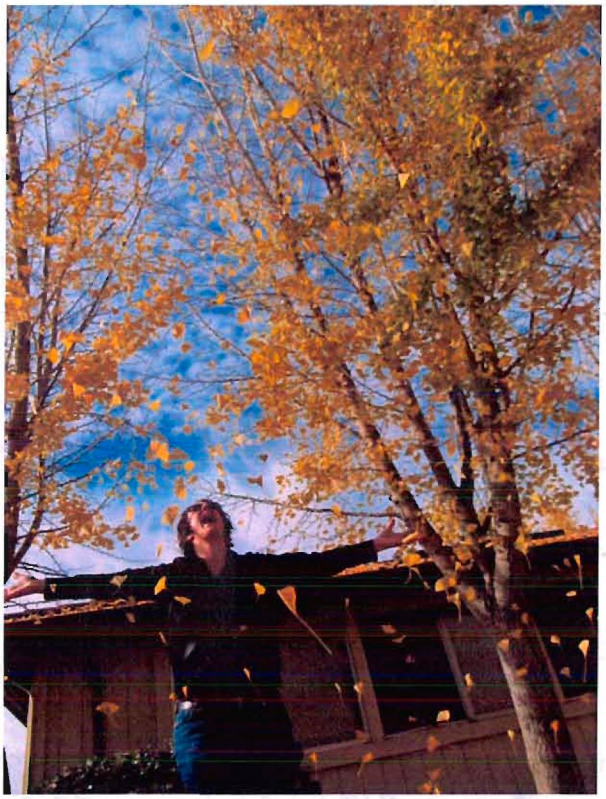
- For new developments requiring a building permit: Only new single family homes must meet tree standards (preserve, plant or pay to the Tree Fund). Multi-family, commercial, industrial and institutional developments are not required to meet tree preservation or replacement standards as part of their building permit. Minimum landscaping standards apply but they do not address tree preservation, maintaining tree density or replacing lost functions when trees are removed.
- Permits are required to remove trees on private property throughout the city when no development is proposed, with the exception of developed single family lots that can not be further divided, which are exempt. Trees on exempt lots may be removed without a permit, but tree preservation requirements on similar lots created through the current land division regulations apply in perpetuity.
- In addition to exempt lots, tree permits do not apply to sites where tree cutting is addressed by another City code. For overlay zones, this is especially confusing since trees outside the resource overlay require a tree permit, while a similar tree on the same lot in the overlay zone may be entirely exempt from any permit.



This map shows the "patchwork" of where tree removal permits are required for trees on private property. Note that this map does not show lots that are subject to a specific tree preservation requirement as part of a land use review.

- Existing private tree permits require up to "inch for inch" tree replacement. However, if a building permit is submitted, lots may be cleared of trees without any review or replacement requirements (unless in a resource overlay zone or designated for preservation through a prior land use review).
- The City administers duplicative permitting procedures to address tree removal on City-owned property when development is proposed. For instance a park site that has undergone an extensive environmental review through the Bureau of Development Services must obtain tree permits from Urban Forestry to remove trees already approved for removal under the environmental review.

The Citywide Tree Project strives to address these issues by consolidating, restructuring and updating the City's regulations. The next section presents the proposed new comprehensive Tree Code - Title 11, Trees.



New Comprehensive Tree Code • Title 11, Trees

The Citywide Tree Project proposes to address many of the above issues by consolidating most existing regulations into a single code title, Title 11, Trees. Title 11 is intended to provide the central regulatory framework for trees in the city. Title 11 reconfigures existing City regulations to create a more consistent and cohesive framework in which the individual components support and complement each other without duplication or gaps. Title 11 is also designed to simplify and streamline a number of existing regulatory procedures, and more clearly specify the approach, criteria, and considerations the City will use in making decisions.

Title 11 reauthorizes the City's Urban Forestry Program and addresses trees in non-development situations, and most development situations. The provisions of Title 11 are not land use regulations and do not apply in the context of an active land use review. They are intended to complement, and not conflict with the land use regulations of the Zoning Code (Title 33, Planning and Zoning). Tree-related provisions in the Zoning Code will apply during land use reviews and to achieve land use related policies and specific requirements for landscaping, site design, including those that apply in base zones or specific overlay zones and plan districts.

The adoption of Title 11, Trees, represents a paradigm shift for tree management in Portland. Creating this comprehensive code title increases the visibility and stature of the City's Urban Forestry Program, the Urban Forest Plan, and the Urban Forestry Commission, and elevates the role of trees generally. Title 11 also establishes clear roles and responsibilities for City bureaus, and establishes authority for working partnerships and delegation of duties. Title 11 also authorizes and directs the uses of City tree funds.

Consolidating the City's tree regulations into Title 11 will make the regulations easier to locate, understand and administer. The regulations have also been updated to create a more cohesive regulatory framework, where the individual components are designed to complement and reinforce each other across the range of development and non-development situations. Title 11 will establish basic tree "capacity" requirements for development sites, similar to stormwater management and erosion control – treating trees as an essential component of the City's 'green infrastructure.' Title 11 also establishes an updated, standardized tree permit system that applies to tree-related actions in non-development situations. The permit system is generally designed to complement and reinforce the new tree development standards.

Overall, Title 11 will make the City's tree regulations clearer and more accessible to the public which should, in turn, cultivate awareness of trees as a public asset and foster greater compliance.

Title 11, Trees contains the following chapters:

Chapter 11.05 Legal Frameworks and Relationships
Chapter 11.10 Administration of this Title
Chapter 11.15 Funds and Contributions
Chapter 11.20 Urban Forestry Program
Chapter 11.30 Tree Permit Procedures
Chapter 11.40 Tree Permit Requirements (No Associated Development)
Chapter 11.45 Programmatic Tree Permits
Chapter 11.50 Trees in Development Situations
Chapter 11.60 Technical Specifications
Chapter 11.70 Enforcement
Chapter 11.80 Definitions and Measurements

Key elements of each chapter of Title 11 are described below. Substantive modifications to the current tree regulations are highlighted. Additional explanation of the proposed code is provided in the code commentary (See Volume 3 of this report "Title 11 and Related Amendments")

Legal Framework and Relationships (Chapter 11.05)

The contents of this chapter are:

11.05.010 Purpose
11.05.020 Official Name
11.05.030 Authority
11.05.040 Where This Title Applies
11.05.050 Other City, Regional, State, and Federal Regulations
11.05.100 Severability
11.05.110 Liability

Purpose

The Legal Frameworks chapter establishes a comprehensive purpose for the Title 11. Title 11 will serve as an implementation facet of the Urban Forest Plan, and will help protect the health, safety, and welfare of Portland Citizens. The purpose section includes a list of the tree-related benefits to be gained by addressing trees in development and non-development situations, maintaining watershed health and community livability.

Relationship to other regulations

This chapter establishes the relationships between Title 11 and other City code titles, and between Title 11 and other regional, state and federal regulations. This chapter also lays out the basic framework for where the regulations of the title do and do not apply.

Administration of this Title (Chapter 11.10)

The contents of this chapter are:

11.10.010 Code Administration and Duties Performed

11.10.020 Determining What Regulations Apply

11.10.030 General Rules for Reading and Applying the Code Language

11.10.040 Amendments to this Title

11.10.050 Interagency and Intergovernmental Agreements

11.10.060 Performance Guarantees

11.10.070 Fees

The Administration chapter outlines how Title 11, Trees will be implemented. Key portions of this chapter are summarized below.

Roles and Duties

Title 11 will be implemented primarily by two City officials; the City Forester and the Bureau of Development Services (BDS) Director. The City Forester is responsible for administering the rules affecting City and Street Trees. The City Forester also retains responsibility for administering the Private Tree Removal Permit rules and oversight of Street Trees during development. The Bureau of Development Services Director will be responsible for implementing the proposed tree preservation and tree density standards that will apply in the context of development permits.

Both the City Forester and BDS Director have duties relating to the enforcement of this title and are authorized to adopt administrative rules to implement their respective administrative and enforcement duties.

The City Engineer continues to review planting proposals in streets for the purpose of protecting existing utilities and sewer and water lines and applies standards for street trees through public works and capital improvement development projects.. The City Engineer is also responsible for consulting with the City Forester early in the project design phase to identify tree impacts and opportunities to maximize tree planting and preservation.

The Urban Forestry Commission's role has been refined to clarify that their focus is on major urban forest planning, policy, and programmatic direction. A new Urban Forestry Appeals board will be established to review and act on tree permit appeals and other appeals, as further described in Chapter 11.20.

The Hearings Officer has a role in adjudication of enforcement cases.

The chapter also describes distinctions in how trees are regulated in development situations, and how trees are regulated when no development is proposed or occurring. This chapter directs users to the appropriate chapters for the specific requirements.

The chapter outlines procedures for amending this title, and assigns the responsibility to coordinate substantive amendments to the bureau charged with administering those regulations. Amending Title 11 requires consultation with the Bureaus of Planning and Sustainability, Parks and Recreation, Development Services, Environmental Services, Transportation, and Water to ensure any amendments do not conflict with bureaus missions or adversely affect operations. A hearing before the Urban Forestry Commission is required, and the Planning and Sustainability Commission may also opt to hold a hearing depending on the scope of the amendment. The City Council will take final action on the recommended amendment after it holds a public hearing on the matter.

Performance Guarantees and Fees

The use of performance guarantees are authorized to ensure satisfactory completion of required work that will occur after a permit has expired or been closed, or for violation cases where the requirement cannot be attached to a permit condition. This section establishes a clear basis for determining the required dollar amount of the guarantee.

Instead of specifying exact fees in the Title, references to an adopted fee schedule are used throughout. This section authorizes the City Council to establish and update this fee schedule. Also described is the basis for establishing the amount of the fee in lieu of planting a tree.

Funds and Contributions (Chapter 11.15)

The contents of this chapter are:

11.15.010 Tree Planting and Preservation Fund

11.15.020 Urban Forestry Fund

11.15.030 Charitable Contributions

11.15.040 Annual Report

Tree Funds

This chapter authorizes and clarifies the purposes and procedures associated with the Tree Planting and Preservation Fund and the Urban Forestry Fund.

The purpose of the Tree Planting and Preservation Fund (currently referred to as the "Tree Fund") is to facilitate planting or preservation of trees to compensate for situations in which tree preservation, planting or replacement requirements are not met, and to

offset tree loss resulting from Private Tree violations. The provisions in this section specify that in lieu fees should be calculated to cover the cost of planting and establishing a tree for a two-year period and that the cost be reviewed annually to ensure the in lieu fees are regularly updated. The provisions of this section also specify the allowed uses of the fund. The recommended project proposal will expend the allowed uses of the fund. The fund will continue to be used for tree planting within the same watershed as the trees that were removed, and may now be used to purchase of conservation easements or land to protect priority trees or groves on a permanent basis. Any outstanding balances in the Tree Planting and Preservation Fund may be carried forward into subsequent fiscal years. This will allow aggregation of funds to pay for larger scale planting projects, and avoid end of fiscal year planting in the Summer, outside the optimal planting season.

The Urban Forestry Fund, currently referred to as the Tree Damages Fund, is collected from City or Street Tree enforcement actions resulting in payment of restoration fees, civil penalties, or civil remedies, and other general sources. The purpose of the Urban Forestry Fund is to collect funds to replace Street or City Trees illegally removed or damaged and to raise greater public awareness of trees, tree care, and values of the urban forest. These funds, in contrast to the Tree Planting and Preservation Fund, may be used for broad range of Urban Forestry activities, including production of educational materials, providing additional outreach and technical assistance to the community, or other forestry related duties.

This chapter establishes reporting requirements to facilitate monitoring, documentation, and citizen access to information on the collection and uses of tree fund revenues.

Urban Forestry Program (Chapter 11.20)

The contents of this chapter are:

11.20.010 Purpose

11.20.020 The Urban Forestry Commission

11.20.030 The Urban Forestry Appeals Board

11.20.040 Technical Assistance

11.20.050 The Urban Forest Plan

11.20.060 Heritage and Historic Trees

The Urban Forestry Program chapter is derived primarily from existing provisions within Chapter 20.40 of Title 20, Parks and Recreation. The purpose of Chapter 20.40 has been to direct the regulation of City Trees and Street Trees. Moving the provisions authorizing the Urban Forestry Program to Title 11 makes it clear that the program

addresses more than City or Street trees; rather it addresses the urban forest citywide, on all public and private lands, and in the context of public and private development projects.

An updated purpose statement for the Urban Forestry Program:

> *The field of urban forestry has as its objective the cultivation and management of trees and related plants for their present and potential contribution to the physiological, sociological and economic well being of urban society. Inherent in this function is a comprehensive program designed to establish policies, goals and objectives, and implementing actions, and to educate the urban populace on the role of trees and related plants in the urban environment. In its broadest sense, urban forestry is one essential component of a multi-managerial urban system that includes neighborhoods and watersheds within the City, wildlife habitats, outdoor recreation opportunities, landscape design, green infrastructure, air filtering and greenhouse gas capture, recycling of municipal vegetative wastes and tree care in general.*

This Chapter reauthorizes the Urban Forestry Commission and establishes a new Urban Forestry Commission Appeals Board. The duties of the Urban Forestry Commission have been reworked to place greater emphasis on policy development, providing input on City bureau plans, projects, programs and budget proposals affecting the urban forest. The intent is to position the Commission in a greater advocacy role for urban forest interests.

The Commission is also charged as the primary reviewing body for amendments to this Title, in consultation with the Planning Commission as stipulated in Chapter 11.10. The Urban Forestry Commission's role regarding heritage tree nominations is carried over from existing language in Section 20.40.150.

A new Urban Forestry Commission Appeals Board function will be established through this project. The Appeals Board will be comprised of a subset of the Urban Forestry Commission, and will hear tree permit appeals instead of the full Commission. Establishing the Appeals Board is intended to facilitate and expedite tree permit appeals and provide the Urban Forestry Commission more time in their regular meetings to work on larger urban forest policy, planning and programmatic issues.

This Chapter reaffirms and refines the role of Urban Forestry Management Plan as the City's main policy framework and action strategy for the urban forest. Provisions are proposed to ensure the plan is updated periodically, in consultation with City bureaus. This chapter also reflects several minor amendments to existing code language to bring the provisions up to date and eliminate archaic references. The Urban Forestry Management Plan has also been renamed the Urban Forest Plan to reflect the broader

policy role this plan may take, and to incorporate associated documents and reports such as the Urban Forest Action Plan and the Urban Forest Canopy report.

Tree Permit Procedures (Chapter 11.30)

The contents of this chapter are:

11.30.010 Purpose

11.30.020 When Tree Permits Are Required

11.30.030 Applications

11.30.040 Procedure for Type A Permits

11.30.050 Procedure for Type B Permits

11.30.100 Regulations That Apply After Permit Approval

This chapter presents the general requirements and procedures that will apply to each of the tree permit types authorized by this title. Review triggers, approval criteria, mitigation, and review authority are detailed in Chapter 11.40.

Tiered Tree Permit System

Currently the City requires a review for all types of tree permits. Only applicants may appeal City permit decisions on City Trees and Street Trees (currently called "Public" Trees). Any person may appeal City permit decisions for private trees.

This chapter will establish a tiered tree permit system. The updated system will streamline certain permits, improve consistency between permitting for City, Street and Private Trees, encourage retention of large healthy trees, and ensure appropriate tree replacement.

The new permit system would include two types of permits - Type A and B. Type A and B permits would apply to specified activities involving City, Street, or Private Trees when the proposed activity is not subject to or associated with a development permit or land use review. The distinction between permit types would be a function of tree size, condition, and species (for trees on the City's Nuisance Plants List). The new permit system will also apply citywide, replacing the current blanket exemptions for trees on non-dividable single family lots with a simplified permit requirement for large trees.

Essentially, Type A permits will provide a streamlined process to allow the removal of trees in specific situations without a review or public appeal option. Each tree removed will be replaced with another tree.



Dead tree

Type B permits will involve consideration of specific factors to prevent adverse impacts to public safety and neighborhood character, and to discourage removal of trees prior to development. Type B permits include escalating tree replacement requirements and a public appeal option. Review factors (specified in Chapter 11.40) are considered by the Forester to evaluate potential impacts and practical alternatives to the removal request.

Currently permits are required to remove or prune City and Street Trees of any size. A minimum diameter threshold will be established at 3" as a trigger for permits to prune or remove City or Street Trees. The updated permit system will include three diameter thresholds for permits to remove trees on private property. Where tree removal permits are currently required (trees on non single family lots and dividable single family lots, the tree size threshold will continue to be 12 inches in diameter or larger. In sensitive natural resource areas and specified plan districts the tree size threshold is reduced to 6 inches in diameter. And for non-dividable single family home sites, the tree size threshold will be 20 inches in diameter.

Type A Permits will apply to:

- For City and Street Trees;
    - Removal of any dead, dying, or dangerous tree
    - Planting, Pruning, or other tree-related activities
- For Private Trees;
    - Removal of any dead, dying, or dangerous tree.
    - Removal of trees on the City's Nuisance Plants List



Dangerous tree

- Removal of trees within 10 feet of a building
- Removal of up to four trees, each less than 20 inches in diameter, per site, per year.
- Removal of any tree that is 20 inches or larger in diameter on single family lots that are generally non-dividable based on their lot size.
- Pruning trees in environmental zones

Type B permits will apply to:

- For City and Street Trees;
  - Removal of healthy trees 3 inches or more in diameter
- For Private Trees;
  - Removal of healthy, non-nuisance that are 20 inches or more in diameter, or when more than four trees 12 or more inches in diameter are proposed to be removed from a site in a single year.

Public notice and an opportunity for the public to appeal the City Forester's decision currently are afforded only to requests to remove Private Trees greater than 12 inches in diameter. Title 11 will extend the public notice and appeal opportunity to Type B permits involving proposed removal of City, Street, and Private Trees at least 20 inches in diameter or removal of more than four trees 12 or more inches in diameter.

The following tables show the tiered permit system structure. Additional discussion, options considered, and associated costs, are presented later in this report.

City and Street Tree Removal Permits

Location	Tree size threshold	Requirement
General requirement For all city owned or managed properties and streets	3" and larger	**Type A Permit** (tree for tree replacement): dead, dying, dangerous, No "review", no public appeals
		Type B Permit (up to inch for inch mitigation) Healthy trees including Nuisance species Discretionary review, public may appeal decisions to remove big trees (20" and larger) or more than 4 healthy trees per site per year

Private Tree Removal Permits

Location	Tree size threshold	Requirement
Specific overlays/plan districts (e.g. environmental zones, scenic zones, Johnson Creek, Rocky Butte, etc.)	6" and larger	**Type A Permit** (tree for tree replacement): dead, dying, dangerous, nuisance species, within 10' of building, and up to 4 trees smaller than 20" per year) No "review", no public appeals
General requirement (not homeowner lots, not in special areas)	12" and larger	**Type B Permit** (up to inch for inch mitigation) big trees (20" and larger) or more than 4 trees per year Discretionary review, public may appeal
Homeowner sites ("non-dividable" SF lots)	20" and larger	**Type A Permit** (tree for tree replacement): All trees 20" and larger No "review", no public appeals

Other Tree Activities

Tree Activity	City and Street Trees	Private Trees
Nominating a Heritage Tree	Urban Forestry Commission	Urban Forestry Commission
Planting	Type A	No permit required Native species only in specific overlay zones Nuisance species prohibited for landscape, mitigation and replacement
Pruning*	Type A	Type A Permit only in environmental overlay zones
Root Cutting*	Type A	No permit required - Follow proper arboricultural practices
Attachments	Type A	No permit required - Follow proper arboricultural practices
Miscellaneous	Type A	No permit required - Follow proper arboricultural practices

* For emergency situations, permits must be applied for within 7 days following the tree activity.
** Miscellaneous activities include attaching lights, signs, or other activity that may harm a tree.

Other provisions and recommendations

This chapter also establishes requirements for permit posting and expiration. While not proposed as part of the code, it is recommended that the City consider issuing advisories with tree permits to educate property owners about prohibitions on harming active nests under the Migratory Bird Treaty Act.

Trees Permit Requirements (No Associated Development) (Chapter 11.40)

The contents of this chapter are:

11.40.010 Purpose

11.40.020 Where These Regulations Apply

11.40.030 Exemptions

11.40.040 City and Street Tree Permit Standards and Review Factors

11.40.050 Private Tree Permit Standards and Review Factors

11.40.060 Tree Replacement Requirements

The purpose of this Chapter is to manage, conserve and enhance the urban forest when development is not proposed or occurring, by encouraging the retention of large healthy trees and groves, and ensuring that trees are replaced when they are removed.

Chapter 11.40 establishes the standards and review factors that are applied to requests for Type A and B permits for City, Street, and Private Trees. It establishes specific permit requirements for planting, pruning, and removing City Trees (trees located on lands owned by the City and public lands when managed by the City), Street Trees (public rights of way managed by the City) and Private Trees when no development is proposed.

Currently, the City requires separate tree permits to remove trees on City owned or managed property even when the tree removal is being considered in conjunction with a proposed development. This chapter eliminates the current duplicative permitting requirements. As is currently the case with Private Trees, if one or more Street Trees or City Trees are proposed to be removed as part of a development permit or land use review, including an environmental review, the regulations of this chapter will not apply. All trees that are associated with development are addressed in Chapter 11.50, Trees in Development Situations, and specific chapters of Title 33, Planning and Zoning.

Heritage Trees are addressed by the provisions in Chapter 11.20 as a separate program and are not subject to the standards or review factors of this chapter. Likewise, activities performed pursuant to a programmatic permit (Chapter 11.45) are not required to obtain permits in accordance with this chapter. Other exemptions include trees outside city limits, trees on farm or forest lands, and work conducted under the direction of the City Forester.

Special provisions are included to address emergency pruning or removal situations and situations where a federal, state, or judicial order requires a particular tree activity to

occur. For these latter cases, a permit will required but the standard tree replacement and public appeal opportunities have been streamlined. .

Permitting authority for City, Street, and Private Trees is proposed to remain with the City Forester. The chapter outlines minimum and maximum tree replacement required and specifies payment in lieu of planting options. The City Forester is authorized to waive or partially waive mitigation requirements if there is insufficient room to plant or when the remaining trees meet tree density standards proposed in Chapter 11.50.

City and Street Trees

Permits will still be required to prune roots or branches, or to remove a City or Street Tree, however, a new minimum diameter threshold of 3 inches is established. Additionally, pruning has been defined so that minor trimming activities will not require a pruning permit.



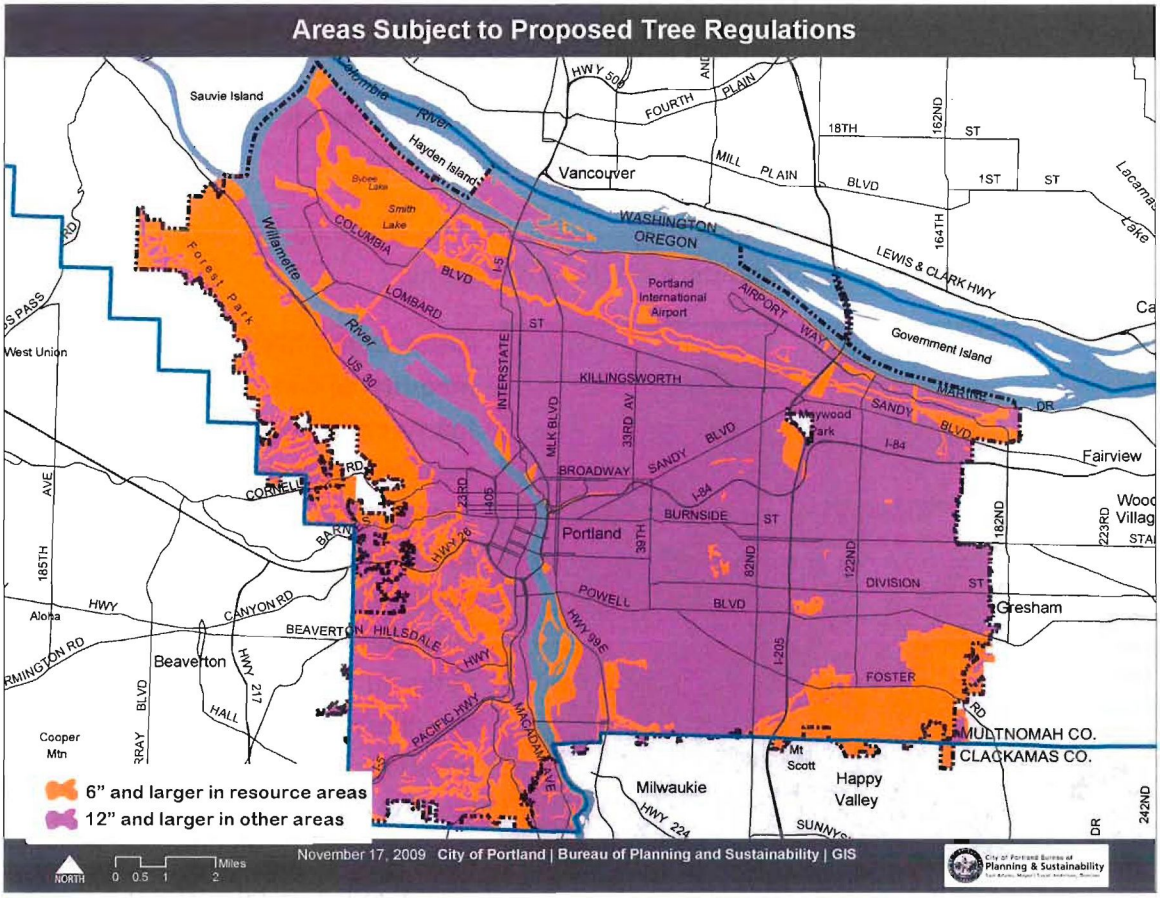
Street tree

This chapter also establishes a new prohibition on the planting of tree species on the City's Nuisance Plant list on any City property, including City rights-of-way. This is consistent with the existing prohibition on the planting of trees on the Nuisance Plant List in any City-required landscaping and environmentally sensitive areas Extending this prohibition is consistent with City's Invasive Species Management Strategy and will help support and protect significant City and community investments in preventing the spread of invasive plants. Invasive plants are currently a growing problem throughout Portland's watersheds. They threaten City natural areas and other important natural resources on privately owned land as well. These trees, shrubs and herbaceous plants proliferate and crowd out native species.

The new prohibition proposal has generated concern among some residents of the Ladd's Addition neighborhood, and Hosford-Abernethy Neighborhood Development (HAND) because it would prohibit future planting of Norway maples as street trees in Ladd's Addition. Norway maples are a prominent street tree in Ladd's Addition and are referred to in the street tree plan for the Ladd's Addition Historic District Guidelines. The Planning Commission and Urban Forestry Commission rejected requests for an exception to allow future planting of Norway maples in Ladd's Addition and directed the City Forester to identify suitable non-nuisance trees to replace the Norway maples when they die or become diseased and need to be removed. The Historic Landmarks

Commission has since discussed the issue and expressed intent to support the neighborhood's position.

It is important to note that the code amendments do not call for removal of nuisance trees but will prohibit future planting of these species. Perpetuating the planting of these species in City managed streets and properties would be inconsistent and would run cross-purpose to other City efforts, including committing resources to eradicate these species from sensitive natural areas. To avoid confusion staff is recommending that the City Council amend the Ladd's Addition Historic Conservation District Guidelines to make it clear that nuisance trees may not be planted on City property or rights-of-way, and to clarify that the descriptions in the street tree plan help guide the selection of replacement species that maintain a similar character and look to the streetscape.



This proposal would modify the existing appeals process for City and Street Trees. Currently, only the property owner or permit applicant may appeal a City decision regarding a Street Tree permit. Under this proposal any party could appeal a City decision to approve removal of more than four healthy trees 12 or more inches in

diameter, or any healthy 20 inch Street Tree (or City or Private Tree) when subject to a Type B permit. Given that the City would not typically approve removal of a large healthy Street Tree, this proposed change is not expected to generate many public appeals, but does serve to form a consistent regulatory approach between public and private trees, offering the public a chance to appeal decisions affecting removal of large or multiple healthy public trees.

Importantly, this chapter states more explicitly the standards or considerations the City Forester will use to make permitting decisions for trees in public rights of way and other City owned or managed property. The standards and consideration factors reflect the City's policy to retain established and well-functioning City and Street Trees except when extraordinary circumstances may warrant their removal.

Private Trees

The City's requires a permit to remove any tree that is 12 or more inches in diameter on private property in non-development situations, except:

- where the tree is located in an area with special requirements (e.g., environmental overlay zones, certain plan districts), or
- where the tree is located on a single family lot, in a single family zone, that, is not "dividable", and that contains a single family home.



Private tree

These exemptions are confusing, inequitable and can result in inadvertent violations of existing regulations or conditions of a land use approval. For example, a single-family lot that was recently subdivided may no longer be large enough to divide but a condition of the subdivision approval requires review of any tree removal. Meanwhile, the same size lot next door has no such condition. In another instance a vacant site may be partly within an environmental overlay zone. The area outside the overlay requires a tree permit to remove any tree 12 or more inches in diameter, while the area inside the overlay zone generally requires review before removing native trees but not non-native trees. Trees within the first 25 feet of the overlay zone are not regulated at all.

The proposal includes expanding the applicability of the permit system to reduce confusion, improve consistency, build in operational efficiencies, and ensure replacement for trees when they are removed.

Type A Permits for Private Trees

For situations requiring a Type A permit, key changes to the current system include:

- Adding a new permit option to allow limited pruning of native trees in environmental zones. The City does not generally require a permit to prune trees on private property and Title 11 will not create additional pruning requirements. However, in existing environmental zones, pruning native trees usually requires environmental review, which is a costly and time-consuming process. The Title 11 pruning permit would allow an owner, with the oversight of a certified arborist, to conduct limited pruning in the environmental zones without a review. This will provide additional flexibility to allow additional sunlight penetration, reduce wind sail or fire risk, or enhance tree health. The permit will be filed with the City Forester prior to the work. If the pruning exceeds the limits or is not in accordance with the pruning plan or accepted arboricultural practices, it will be treated as a violation.

- Streamlining permitting and requiring tree for tree replacement for trees that are dead, dying, or dangerous.

  It is envisioned that upon submitting a report and documentation from a certified arborist, these tree permits could be issued without an inspection in most cases. Absent a report, the City would need to confirm the condition of the tree. There will be no public notice and no public appeals of these requests. Currently the City does not require replacement of dead, dying or dangerous trees. This chapter will establish simple tree-for-tree replacement requirements which will help replenish and sustain the urban forest over time.

- Streamlining permitting and mitigation requirements for nuisance species trees, trees located within 10 feet of buildings, and removal of up to four trees less than 20 inches in diameter per site per year.

  These trees would each be replaced at a tree for tree ratio, instead of the inch for inch requirement that applies today. In these circumstances, an arborist report may not be necessary. A landscape professional could identify nuisance tree species, and property owners can measure tree size and distances from buildings. With sufficient documentation in the application submittal, these tree permits could be issued without inspections or using a "spot check" approach. There is no public notice and no public appeals of these requests.

- Including overlay zones and plan district areas in the permit system.

  The proposal will make it clear that in non-development situations, trees in specified overlay zones and plan districts must obtain a Title 11 tree removal permit. City staff will need to determine that the requested removal is exempt or allowed by the applicable zoning code provisions before processing the tree permit request. The benefit is certainty for the applicant that zoning rules are not being inadvertently violated, certainty for the public that the city has reviewed and authorized the removal in the form of issuing a tree permit, and equitable replacement requirements inside and outside these areas.

- Extending tree removal permit requirements to single family non-dividable lots.

  This chapter establishes a streamlined removal permit requirement for trees that are 20 or more inches in diameter on non-dividable single family lots. The replacement of the existing single family lot exemption will standardize the City's existing tree permit system. This decision to apply the permit system to all lots in the City will:

  - Help ensure that overlay zone, plan district, land use conditions, and other development requirements are not inadvertently violated
  - Create a mechanism to ensure replacement of large trees
  - Provide an opportunity to inform property owners of the benefits of their urban forest and available tree programs and incentives

For single family home sites, tree for tree replacement would be required in all cases and there would be no public notice and no opportunity for public appeal.

The provisions of this chapter will include specific lot size thresholds by zone to use in determining if a tree removal proposal is eligible for the streamlined "single dwelling" Type A permit option. The lot size thresholds will replace the problematic "non-dividable lot" term, making the rules easier to understand and administer. Also, a number of corner and transition lots that are technically dividable at smaller sizes would no longer be considered "developable" by the tree title and would instead be treated the same as other similarly sized lots in the zone.

Type B Permits for Private Trees

For situations requiring a Type B permit, key changes to the current system include:

- Clarification and refinement of factors applied during permit review. The review factors for Type B Private Tree permits have been refined to reinforce the City's

policy to encourage retention of healthy trees, while respecting property owners' objectives for the use and enjoyment of their property. The factors call for consideration of the permit applicant's objectives, while also considering whether there might be practical alternatives to removing the tree (e.g., pruning) The City Forester will also continue to consider the appropriateness of the tree for its location, potential for future growth and viability, and whether the removal will impact neighborhood character or public safety. Additional clarifying language has been added to better describe what constitutes a significant affect to neighborhood character.

Programmatic Tree Permits (Chapter 11.45)

11.45.010 Purpose

11.45.020 Application Requirements

11.45.030 Procedures

11.45.040 Approval Criteria

11.45.050 Permit Specifications

The Citywide Tree Project will create a new Programmatic Tree Permit (Programmatic Permit) option. The Programmatic Permit would authorize tree removal and planting activities conducted by public agencies or utilities over a large geographic area for up to 5 years. The permitted activities would be associated with specific operation, maintenance, or resource enhancement activities. A Programmatic Tree Permit could cover City, Street and/or Private Trees, inside and outside natural resource areas. Agencies operating under a programmatic permit would not be required to obtain separate Type A or B permits but would be required to report annually on their activities to the City Forester.

The application for a Programmatic Permit will need to address specific review factors so that the City Forester can assess the overall impacts on the health and function of the urban forest, rather than a tree by tree evaluation. In specific overlay zone and plan districts a Programmatic Tree Permit will be issued only for activities that are exempt from the relevant Zoning Code regulations, such as removal of nuisance and non-nuisance trees and plants. Removal of native vegetation will still be subject to the regulations of Title 33. Moreover, the permit will not allow removal of healthy non-nuisance species that are more than 6 inches in diameter. This limitation reflects specific direction from the Urban Forestry Commission during the public hearing process.

The City Forester will send notice of pending applications to recognized organizations in the areas covered by the permit. These organizations may submit comments, and request notification of the final decision. Applicants may appeal the Forester's decision

on Programmatic Tree Permits to the Urban Forestry Appeals Board. The Appeals Board may elect to refer the matter to the full Urban Forestry Commission. Programmatic permits will be processed within 90 days of a complete application submittal, and will establish pre-programmed mitigation, tracking, reporting requirements. The permit will also require a program for public notification and outreach where appropriate.

Trees in Development Situations (Chapter 11.50)

The contents of this chapter are:

11.50.010 Purpose

11.50.020 Where These Regulations Apply

11.50.030 When a Tree Plan is Required

11.50.040 Development Impact Area Option for Large Sites and Streets

11.50.050 Tree Preservation Standards

11.50.060 Tree Density Standards

11.50.070 Tree Plan Submittal Requirements

11.50.080 Changes to Approved Tree Plans

The Trees in Development Situations chapter addresses the tree removal, protection, and planting requirements in the context of the development permit application. The primary intent of this chapter is to encourage development, where practicable, to incorporate existing trees, particularly large healthy trees and tree groves, and to help meet City urban forestry goals through a mix of tree preservation and planting during development. This chapter is also intended to improve the quality of tree protection during development, including protecting trees on property lines and nearby on adjacent properties. Currently, the City requires no protection for these trees which can result in tree damage and future hazards, the costs of which are subsequently passed on to buyers who are often unaware that the tree's health was compromised.

The existing regulatory system is inconsistent and inequitable in terms of addressing trees in development situations. For example, the City has no specific policies or protocols for addressing trees in conjunction with City capital projects and public works projects. For development projects requiring a development permit (after land use review approval or when no land use review is required), only new single family residences are required to meet tree-specific standards. Commercial, industrial, and multi-family development projects are not subject to tree-specific requirements unless the property is subject to a preservation requirement resulting from a land division, or is located within a resource overlay zone or within certain plan districts.

This chapter will establish tree preservation and tree density requirements for all new development, including private development, capital improvement, and public works

projects. The requirements will also apply to alterations to existing developments that trigger non-conforming upgrade requirements, and to proposed demolitions.

The purpose statement of this chapter reiterates the objectives for trees in development situations, namely: to retain where practicable existing high quality and larger trees and tree groves, lessen the impact of tree removal through appropriate mitigation, and ensure sufficient capacity for tree canopy is provided either on the development site or elsewhere within the same watershed.



Tree on property line during construction

The provisions in this Chapter are intended to address trees more uniformly during development, and have been carefully designed to avoid unreasonably increasing development costs or permitting costs and timelines.

Proposed standards are designed to recognize constraints associated with developing smaller sites, and the needs and characteristics of different land use and development types. The standards in this chapter are intended to encourage tree preservation while providing project applicants with flexibility to address project- and site-specific circumstances. The standards are also intended to complement the new flexible development standards in Title 33 Planning and Zoning (discussed later in this report). In addition, the provisions of this chapter are intended to provide more specificity and certainty for applicants who want to use non-standard approaches to protect trees during construction.

Some incremental cost to both public projects and private developers is anticipated from associated requirements to identify, design around, and protect trees on development sites. However the cost impacts are expected to be relatively minor, and are ameliorated in part by the variety of options available to meet requirements. For example the tree density standards may be met through a combination of preserving trees, planting new trees, or paying a fee in lieu of planting. Arborist consultation is not required for most development permits unless the developer chooses to employ root protection methods that vary from the standard approach specified in the code. Tree identification (when not part of a land use review) has been simplified so that hiring of professionals, such as surveyors or arborists, while still recommended, is not required as part of the permit submittal.

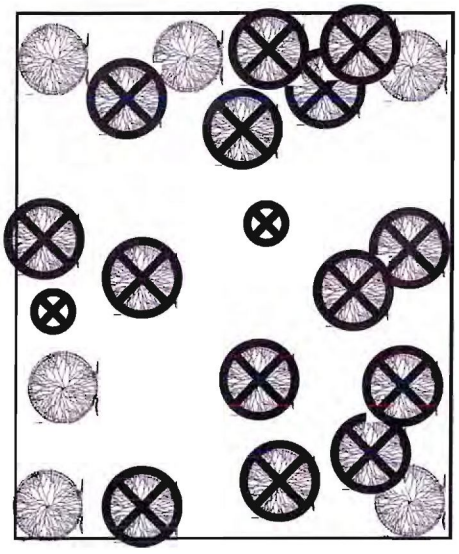
Tree Preservation Standards

This chapter contains new tree preservation standards that will apply to most development projects. Sites that are 3,000 square feet or smaller, or sites where the existing or proposed building coverage is 90 percent or greater, will be exempt from the tree preservation standards. These exemptions were added during the Planning Commission/Urban Forestry Commission hearing process. They are intended recognize the difficulty in retaining trees in these development situations and establish a balance in meeting City goals for the urban forest and future development.

The tree preservation standards call for preservation of 35 percent of the on-site trees that are 12 or more inches in diameter. If the standards are not met, applicants will need to mitigate for trees removed in excess of the allowance. The proposal calls for mitigation through payment of a fee to the City Tree Preservation and Planting Fund. The mitigation payment for each tree removed in excess of the standard allowance will be equivalent to the cost of planting and establishing two trees off-site. Planting additional trees on-site will not be allowed to serve as mitigation for not meeting the tree preservation standards. This is because the tree density requirements are intended to fulfill the tree planting objectives for the site, and additional tree planting would result in overplanting and subsequent overcrowding of trees on the site.

An additional incentive is offered to encourage preservation of certain slow growing native tree species. Native trees between 6 and 12 inches, if preserved, may substitute for one of the larger trees in meeting the tree preservation standards.

SITE PLAN EXAMPLE – TREE PRESERVATION STANDARDS



Number of ≥ 12″ trees on site: 20

Retain 35% of 20 trees = 7 trees

Proposing to retain 6 trees.

Mitigation payment required - $ to plant 2 trees for each tree removed in excess of the standard.

<u>By using Native Tree Incentive:</u>

Retain 6 to 12″ native trees in lieu of ≥ 12″ trees

Number of 6-12″ native trees retained: 1

No mitigation payment required.

Tree Density Standards

This chapter also contains proposed new "tree density standards" to help sustain the capacity of the urban forest. The tree density standards apply to site trees and street trees, and would require that a combination of small, medium, or large growing trees be planted at the time of development.

The proposed tree density standards are designed to correlate with the tree canopy targets in the Urban Forestry Management Plan. The standards establish the required number of trees per "tree area". This is similar to the existing T1 standards that apply to new single family development. The T1 standards are being moved from Title 33 and incorporated into the Tree Density Standards in Title 11.

The tree density standards will vary by land use to recognize and accommodate different development types and lot coverage allowances. The tree area is determined as a function of site size minus building coverage or a set percentage of the site which varies by development type.

Trees that are retained, including those retained to meet the new tree preservation standards, are credited toward tree density on an escalating scale based on the diameter size of the existing tree.

Trees planted to meet site landscaping or on-site stormwater requirements can also be counted toward meeting the tree density standards. This chapter authorizes fees in-lieu of planting and street tree planting waivers for situations where it is infeasible to meet the density standards on the site or adjacent street frontage.



Tree Plans

The provisions of this chapter would require project applicants to submit a "Tree Plan" with their development proposals to demonstrate that the proposed new tree preservation and density standards are met. The Tree Plan will identify trees to be retained, removed and planted. Any trees retained must be sufficiently protected during construction. Tree plans must be consistent with any conditions of previous land use approvals including preservation and planting requirements, however any trees preserved or planted per such conditions may be used to satisfy the tree preservation and tree density requirements of Title 11. For large sites, or for projects that are limited to a street right of way, applicants may opt to define a development impact area. No work activities or site disturbance may occur outside the development impact area. The development impact area limits the scope of the tree preservation and tree density review.

Capital Improvement and Public Works Projects

This proposal includes recommendations to address trees more systematically in conjunction with City capital improvement and public works projects. The goal is to establish standardized processes while providing sufficient flexibility to address changes during construction. Recommendations include early and periodic consultation with Urban Forestry during project design to identify trees in the project impact area and other potentially affected trees, and opportunities for preservation. Changes to tree plans during the project which result in the removal of additional trees would require the approval of the City Forester. For most projects, when the City Forester allows removal of trees 6 or more inches in diameter each tree must be replaced by a tree in addition to any trees required to be planted to meet the tree density requirements.

For street improvement projects where the existing street is partially or completely unimproved, the replacement requirements are lessened to acknowledge constraints of designing within restricted width rights of way, that these areas may include large numbers of trees, the relative lack of available planting spaces after a street improvement is completed, and the potential cost of mitigation on top of the public improvement cost. In these cases, replacement is only required for trees 12 inches and larger, and trees planted to meet Street Tree density can be used toward the replacement requirement.



Unimproved street, SE Ramona

Street Tree density is expressed in terms of a required number of trees per linear street frontage distance. Providing these standards up front will

help ensure that design engineers consider trees along with all the other infrastructure improvements that must fit in a planter strip. The City Forester may accept a payment in lieu or grant a waiver or partial waiver when impractical to meet the Street Tree density standard, similar to waivers that other public works bureaus must grant when their standards are not being met. For larger capital projects, the City Forester will be consulted early in the design phase to identify potential conflicts with desired tree preservation, and develop specifications for overall street tree planting. The Forester may bring significant public projects to the Urban Forestry Commission for additional input.

It is acknowledged that additional attention to tree preservation and protection may increase initial public project costs in some cases. But as noted previously, the benefits afforded by large established healthy trees can provide far greater returns than a short term cost savings. Like for private development, the costs of complying with these requirements are not intended to be overly burdensome. Options for meeting the requirements are offered, and the standards include considerations of "practicality." Mitigation planting for removal of established street trees would be allowed at the project site or off-site if meeting requirements on-site is infeasible.

Performance Guarantees

This chapter authorizes the City to collect performance guarantees where appropriate. For example the City might require a performance guarantee when a project applicant is unable to install required tree plantings prior to final project inspection, or in conjunction with approving alternative root protection methods. While the City is already authorized to collect performance guarantees updated provisions are included to establish the basis of the amount of guarantee and to guide the collection and reimbursement procedures.

Technical Specifications (Chapter 11.60)

The contents of this chapter are:

11.60.010 Where These Regulations Apply

11.60.020 Tree Planting Specifications

11.60.030 Tree Protection Specifications

11.60.040 Tree Pruning Specifications

11.60.050 Tree Removal Specifications

11.60.060 Tree Maintenance Specifications

This chapter includes the requirements for planting, protection, pruning, removal and on going maintenance of trees. These specifications are consolidated into a single

chapter, as they relate to tree activities in development situations and absent development. The ongoing maintenance specifications apply to all trees in the city regardless of whether the tree is otherwise regulated by permits.



Tree protection fencing

Tree Planting

This section includes general tree planting requirements such as minimum planting size and species diversity, how to determine small, medium or large canopy size categories for trees, and basic installation requirements. In addition, this section includes the prohibition of planting nuisance species trees when tree planting is required by the title, the requirement to plant native tree species in specific environmentally sensitive or scenic resource areas, and specific locations where tree planting is prohibited to prevent conflicts with structures or designated view points. This section also notes that any trees planted to meet the requirements of the title must be maintained and replaced if they die.

Tree Protection

Existing tree protection provisions have been moved from Title 33 Planning and Zoning, to this chapter of Title 11, Trees. The regulations associated with the "prescriptive path" for protecting the critical root zone during site preparation and project construction is largely unchanged from the current regulations, with one notable exception.

Provisions have been added to allow minor encroachments into the root protection zone area. These numerical requirements do not necessitate that an arborist justify the encroachment. This change addresses concerns raised by the development community regarding the inflexibility of the current requirements. The provisions reflect consideration of other jurisdictions with tree protection requirements and input from the City's Urban Forestry Staff.

Additional provisions are proposed are added to the "performance path" (formerly "alternative tree preservation plan") option for meeting tree protection requirements. They are intended to improve the quality of alternate root protection approaches when the prescriptive path is not feasible. The provisions will also provide applicants with additional guidance and clarity in meeting City requirements.

Tree Pruning and Removal

These sections restate that proper arboricultural practices must be followed when pruning or removing trees, as detailed in the best management practices published by the International Society of Arboriculture. Tree removal specifications are intended to protect the public safety by requiring that once tree removal begins, the tree must be completely removed unless the tree will be maintained as a wildlife snag. This section also clarifies the City Forester's authority to require stump grinding for City or Street trees. In some cases, disposal of the wood is required to prevent spreading of infectious disease (e.g. Dutch Elm disease) or may be left to remain as a food and nutrient source in certain environmentally sensitive areas.

Tree Maintenance and Responsibilities

This section lays out the requirements that apply to all trees in the City, including dead, dying and dangerous trees, trees with Dutch Elm Disease, branch clearances above streets and sidewalks, maintaining clear visibility of street signs and traffic lights, keeping sidewalks and curbs in good repair, and removing root obstructions from public sewer, water, or stormdrain systems. This chapter incorporates and adapts direction from City Council Ordinance No. 159750 that was adopted under the emergency powers of Council in response to the emergence of Dutch Elm Disease in the City. The Ordinance includes property owner responsibilities, authority and powers for the Parks Superintendent and City Forester to declare and abate nuisances, as well as notification procedures when abatement is necessary. The ordinance remains in effect today, but had never previously been incorporated into the City's code.

Enforcement (Chapter 11.700)

The contents of this chapter are:

11.70.010 Purpose

11.70.020 Where These Regulations Apply

11.70.030 Violations

11.70.040 Enforcement Authority

11.70.050 Prohibited Actions

11.70.060 Inspections and Evidence

11.70.070 Notice and Order

11.70.080 Correcting Violations of this Title

11.70.090 Enforcement Actions

11.70.100 Nuisance Abatement

11.70.110 Summary Abatement

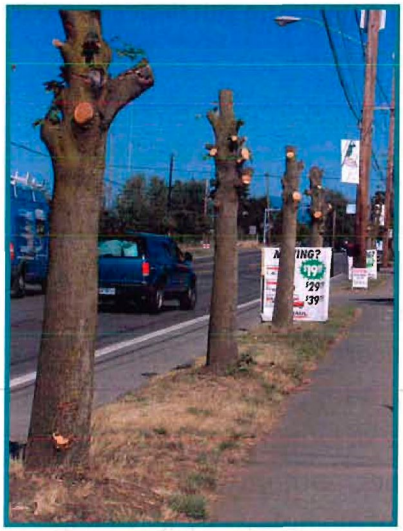
11.70.120 Administrative Review

11.70.130 Appeals to the Code Hearings Officer

11.70.140 Further Appeals

11.70.150 Waivers

This chapter is intended to establish a clear enforcement system which both deters and ensures a prompt and efficient response to situations that are prohibited or that must be abated. If a violation occurs, the provisions are designed to attain prompt resolution and remediation. Penalties are intended to serve as a deterrent, and to impose appropriate consequences for violations. The penalties are designed to escalate based on the severity or repeated nature of the violation.



Tree topping

This chapter distinguishes between violations of Title 11 and Title 33. Modeled after Section 10.50.010 in the Erosion Control Title, this Chapter establishes the basic form and authority for inspecting complaints and verifying compliance with terms of tree permits and development approvals. Under this proposal, all illegal tree removals would processed as a violation of Title 11 unless the tree removal takes place in an environmental or other specified overlay zone, or if the tree is to be preserved and protected pursuant to a prior land use approval. In those specific instances violations would be processed per the provisions of Title 33 so that relevant land use related factors are considered and due process is provided.

This chapter also assigns enforcement responsibility and establishes procedures for addressing violations of the Title. The City Forester or Director of Development Services is assigned responsibility to address specific violations. In cases where there are multiple violations, a coordinated approach is encouraged to avoid duplication of effort and possible conflicting orders. Since procedures and remedies are designed to be similar across the situations, the City Forester or Director may cede to the other for resolving the violation.

General Terms (Chapter 11.800)

The contents of this chapter are:

11.80.010 Defining Words

11.80.020 Definitions and Measurements

In general this chapter compiles a number of existing definitions from Title 20, adding some new terms, clarifying others and updates other references. In addition, more illustrations have been provided to clarify measurement methods. Some key examples of the refined definitions include:

Development Impact Area – the development impact area is a term useful for large sites where the extent of the development is not expected to affect the entire site. By defining a development impact area, applicants are able to reduce time and cost expenditures in preparation of plans and determining specific protections for trees well outside the area of impact. The Development Impact Area is also helpful in applying the tree density standards on large sites (over an acre) when development is only occurring on one section of the property. For example a large institutional campus that is adding a small wing would not be expected to meet tree density for their entire campus if they defined and limited the development impact to one area.

Injury – This term was not previously defined, but is important for establishing when a violation has occurred. Often, activities that are harmful to trees will occur on a development site, but there is disagreement as to whether a violation has been committed since the tree was not physically removed. Injuries may also occur absent development. Without a clearer definition of tree injury, a potential loophole is created whereby one could injure a tree and kill it, and then simply apply to remove the dead tree later. Note that excessive pruning and topping are both considered injurious actions, and topping is included as "removing" the tree, for the purposes of establishing remedies or penalties.

Proper Arboricultural Practices – in contrast to the "injury" definition, this provides greater certainty as to what constitutes acceptable pruning, root cutting or removal practices, by referencing tree care industry accepted practices. The reference to ANSI standards allows the definition to adapt to changing best management arboricultural practice.

Tree Related Terms – there are a number of distinctions between how trees are addressed in title 11 based on their classification. Each tree type is specifically defined including City Tree (formerly "public trees"),Dangerous Tree (which now includes a description of what constitutes a dangerous tree),Dead Tree (which includes a more specific description of when "dying" trees may be considered "dead"), Diseased Tree, Grove, Heritage Tree (which is now defined to include Historic Landmark Trees and Historic Trees), Non-native Non-nuisance Tree (is a new term to capture trees that are neither native nor nuisance species trees), Private Tree, and finally Street Tree (which includes a method for distinguishing a

street tree on partially improved roads, where a formal planting strip does not exist). Clarity was also added to address trees that straddle property lines and/or public rights of way, ending a long debate about what set of rules applied to these boundary trees.

Watershed – Portland's watersheds are already geographically defined, however, since the Tree Preservation and Planting Fund requires trees to be replaced within the same watershed, additional clarification and reference was deemed appropriate. Notably, the Fanno Creek and Tryon Creek watersheds represent a small area of the city, and in practice, they are managed as a single unit. Therefore the definition groups these two areas together. Also, there are two portions of the City that are not within one of the five established watersheds: Northwest Portland, on the west side of the west hills, and East Hayden Island. To eliminate confusion when funds are collected from these areas they have been assigned to the Willamette River and Columbia Slough watersheds, respectively.



Updating Title 33, Planning and Zoning

As stated in the previous section, Title 11, Trees is intended to provide a comprehensive regulatory framework that addresses a broad array of public and private development and non-development situations. The Citywide Tree Project also proposes substantial updates to Title 33, Planning and Zoning, referred to here as the Zoning Code.

Proposed updates to the Zoning Code are intended to better recognize the benefits provided by trees across the city, and to achieve more effective, consistent tree preservation and replacement in the context of land divisions and other specified land use reviews, and in environmentally sensitive resource areas and specific areas or "plan districts".

Proposed modifications to the Zoning Code are designed to be consistent with, complement, and reinforce the requirements of Title 11, Trees (and vice versa). The proposal is intended to recognize the different needs and constraints associated with developing smaller lots and with certain types of land uses. The proposal would also simplify and streamline certain procedures.

Proposed updates to the Zoning Code are presented below under the following headings:

- Recognizing the role and benefits of trees
- Creating flexible development standards to encourage tree preservation
- Trees and landscaping
- Plan districts and overlay zones
- Land divisions and other land use reviews
- Tree reviews
- Definitions

Recognizing the role and benefits of trees

The Citywide Tree Project will add language to several sections of the Zoning Code to more explicitly recognize the role of trees in achieving the purpose of a base zone or landscaping requirements.

For example the purpose section of Chapter 33.100 incorporates new language recognizing the importance of protecting and enhancing the values and functions of the urban forest in Open Space zones. In Chapters 33.120, 33.130 and 33.140, language is added to recognize the value of landscaping in Multi-dwelling, Commercial, Employment and Industrial Zones, to cool air temperatures, intercept rainfall, and provide food and habitat.

Creating flexible development standards to encourage tree preservation

The Zoning Code establishes numerous standards to help ensure that development supports the overall land use goals of the city (e.g., density) and is safe, accessible, efficiently designed, aesthetically pleasing, environmentally sound, and compatible with adjacent uses. Examples include setbacks from property lines, height limits, outdoor area requirements, pedestrian access requirements, parking requirements, landscaping requirements, etc.

Developers have noted that it is difficult to meet the development standards and retain trees, especially on smaller lots, or due to the location of the tree or the root protection zone. Currently, an Adjustment review is required to modify development standards. This process generally takes at least 8 weeks, so it is often quicker and cheaper to remove mature trees and plant new trees to meet tree and landscaping standards.

The project team developed an initial list of potential flexible development standards to discuss with the Stakeholder Discussion Group and City staff. There was general support for incentives to encourage tree preservation, but neighborhood representatives were concerned about loosening property line setbacks and height restrictions without an opportunity for public review and comment through the land use review process. There was also concern about potential impacts on urban form and design.

Recognizing these concerns, the project proposal includes a more limited selection of flexible standards to encourage preservation of trees that are at least 12 inches in diameter. These standards would provide additional flexibility without requiring an Adjustment review, and are intended to avoid adversely affecting adjacent uses, neighborhood livability, or city land use goals. In general, the flexible standards address elements not directly tied to urban form, instead leaving these decisions to a broader discretionary land use review process. Recommended flexible standards include:

- Outdoor Area Requirements in Single-dwelling Zones
- Pedestrian Standards in Multi-Dwelling, Commercial, Employment and Industrial Zones
- Minimum Parking Requirements
- Minimum density in Multi-Dwelling Zones
- Amenity Bonuses in Multi-Dwelling Zones

The proposed flexible development standards are described below.

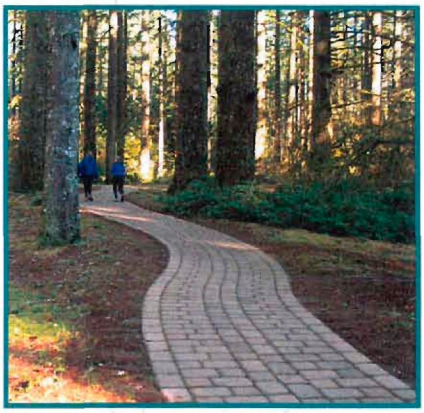
Outdoor Area Requirements in Single-Dwelling Zones – see Chapter 33.110



Tree in front yard

This exception will allow more flexibility in deciding where to locate a new house on a lot when needed to preserve trees. Under current standards, required outdoor area in residential zones cannot be located in the required front setback. If an existing tree is located in the front yard, preservation of the tree would likely require that the house be located further back from the front property line to accommodate the root protection zone. By setting the house further back from the street, the area behind the house may not be large enough to meet the outdoor area standard. An exception to this standard will allow part of the required outdoor area to be located in the minimum front setback, if doing so would allow preservation of one or more trees that are at least 12 inches in diameter. The exception will allow the outdoor area to encroach into one-half of the front setback. Since the largest front setback is 20 feet and the smallest is 10 feet, the range of allowed encroachment would be 5- 10 feet.

Pedestrian Standards in Multi-Dwelling, Commercial, Employment and Industrial Zones - see Chapters 33.120, 33.130 and 33.140



Path curving around tree

The Pedestrian Standards in the Zoning Code require pedestrian access to be provided from the public sidewalk to the front entry of buildings on the site. The pedestrian connection must be a straight line connection and may not be more than 20 feet longer or 120 percent of the straight line distance. Trees along this trajectory may need to be removed to meet this standard. The exception will allow additional flexibility to meander the required path around trees and their root protection zones. The pathway will be allowed to meander up to 200 percent of the straight line distance to avoid trees that are at least 12 inches in diameter and their root protection zones.

Parking Requirements – see Chapter 33.266

Preservation of trees, particularly larger trees, requires space on a development site to provide an adequate root protection zone. This flexible standard allows a modest reduction in parking spaces on sites where preservation of trees at least 12 inches in diameter is proposed. This is intended to provide relief from competing standards and encourage tree preservation. Under the proposal, applicants would have the option to reduce the minimum number of parking spaces for each tree preserved. The reduction is "capped" at 2 spaces or 10% of the required spaces, whichever is more. In addition, at least 4 spaces must still be provided in order to use the exception. This is intended to ensure that a minimum amount of parking will continue to be provided on small sites.

Number of Parking Spaces Required	Maximum Parking Space Reduction
0-4	0
5	1
6-20	2
20+	10% of Total

Minimum Density in Multi-Dwelling Zones – see Chapter 33.120

Current land division regulations in Chapter 33.630 allow minimum density to be reduced when the reduction will result in the preservation of trees within a tract. The maximum allowed reduction is 3 lots for proposals that create more than 20 lots. This allowance is infrequently used. There is currently no provision to reduce minimum density to facilitate tree preservation outside of the land division process.

This flexible standard is intended to provide additional flexibility for applicants that want to preserve trees within multi-dwelling zones when no land division is proposed (i.e., a multi-dwelling development is proposed on a single lot). This provision will allow a maximum reduction of 20 percent of the required minimum density (or 1 dwelling unit for smaller projects), up to 4 dwelling units. A tree that is 12 inches or more in diameter must be preserved for each dwelling unit reduction. A requirement for a covenant with the City is included to ensure trees preserved under this provision are retained for at least 10 years, consistent with the proposed duration of tree preservation plans that are approved as part of a land division or specified land use review.

Proposed density reduction allowances are shown in the table below.

Minimum Density Required	Maximum Dwelling Unit Reduction
7 or less	1
8-12	2
13-17	3
18+	4

Minimum density reductions in single-dwelling zones would continue to be allowed through the land division process, where a similar density reduction provision is proposed. See the discussion of proposed changes to land division reviews (Chapter 33.630) below for more details.

Amenity Bonuses in Multi-Dwelling Zones – see Chapter 33.120



Multifamily development and trees

Currently the City awards special amenity bonuses for increased density to improve the livability of multi-dwelling developments for their residents and to promote family oriented multi-dwelling developments. The amenity bonuses are designed to allow up to 50% additional dwelling units in a manner that is consistent with the purposes of the multi-dwelling zones. Projects requiring any adjustments to the development standards are not eligible to use the amenity bonus provisions. The bonuses are applicable to a range of development sizes. However, they tend to be more workable for larger projects. The amenity bonus options are designed to provide incentives, while leaving the specific choices to the developer. Some options involve providing additional features, such as children's play areas. Others require improved materials, such as additional sound insulation. A new amenity bonus option will provide an incentive for preserving more trees than are required to be preserved. An applicant will qualify for an amenity bonus of 5 percent of the allowable density for each on-site tree at least 12 inches in diameter that is preserved above the requirement. The current requirement to provide a covenant to retain amenities would apply to trees preserved under this provision.

Trees and Landscaping

Chapter 33.248 of the Zoning Code provides guidelines for City-required landscaping and screening. Under this proposal, the landscaping and screening requirements would

be generally unchanged. Additional language is proposed to let applicants know that trees preserved or planted to meet these standards may also be used to meet the tree preservation and/or tree density requirements of Title 11.

The T1, tree standard, which currently applies only to new single family residential development, is being replaced by similar but more comprehensive Tree Density standards in Title 11. The Tree Density standard varies by development type and is applied to a broader range of development types.

The minimum tree size requirements at the time of planting are modified to be consistent for all development types and zones. The result is a reduction in the size of tree at planting in non-residential zones, from 2 inches to 1.5 inches in diameter. This will help simplify preparation and review of landscaping plans. In addition, trees that are smaller at the time of planting have a better survival rate than larger trees.

The provisions of this chapter are updated to clarify that tree topping is considered "tree removal" and is subject to enforcement provisions for violation of Title 33 and Title 11. Several other provisions relating to the Tree Fund, and tree preservation and protection requirements have been refined and incorporated into Title 11 and are proposed to be deleted from this chapter. Cross-references are added for clarity.

Chapter 33.258, Non-Conforming Situations, is amended to add Title 11 Tree Density standards to the list of landscaping related requirements to be met as part of non-conforming upgrades.

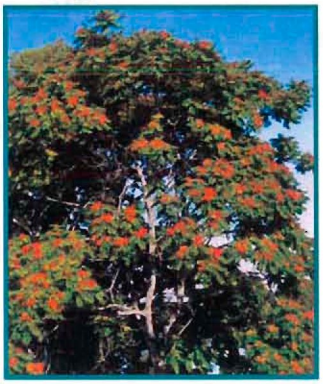
Plan Districts and Overlay Zones

A number of Title 33 updates are proposed in order to address code gaps and ambiguities (situations where trees are not addressed), and improve consistency in how trees are addressed in the different overlay zones (i.e., environmental, greenway, Pleasant Valley Natural Resources, scenic), and plan districts (Cascade Station, Johnson Creek, Rocky Butte, Columbia South Shore, South Auditorium). Amendments are included throughout these chapters to clarify how the Zoning Code requirements relate to Title 11 tree permit requirements when no development is proposed. Generally the proposed tree removal must be exempt or otherwise allowed under the Zoning Code requirements in order to be eligible for a Title 11 permit.

33.430 Environmental Overlay Zone – Amendments to the existing environmental overlay zone (designated on the zoning map by "c" for environmental conservation overlay zone, or "p" for environmental protection overlay zone) regulations include:

References to Title 11, Trees – The proposal would add new references to Title 11, Trees, where environmental zone provisions relate to tree removal or pruning and no development is proposed. These references would let applicants know that certain tree related activities are subject to Title 11 rather than the provisions of the environmental zone chapter. The proposal retains existing exemptions for removal of dead, dying and dangerous trees, and non-native trees, and provides new exemptions for removing trees located within 10 feet of an existing building, trees within designated scenic view corridors that exceed height limits, and pruning native trees subject to a Title 11 pruning permit. These tree activities will now be subject to the tree permit requirements of Title 11. This will create more consistent, equitable procedures for tree removal and replacement inside and outside the environmental zone.

Development Standards – The proposal closes a current gap in City code. Currently tree removal is not addressed in the transition zone, which is the first 25 feet inward from the boundary of the environmental zone. This gap is inconsistent with the purpose of the transition zone, which is to buffer development and disturbance related impacts on the resource area of the overlay zone. The proposal applies tree removal and replacement standards within the transition zone.



The proposal adds regulations for "non-native non-nuisance" trees throughout the chapter. Currently the e-zone is silent on these trees, only addressing native and nuisance trees. The environmental zones are structured around maintaining and planting native vegetation. However, non-native non-nuisance trees located in environmental zones provide many benefits associated with tree cover. The proposal continues to allow removal of these trees, but requires replacement according to the current tree replacement table in order to replace the lost tree functions. Replacement of nuisance trees removed is required at a tree-for-tree ratio. Replacement vegetation must be native.

Planting standards - The proposal seeks to standardize requirements for the size of trees and plants at the time of planting. Currently, the environmental zone includes different size requirements depending on the section of the chapter. The amendments make all tree size standards one-half inch and shrubs one gallon at the time of planting. This is a reduction in size for some cases. This recognizes that smaller size native trees and shrubs are more commercially available and are

more likely to establish with less watering and attentive care than larger trees and plants. It will also help reduce costs for the applicant. Several sections are also amended to refer to the tree replacement table and planting standards in the general development standards, which address the size and diversity of plants, instead of restating replacement and planting standards in multiple sections. This will help simplify plan checks because a single standard will apply.

33.440 Greenway Overlay Zone

Currently, tree removal in the Greenway overlay zones requires Greenway Review, except for the removal of nuisance trees, and tree removal associated with allowed development. The proposal would amend this chapter to improve the consistency and equitability of the City's tree regulations. In general, when no development is proposed, tree removal landward of the greenway setback or outside the greenway natural or greenway water quality zones would be subject to the same requirements as those applied to tree removal outside the greenway overlay zones through Title 11, Trees.



Kayaks on Holgate Channel.
Source: M. Houck

Within and riverward of the greenway setback and within the entire greenway natural or water quality overlay zone, removal of trees, with the exception of nuisance trees, would continue to require greenway review. When no development is proposed, allowed tree removal would be subject to the requirements of Title 11.

33.465 Pleasant Valley Natural Resources Overlay Zone

The Pleasant Valley Natural Resources Overlay (designated as "v") functions in a similar fashion as the environmental overlay zones, but includes some appreciable differences. For one, there is no transition area in the "v" overlay, so the tree removal related gaps that exist in the environmental zone transition areas do not exist. Generally there are also more restrictions on activities in the "v" overlay and a more limited list of projects that can utilize development standards instead of requiring a resource review.

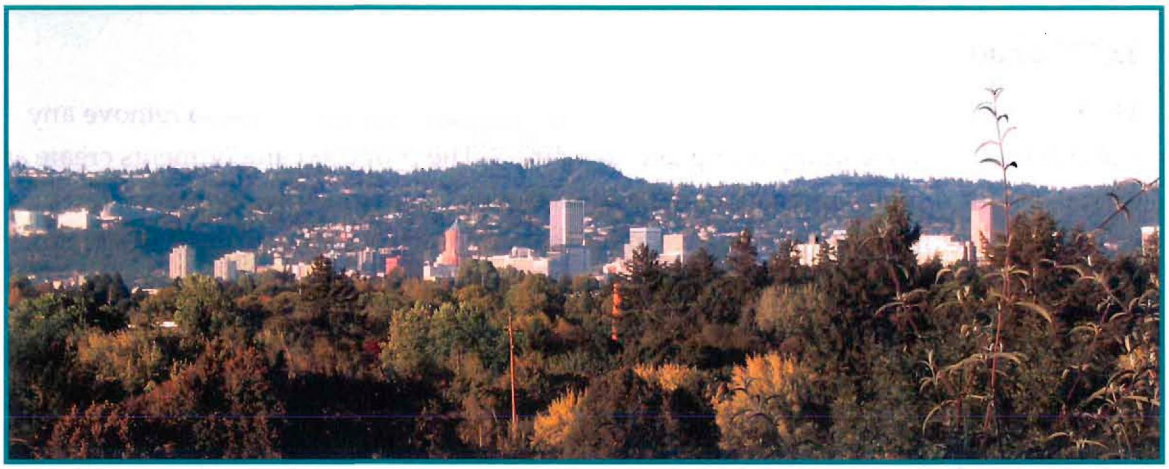
The amendments to this chapter are intended to be parallel with changes in the environmental overlay zone chapter, including referencing Title 11 requirements for tree removal when no development is proposed, making the requirements that apply to

native, non-native non-nuisance, and nuisance trees more explicit, and establishing a consistent standard for the size of vegetation at the time of planting.

33. 508 Cascade Station/ Portland International Center Plan District and 33.518 Columbia South Shore Plan District

These plan districts contain specific provisions relating to environmental zones located within the district. They are different from the general environmental overlay zones in that they currently regulate the removal of all vegetation, only exempting the removal of nuisance trees and plants and trees that pose an immediate danger. Given that both native and non-native non-nuisance trees are already regulated by these chapters, no amendments are needed to specifically address removal and replacement of non-native non-nuisance trees.

The amendments to these chapters are relatively limited. An exemption is added for tree removal within 10 feet of an existing building and references are added to the Title 11 tree removal requirements that apply to removal of trees that are exempt from the requirements of these chapters. Minor amendments will also make tree size descriptions consistent throughout the Zoning Code and Title 11.



Trees and Portland skyline

33.480 Scenic Overlay Zone, 33.537 Johnson Creek Basin Plan District, and 33.570 Rocky Butte Plan District

The scenic overlay zone and the Johnson Creek Basin and Rocky Butte Plan Districts contain similar requirements that restrict tree removal except for specific situations that are specified in the standards. Proposed amendments to these chapters are intended to provide greater consistency between these chapters, to provide consistent tree size

threshold descriptions, to allow removal of nuisance trees and to address common tree conflicts that arise during development.

Proposed changes provide more allowances to remove trees for reasons that commonly arise in the development context, such as installation of a driveway and utilities. There is also an allowance added to remove trees within 10 feet of an existing building and structures attached to existing buildings (such as decks and stairs), consistent with other sections of the Zoning Code and Title 11. A consistent allowance for tree removal within 10 feet of driveways or right-of-way improvements is added to provide a reasonable disturbance area for features which often trigger a land use review. The allowance for utilities is expanded to allow repair, maintenance and installation of utilities outside of easements. This is needed to provide for individual service lines to lots, which are typically not located in an easement. In order to limit the potential impact on trees, installation of new utilities under this provision is restricted to a single 10-foot wide corridor in which tree removal is allowed.

In the scenic overlay zone there is currently an allowance to remove and replace trees less than 12 inches in diameter, for any reason. To provide additional flexibility and reduce the number of land use reviews triggered, this allowance is being added to the Johnson Creek and Rocky plan districts.

33.580 South Auditorium Plan District

The South Auditorium Plan District presently requires a design review to remove any tree in the district, including dying and dead trees. The proposed amendments create an exemption for removal of dead, dying and dangerous trees to allow removal and replacement without design review. Under the proposed regulations, these trees would be subject to a Title 11 removal permit.

A 6-inch diameter threshold for review is added to be consistent with tree regulations in other plan district areas. The approval criteria are expanded to allow tree removal in situations where trees are impacted by development and to require that the proposal be consistent with the purpose of the plan district, which describes the importance of landscaping, open areas and trees.

Lastly, the requirement to replace trees in accordance to with the adopted landscaping plan is expanded to allow replacement in a location determined appropriate by the design review. For exempt tree removals, the tree must be replaced in the general location it is removed or per the plan.

Land Divisions and other Land Use Reviews

The Citywide Tree Project will update Zoning Code chapters relating to land divisions and specified other land use reviews to address trees more thoroughly and systematically. The proposed updates are intended to encourage project applicants to integrate trees into development at early stages of project conceptualization and design. In addition, these updates will ensure that Title 33 regulations are consistent with and reinforce the requirements of the new Title 11, Trees.

The proposal includes applying tree related requirements in more types of land use review situations. The proposal is not, however, intended to create additional steps in the review process. The proposal is intended to address trees earlier and more effectively through existing land use review procedures. An overview of the proposal for land divisions and other land use reviews is presented below.



Platted lot lines

Land Divisions

The City's land division code underwent a major rewrite from 1994 to 2002. Trees were of major interest during the land division rewrite and the City established its first tree preservation standards through that process. In 2007, the Bureau of Development Services conducted a Land Division Monitoring Report which identified trees as one of several priority issues. Additionally, the Citywide Tree Project team and Stakeholder Discussion Group identified the following issues and concerns:

- There is a regulatory disconnect between the 6-inch regulatory threshold in the land division code and the 12-inch threshold in Title 20 code. This allows many trees to be removed legally before a land division application is filed.
- There are no tree preservation requirements for condominium or multi-dwelling projects. Many builders working in multi-dwelling zones may build before the land division, and later subdivide the project after trees have been legally removed under multi-dwelling permits.
- The tree preservation standards require applicants to preserve 35 percent of the existing tree diameter on the site when the application is submitted. Applicants choosing to preserve "Significant Trees" may preserve a lower percentage of the total tree diameter, but most applicants choose to meet the 35 percent requirement. Project stakeholders, including representatives from the development community

and City staff have noted that this quantitative approach to tree preservation is rigid and often results in the preservation of smaller, lower quality trees.

- The tree preservation standards do not encourage consideration of which trees are the best choices for preservation. Some trees may be better located or a more suitable species. The current land division tree preservation requirements are primarily a numerical exercise in which a certain percentage of the existing tree diameter will be saved. Since the applicant has to meet numerical standards and staff has no discretion in review, neither applicant nor staff can factor in site considerations.
- Trees that are dead, diseased, or on the Nuisance Plant List, and trees on property lines are not counted when calculating the existing amount of trees on the site. As a result, the tree preservation requirements undercount the existing trees and functions they provide. Similarly, these trees are not counted for purposes of determining mitigation required when the preservation standards are not met.
- Although trees to be preserved are subject to protection requirements (e.g., fencing the root protection zone), no protection is required for nearby trees on adjacent properties, which can result in tree damage or failure.
- In some situations, trees to be preserved are required to be placed in a tract, which may discourage use of those provisions because it is impractical given the location of trees or is not favored by applicants because it would result in smaller lots.
- Developers expressed concern that modifying an approved tree preservation plan, especially minor modifications can be overly burdensome and costly.
- Tree preservation plans can be overlooked during clearing and grading.
- Project stakeholders expressed concern that new property owners often do not know that their property is subject to tree preservation plan requirements, and may inadvertently violate the tree preservation plan.
- Arborists noted that often they are not consulted once the tree preservation and protection plan is approved, and that City inspections are not structured or timed to prevent harm to trees during construction.
- City staff noted that tree preservation plans currently last "in perpetuity," making them difficult to track and enforce. In addition, establishing tree plans in perpetuity doesn't recognize that the urban forest is dynamic, and that trees live, grow, and die.

The Citywide Tree Project proposal would update the land division tree requirements in the following ways:

33.630 Trees

Purpose - This chapter currently addresses tree preservation within land division sites. While the provisions of the chapter still focus primarily on tree preservation on the site, the scope is being expanded somewhat to address the preservation and planting of street trees. The title is changed from "Tree Preservation" to "Trees" to reflect this change in scope. Additional benefits of trees are included in the purpose statement for the chapter and the importance of native species is highlighted.

New Discretionary Approval Criteria - A major change proposed for this chapter is to establish new discretionary approval criteria relating to tree preservation on land division sites. The criteria would prioritize the preservation of large healthy trees and groves and/or trees that provide the greatest environmental and aesthetic benefits for the site and surrounding area. The criteria would also encourage preserving as many trees as possible, while recognizing that there are valid site and development constraints that can conflict with tree preservation goals.

In some cases, it is not possible to meet the preservation standards due to site constraints (or the lack of good trees for preservation). In such instances, the criteria guide the application of mitigation requirements to replace the functions of trees removed from the site. Mitigation may include preservation of additional smaller or native trees where appropriate, permanent preservation of trees within a tree preservation or environmental resource tract, tree planting, payment into the Tree Fund. Other mitigation may be approved provided it is consistent with the purpose statement of the chapter. Since these criteria call for the consideration of development- and site-specific constraints, as well as mitigation requirements, the current "mitigation option" in this chapter is proposed to be deleted.

Revised Minimum Tree Preservation Standards - The proposal would retain minimum tree preservation standards in this chapter to provide applicants, staff, and decision makers with consistent baseline expectations for tree preservation. The existing standards have been revised to more strongly encourage preservation of large trees (20 inch diameter and larger) and tree groves. As such, the standards would complement and bolster the discretionary criteria.

These minimum standards are roughly equivalent to preservation standards that are applied to other development projects, like condominium or multi dwelling developments, removing the incentive to "build first, divide later".

While the proposal does not attempt to resolve the distinction between 6" trees required to be identified in land use reviews and the 12" trees that are subject to tree removal permits, the "disconnect" described above is reduced since retaining the smaller trees can help applicants meet the Title 11 Tree Density standards that will apply during development of the lots. Retaining smaller trees also offers greater alternatives to meet preservation standards and mitigation requirements when larger trees are not suitable for preservation.

List of Significant Trees from 33.630

Common Name	Diameter
Big-leaf Maple	18"
Bitter Cherry	10"
Black Cottonwood	18"
Black Hawthorn	8"
Cascara	6"
Douglas Fir	18"
Garry Oak	4"
Grand Fir	10"
Madrone	4"
Oregon Ash	10"
Pacific Yew	"2
Ponderosa Pine	8"
Red Alder	18"
Scouler Willow	6"
Western Flowering Dogwood	6"
Western Hemlock	10"
Western Red Cedar	10"

"Significant Trees" table deleted; replace with simpler 20-inch Trees and Tree Groves

The "Significant Tree" table in this chapter is proposed to be deleted. The table includes all trees over 20 inches and 18 other native tree species at different sizes, ranging from 2 to 18 inches. This change allows a simpler, more consistent application of tree preservation requirements in development situations and provides more consistency with tree permitting absent development, where native species are not addressed differently based on size.

The proposed new tree preservation criteria are intended to provide an improvement on the Significant Tree table. The criteria favor the preservation of large healthy trees and groves, which are groupings of native trees. The criteria allow site specific conditions to be considered, and would likely encourage retention of trees in the Significant Tree table where such trees exist. In addition, the proposed change will not affect how native trees are regulated in environmental zones, where native trees of all sizes are protected. It has been suggested that the size at which native species provide important benefits be added to the Portland Plant List to serve as a resource for staff and applicants in determining which trees should be prioritized for preservation. A future amendment to The Portland Plant List administrative rule is recommended to incorporate this information.

As noted above, protection of tree groves, or groupings of native trees, is emphasized in the proposal. Functions of groves can include structural support and wind protection for the trees within the grove, microclimate and shade, and habitat such as nesting, foraging, and cover for birds and other wildlife. Groves can also contribute substantially to the identity and aesthetic value of neighborhoods. Native trees commonly found in groves include Douglas fir, Big Leaf maple, Oregon white oak and Pacific madrone. The land division approval criteria and standards address protection of groves.

Trees on Property Lines - Currently trees located on property lines are exempt from land division tree preservation requirements. These "line" trees may be good candidates for preservation because of their location on the perimeter of the site, but cannot be counted toward meeting requirements. This proposal allows trees that are partially on the site to count toward preservation requirements. This will help provide more realistic preservation options and reduce impacts on adjacent properties. Trees that are partially in an existing street right-of-way continue to be exempt due to the higher potential for construction conflicts, limited space to avoid affecting trees, and since the removal of these trees is typically a result of the City's street improvement requirement.

Exceptions - Three new exceptions to the land division tree requirements are proposed.

Central City Plan District. The first exempts land divisions in the Central City Plan District from the requirements of 33.630, Trees. The Central City Plan District encourages full build-out of lots and the focus on the form and design of the development has a heightened level of importance. This limits opportunities for tree preservation generally. And, it is more productive to consider tree preservation and planting in the context of the specific development proposal, either during design review if required, or at the time of development permit review. Title 11 tree preservation and planting standards will continue to apply in the Central City Plan District.

Developed Sites in Non-Residential Zones. The second exception would allow developed sites in commercial, employment and industrial zones to defer tree preservation review until the time of any future redevelopment. The new Title 11 tree preservation standards would apply at that time. Often when developed sites in these zones are divided, the owners intend to divide the ownership of the site, but no additional development is proposed. The applicant will also have the option to address tree preservation up-front during the land division. This would be beneficial in situations where additional development is proposed because the discretionary land use review process can be used to better customize the tree

preservation plan for the site. In contrast, the Title 11 standards cannot take specific site circumstances into account.

Concurrent Land Division and Environmental Review Applications. The third exception would relate to proposed land division sites partially within an environmental overlay zone or Pleasant Valley Natural Resources overlay zone that are undergoing a concurrent land division and environmental review (or Pleasant Valley resource review). These overlay zone regulations encourage development to be clustered outside the resource area of the overlay zone. This often makes meeting tree preservation requirements in the portion of the site that is outside of the overlay zone difficult. The exception would provide some relief by exempting these reviews from the quantitative minimum tree preservation standards of this chapter, which focus on a specific number of trees that must be preserved. These reviews would still be required to meet the discretionary approval criteria, which focus more on preserving the highest quality trees, and as many trees as possible given the site-specific situation. Exempting these reviews from the minimum tree preservation standards, but applying the discretionary criteria, will allow for a more holistic evaluation of tree preservation over the entire site.

Minimum Density - In order to facilitate tree preservation in the context of land divisions, some changes are proposed to the existing provision that allows reduction in minimum density to better meet tree preservation requirements. A new provision to allow a minimum density reduction is added to the multi-dwelling base zone that could be used either during building permit review or during the land division review, therefore the provision included in 33.630 applies to land divisions in single-dwelling zones. See the discussion above in the section on Flexible Development Standards for more information on the multi-dwelling zone provision.

The current provision that allows a reduction in density is rarely used; therefore some changes are proposed to encourage use of the provision when it will facilitate tree preservation. A modest increase in the maximum number of lots that can be reduced is proposed (from 3 to 4 lots for larger projects) and the method of calculation is proposed to be changed to allow a more incremental increase in the allowed reduction relative to the required number of lots. The requirement to place trees in a tree preservation tract is eliminated as it currently acts as a disincentive for using this provision. Instead, a restriction on creating lots that can be further divided is added. This restriction will help avoid future conflicts with the trees preserved due to additional development on the site. In some cases, this

restriction may result in the creation of tree preservation tracts to provide better protection for trees and reduce the size of proposed lots.

Standard for Trees in Existing Rights-of-Way – A new standard will require that street tree preservation and planting within existing rights-of-way be considered during the preliminary land division review. The standard requires that the City Forester review and preliminarily approve the proposal with regards to retention of existing trees in the right-of-way and providing adequate space for planting required street trees. The City Forester will work with the City Engineer to determine options for tree preservation and planting, considering street improvement requirements.

Recording Approved Tree Plans with Final Plats – A requirement to record approved tree preservation plans with the final plat is added to make future property owners aware of the tree-related requirements that apply to the property.

33.635 Clearing and Grading and 33.654 Rights of Way

New approval criteria are added to help identify and address conflicts between trees and proposed clearing and grading activity and the location of new streets. The proposed criterion in the Clearing and Grading chapter would draw attention to need for consistency between the clearing and grading plan and the tree preservation plan. The criterion would specify that the limits of disturbance and tree fencing are sufficient to protect trees to be retained on the tree preservation plan. This criterion will help in identifying any conflicts early in the development process.

In the Rights-of-Way chapter, existing approval criteria have been modified to add the location of tree groves, streams, wetlands, and special flood hazard areas as factors to consider in determining the appropriateness and practicability of requiring through streets or extending dead end streets, and pedestrian connections on land division sites. Since not all of these features are within environmental zones, this modification will ensure that these features are still required to be taken into consideration. A new standard is added that requires street tree planting within new rights-of-way (public and private) to be considered and preliminarily approved during the land division review. The criterion pertaining to utilities would be updated to encourage identification of requirements for private utilities, such as gas, electric, phone and cable, during the preliminary plan review. This will help reduce potential for conflicts with the approved tree preservation plan due to installation of these utilities.

33.660 Land Divisions in Open Space and Residential Zones;
33.662 Land Divisions in Commercial, Employment and Industrial Zones

Changing Tree Preservation Requirement After Land Use Approval - Currently procedures required to change an approved tree preservation plan vary based on where the project is in the review process. If the final plat has not been recorded, revisions are processed as a change to the preliminary plan (called a subdivision or partition amendment). If the final plat has been recorded, the change is processed as a tree review. This can lead to significant differences in fees and procedures and processing time for otherwise similar requests. Under this proposal, all requested changes to tree preservation requirements after the original land use approval will be subject to the same tree review process in Chapter 33.853. Situations where changes to the tree preservation requirements affect other components of the preliminary land division approval, such as lot and street configurations, would still need to be processed as an amendment to the preliminary plan.

33.730 Submittal Requirements

The submittal requirements for land divisions are updated to include tree information necessary to meet new requirements and to provide more specific direction on what needs to be addressed in the arborist report. Key additional requirements include:

- Information about street trees, including identification of existing trees in the adjacent right-of-way and a conceptual street tree planting plan.
- Information about trees on adjacent sites, so that possible impacts can be evaluated and avoided where possible.
- More direction about what must be included in the arborist report. An arborist report is currently required; however an itemized list has been added to make the expectations for the report more clear. In addition to evaluating the trees on the development site, the arborist report must address trees within adjacent rights-of-way and on adjacent sites that may be impacted by development on the site. The intent is that potential impacts be identified up front during the land use review, so that adequate protection can be provided where possible.

Addressing Trees in Other Types of Land Use Reviews

The previous section outlines how the City currently addresses trees in the land division process, and proposed updates and improvements to current procedures. In meetings

with the project Stakeholders Discussion Group there was support for addressing tree preservation during other types of land use reviews as well.

Staff explored options for addressing trees in different kinds of land use reviews. The goal was to identify the land use review types that would be most suitable for promoting tree preservation and integrating trees into project design, without unduly effecting the time or cost of review. Staff looked for land use reviews that typically involve:

- Projects with land disturbance that could affect trees, and,
- Evaluation of on-site impacts and effects on adjacent properties and neighborhoods.

Based on this analysis, the proposal includes amendments to ensure that tree preservation is considered along with other relevant factors during certain conditional use reviews and in design reviews. The amendments are located in **Chapters 33.815 Conditional Uses, 33.820 Conditional Use Master Plans and 33.825 Design Reviews**.

Tree preservation has been added to the factors to be considered for conditional use reviews in Open Space and for institutional or other uses in residential zones, including Master Plans. These zones are where neighborhood compatibility and impacts on adjacent uses are generally key elements of the review. Tree preservation has also been added as a factor to consider in reviews for Radio Frequency Transmission Facilities, which apply in all zones. These types of conditional use reviews provide real opportunities to integrate trees into the project design without significantly affecting the time or cost of the review process.

With regard to design review, an amendment is proposed to make it explicit that tree preservation is a factor to consider during design review, where applicable and appropriate given the project and design guidelines. Currently, many design guidelines discuss the importance of maintaining existing trees but the factors that may be considered in design review do not explicitly include tree preservation.

Additional tree information is requested in the submittal requirements for land use reviews to ensure that impacts on trees and potential tree-related conflicts can be identified at the time of land use review. The submittal requirement will require that plans show existing trees and identify trees that will be preserved, including protection methods, and trees to be removed. Proposed vegetation to be planted is a current requirement. The amendment will ensure there is adequate information available to evaluate approval criteria and to do a preliminary review of Title 11 tree preservation

and tree density standards. Early review of the Title 11 standards will help avoid conflicts between the land use approval and Title 11 standards.

10-Year Sunset for Existing and Future Tree Preservation Requirements

The current requirement is that a tree preservation plan approved through a land division remains in effect "in perpetuity." One of the issues raised in the Land Division Monitoring Report was that trees do not live or stay in the same condition forever. They can die naturally, become diseased, or suffer from storm damage. The current code does not offer a clear explanation of how trees required to be retained on tree preservation plans should be handled in the future, if they die or become dangerous.

The proposal addresses this perpetual preservation requirement by specifying that the tree preservation requirements of land use reviews remain in effect for a 10-year period following the land use approval or for land divisions, final plat approval. During the 10-year period, removal of healthy trees will require a Tree Review to modify the approved tree preservation plan. Once the tree preservation requirements for the site expire, any requested tree removal will be subject to Title 11 permit requirements. A provision is also included to clarify that removal of dead, dying, or dangerous trees is allowed at any time subject to Title 11 tree permitting requirements, provided the tree is replaced and there is no evidence of a violation.

The 10-year timeframe is proposed to provide initial certainty that trees will be incorporated into the development and preserved as planned. Stakeholders noted the substantial time and effort spent by applicants, staff and neighbors to develop tree preservation plans and ensure they are adhered to through the development process. This ten-year tree preservation period provides a guaranteed return on the initial effort invested, while recognizing the dynamic nature of trees and allowing a gradual transition of these sites back into a more comprehensive urban forest management approach.

It should be noted that sites within the Multnomah County urban pockets that are subject to City of Portland planning and development review would not include an expiration of these land use conditions. This is due to the fact that sites in the unincorporated county are not subject to the Title 11 tree permit program. Thus there would be no system in place after the land use conditions expire to ensure review and replacement of those trees as needed.

Tree Review

Chapter 33.853, Tree Review is an existing chapter of the Zoning Code. Tree Reviews provide a process to evaluate tree-related requests when standards cannot be met,

evaluate proposed changes to approved tree preservation plans, and correct tree-related violations of land use approvals. The review allows flexibility for unusual situations and also allows for the purpose of the tree regulations to be met using creative or innovative methods. If the tree preservation is required as part of an Environmental Review, Pleasant Valley Resource Review or Greenway Review, changes are subject to the review procedures for the relevant overlay zone chapter.

Proposed amendments to this chapter will improve regulatory consistency by standardizing and clarifying procedures, especially for overlay zones and plan districts. For example, the tree review process is currently applied in the Scenic overlay and the Rocky Butte Plan District, while the Johnson Creek Basin Plan District regulations presently require an adjustment when the tree standards cannot be met. For greater consistency in procedures, and to apply criteria that are geared toward tree resources, a tree review will be required to vary from the Johnson Creek standards as well.

The proposal would also hone approval criteria for tree removal in the Rocky Butte and Johnson Creek Basin plan districts and in the Scenic overlay zone. The amendments are meant to ensure that the intent of the plan district or overlay standards are considered during the Tree Review process. These amendments recognize that tree removal is sometimes needed for reasonable development of a site, including access to the site for construction, required parking, pedestrians, and utilities while considering the allowed uses and characteristics of the area.

The proposal includes new provisions to improve remedies for violations. First, the threshold for triggering a Type III violation review is proposed to be changed to focus on violations that involve large trees or trees within a grove. A second change would require submittal of an arborist report to verify that any alternate trees proposed for preservation continue to be suitable for preservation considering construction activity that may have occurred on the site. Additional flexibility would also be provided by clarifying that a payment into the Tree Fund is allowed as mitigation when it is not feasible to meet mitigation requirements by planting trees on the site.

Definitions

Amendments to the definitions chapter of the Zoning Code, 33.910 include revisions to existing definitions for consistency with those included in Title 11, the addition of definitions of new terms introduced in the Zoning Code with this proposal and clarification of an existing environmental definition.

Clarification of an Existing Environmental Definition

The definition of **"Identified Wetlands, Identified Streams and Identified Waterbodies"** will be amended to eliminate ambiguity in the existing definition and ensure more consistent application of environmental zone regulations. The change will state that identified water features can be referenced either in the adopted resource inventory report text or on inventory maps. Currently the definition limits identified streams, wetlands and waterbodies to those shown on inventory maps. The intent of the environmental zone is to protect identified resources within the designated environmental zones. Given the age and evolving nature of the natural resource inventory reports, natural resources may not always be depicted on the inventory maps. This results in inconsistent application of the existing environmental zone standards such as setbacks. Regardless of how the resource is identified, the intent of the environmental zone is to protect identified resources in a consistent manner. This amendment will help ensure that riparian vegetation near identified water bodies, including trees, is protected within environmental zones.

New Terms

Several new definitions are added for new terms introduced with this amendment package and used frequently in the Zoning Code. All of these terms are also defined in Title 11. Some key terms are noted below.

Tree grove is a new term that will be used to determine when a group of trees constitutes a grove. The definition applies to groupings of native trees, but recognizes that non-native trees may be interspersed with the natives. A grove is described as non-linear to ensure that situations such as hedgerows and street trees are not included in the definition of grove. It is also noted that a tree grove can be identified by a qualified professional based on the function of the grouping of trees. This is intended to allow some additional flexibility in determining whether specific groupings of trees should be considered a grove.

Dangerous, Dead and Dying Trees – These are existing terms used in Title 20, the current tree regulations, that have been incorporated into Title 11 and the Title 33 for consistency.

Amendments to the River Plan / North Reach Code Package

The River Plan / North Reach was adopted in April, 2010 and related code amendments will become effective on July 1, 2011. The River Plan / North Reach has been appealed to the Land Use Board of Appeals (LUBA) and cannot be amended until the appeal is resolved.

Some possible amendments to the River Plan code package have been identified to provide more consistency with how trees are addressed is resource areas citywide. Potential amendments would address:

- Exemptions for tree removal in resource areas;
- The amount of tree replacement required when nuisance tree species are removed; and
- An allowance for pruning of native trees that is reviewed and permitted through the Title 11 tree permit process.

To provide for a consistent approach to trees in the entire Willamette River corridor, it is recommended that these amendments be considered as part of the upcoming Central or South Reach portions of the River Plan.

Additional amendments are recommended to **Chapter 33.860, Comprehensive Natural Resource Plans**, which is a new chapter adopted as part of the River Plan / North Reach code package. Amendments to this chapter are recommended to address concerns expressed during the Citywide Tree Project process about the lack of a process to obtain approval for longer-range master plans for certain institutional or managed natural areas and open space uses such as college campuses, golf courses, and natural areas (such as Smith and Bybee Wetlands). Many of these uses are on sites containing environmental, greenway or other resource overlay zones.

Once it goes into effect, this chapter will provide such a process, however it is currently geared more toward traditional development proposals, rather than natural areas or open space sites. Amendments are proposed to clarify that this tool can be used for long-term resource management or enhancement projects as well. Given the need for this tool, it is recommended that these amendments go forward as soon as the River Plan / North Reach LUBA appeal is resolved. The proposed code amendments are included here and it is recommended that they be adopted by City Council with the Citywide Tree Project code package, if the LUBA appeal is resolved at that time.

Code Amendments to River Plan / North Reach
Recommended for adoption when LUBA appeal is resolved

COMMENTARY

Chapter 33.860 Comprehensive Natural Resource Plans

This chapter was adopted as part of the River Plan/North Reach code package that will go into effect July 1, 2011. It was designed to allow a comprehensive review of multiple development actions occurring over time on sites containing natural resource areas. It will allow applicants to get approval for development and mitigation actions within the City's natural resource overlay zones for up to 10 years under one comprehensive land use review. This review will allow proposals to be evaluated in the context of the overall cumulative impacts on natural resource values and require mitigation accordingly. In addition, through a Comprehensive Natural Resource Plan, a property owner can gain flexibility to conduct mitigation in a phased approach that is more in line with how the planned activities are anticipated to unfold over the years.

Stakeholders expressed interest during the Citywide Tree Project in establishing a mechanism to obtain approval for multi-year master plans for managed natural areas and open space uses such as golf courses or cemeteries that contain or are located within environmental zones. Once this chapter goes into effect, it will provide such a process; however as written it is geared more toward traditional development sites. Amendments are proposed to clarify that this tool is also intended to be used for long-term resource management or enhancement projects.

33.860.010 Purpose
The purpose statement describes what the Comprehensive Natural Resource Plan is intended to accomplish. The amendments will broaden the scope of this review to include projects that may involve little or no "development". Therefore, subsection "A" is amended to include the comprehensive consideration of "disturbance and resource enhancement" actions, along with development actions. Subsection "D" is added to explicitly state that this tool can be used for resource management and enhancement activities.

AMEND CHAPTER 33.860, COMPREHENSIVE NATURAL RESOURCE PLANS

33.860.010 Purpose

For sites within one or more of the City's natural resource overlay zones, a Comprehensive Natural Resource Plan is intended to allow for the following:

A. Comprehensive consideration of future plans for sites where multiple development, disturbance, or resource enhancement actions are anticipated over time within one or more natural resource overlay zones. An adopted resource plan may substitute for case by case Environmental Review, Pleasant Valley Resource Review, or River Review. Comprehensive Natural Resource Plans may be completed at various levels of detail. Generally, the more specific the plan, the less review will be required as the future development is built;

B. Comprehensive consideration of the long-term cumulative impacts of development within a natural resource overlay zone, with attention paid to site-specific goals and objectives. With a Comprehensive Natural Resource Plan impacts to natural resources may be avoided by coordinating the timing of different development actions;

C. Mitigation and resource enhancement strategies that occur throughout the life of the plan, with greater flexibility for when and how specific mitigation actions occur in relation to specific development impacts;

D. Comprehensive consideration of resource management and enhancement projects for large natural areas or open space uses;

~~**D.**~~ **E.** A more integrated structure for considering overlay zone mapping refinements; and

~~**E.**~~ **F.** Greater coordination with local, state and federal agencies.

COMMENTARY

33.860.030 Duration of a Comprehensive Natural Resources Plan

This section is amended to indicate that the plan must address "disturbance or resource enhancement activities", along with proposed development. This change reflects the broader scope of the review, which may include projects that may primarily involve activities other than development.

Deleted text is removed to clarify that all activities, including mitigation, must be completed within the 10 year horizon of the plan approval.

33.860.050 Amendments to a Comprehensive Natural Resource Plan

This section specifies the review procedure that will be required if an applicant proposes an activity that is not included in the approved Comprehensive Natural Resource Plan. Changes proposed include:

- The current code requires a Type III review for any proposed development within an environmental protection zone. The amendments add a reference to "disturbance" as well.
- The current code requires a Type III review for any proposed development to be added to the site. A threshold is added to allow some additions in the area proposed for development or disturbance through a Type II review. Proposals to add disturbance area outside of the environmental protection zone that is less than 10 percent of what was originally approved will be subject to a Type II review. As noted above, any new disturbance within the protection zone will continue to be subject to a Type III review.

33.860.020 When a Comprehensive Natural Resource Plan Is Allowed
[No change]

33.860.030 Duration of a Comprehensive Natural Resources Plan
The Comprehensive Natural Resource Plan may be approved for up to 10 years. The plan must include proposed development, disturbance, or resource enhancement activities, and possible future development, disturbance, or resource enhancement activities that might occur within the next 10 years. ~~An approved resource plan remains in effect until development allowed by the plan has been completed or the plan is amended or superseded.~~

33.860.040 Procedure
[No change]

33.860.050 Amendments to a Comprehensive Natural Resource Plan
Amendments to a Comprehensive Natural Resource Plan are required for any development within the boundaries of the River Environmental, Pleasant Valley Natural Resources, environmental conservation, or environmental protection overlay zones that is not in conformance with the approved Comprehensive Natural Resource Plan. Amendments are not required for development listed as exempt from the relevant overlay zone regulations. Amendments are subject to the same approval criteria as the initial resource plan~~, plus the additional criteria in 33.860.200~~. The thresholds and procedures for amendments are stated below.

A. Type III procedure. Unless the resource plan specifically provides differently, the following amendments to a resource plan are processed through a Type III procedure:

1. Any proposed development or disturbance within the environmental protection overlay;

2. A proposed reduction in the area of the environmental protection overlay;

3. An increase in the area ~~P~~proposed for development or disturbance more than 10 percent from what was ~~to be added to the site that was not~~ included in the original resource plan;

4. Substantial changes to conditions of approval; and

5. Proposed development that was previously reviewed, but was denied because it was found not to be in conformance with the approval criteria.

Recommended Follow up Code Amendments to River Plan

33.860.100 Application Requirements

The application requirements are amended to add required information about disturbance and resource enhancement actions.

B. Type II procedure. Unless the resource plan specifically provides differently, amendments to a resource plan not specifically stated in Subsection A. above are processed through a Type II procedure.

33.860.100 Application Requirements

An application for a Comprehensive Natural Resource Plan must include the following components:

A.-G. [No change]

H. Timetables for the development, disturbance, ~~and~~ mitigation, and resource enhancement actions;

I. A summary of anticipated state and federal permits required for the proposed development, disturbance, ~~and~~ mitigation, and resource enhancement actions; and

J. [No change]

Recommended Follow up Code Amendments to River Plan

33.860.200 Approval Criteria

The approval criteria are amended to add a reference to disturbance and resource enhancement activities, in addition to proposed development. Subsection "D" is also amended to indicate that the plan may specify standards that will apply to projects at the time of development permitting. This allows additional flexibility for projects for which detailed designs have not been developed at the time the Comprehensive Natural Resource Plan is under review. If the scope of impacts can be limited through standards, projects could occur without a future land use review.

It should be noted that Criterion "D", requires that the Comprehensive Natural Resource Plan meet all relevant approval criteria for other reviews that would be required if the proposal was going through a resource review, such as Environmental Review or River Review. Therefore, resource enhancement projects will be subject to the relevant criteria for those reviews.

Criterion "D" also requires that the criteria of adopted Natural Resource Management Plans (NRMP) be met. NRMPs govern projects and mitigation for certain geographic areas. During the Citywide Tree Project process, property owners located within these areas raised concerns about adopted NRMPs being out of date and no longer allowing for projects that they would like to undertake. Property owners have expressed interest in using the Comprehensive Natural Resource Plan process to obtain long-term approval of planned activities, however in some cases that may not be possible because the projects do not conform to the current NRMP criteria. NRMPs are difficult to update because a legislative process is required. Because approval and amendment of a Comprehensive Natural Resource Plan is a quasi-judicial process, they can be developed and updated at the request of the applicant.

Applicants in NRMP areas will have the option to use the Comprehensive Natural Resource Management Plan tool, provided they meet the criteria of the adopted NRMP. If they are not able to meet the criteria of the NRMP, they would need to undergo a legislative process to change the NRMP criteria or to remove their property from the boundary of the NRMP.

Recommended Follow up Code Amendments to River Plan

33.860.200 Approval Criteria
A Comprehensive Natural Resource Plan, or an amendment to a Comprehensive Natural Resource Plan, will be approved if it meets the following approval criteria:

A. The plan establishes coordinated phasing of the development, disturbance, or resource enhancement actions within the natural resource overlay zones, with the goal of avoiding impacts that might arise if each action were planned separately. The plan includes the timing of anticipated construction access routes, building construction sequencing, and disturbance area boundaries for the site as a whole;

B. The plan will integrate natural resource conservation, protection and enhancement with other site planning plan goals and objectives;

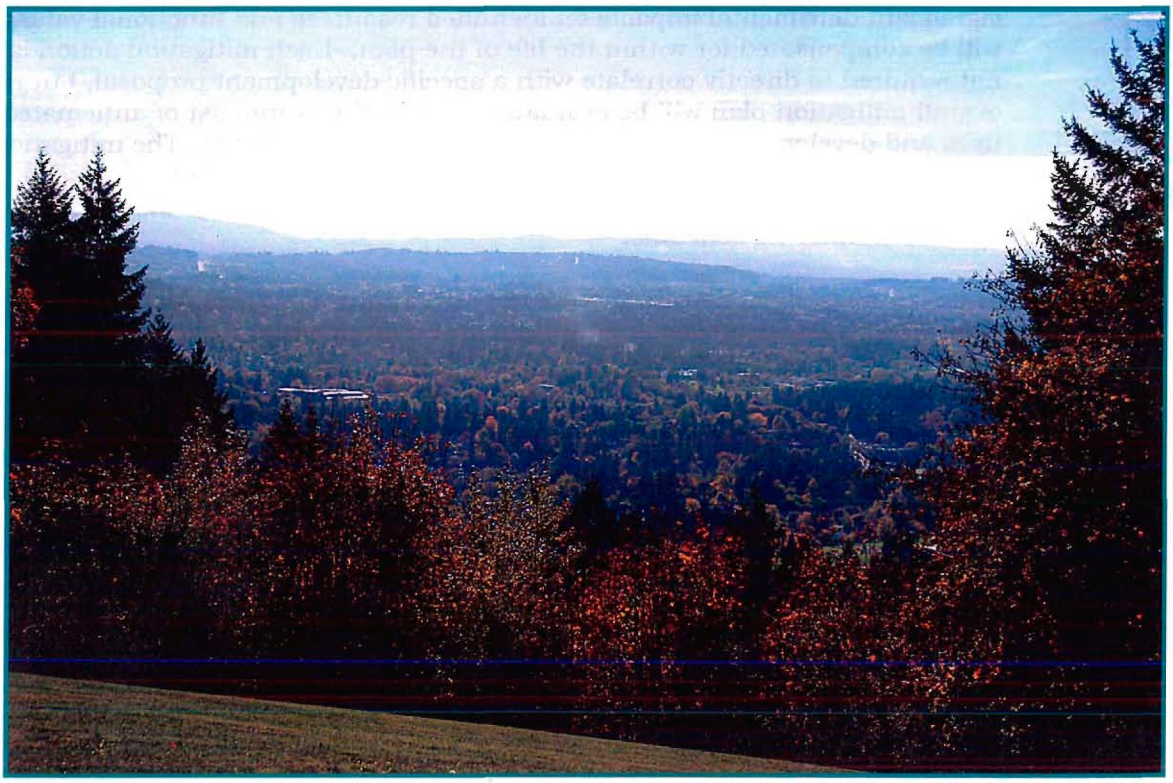
C. On balance, the proposed mitigation plan demonstrates that all anticipated significant detrimental impacts on identified resources and functional values will be compensated for within the life of the plan. Each mitigation action is not required to directly correlate with a specific development proposal, but the overall mitigation plan will be evaluated against the overall list of anticipated uses and development actions, including cumulative impacts. The mitigation plan must include performance standards for judging mitigation success, a specific timetable for mitigation actions during the life of the plan, and a specific monitoring schedule;

D. The plan must demonstrate that all relevant approval criteria that would apply if the proposal was proceeding through an Environmental Review, Pleasant Valley Natural Resource Review, or River Review, including approval criteria from an adopted Natural Resource Management Plan, are met. Consideration will be given to the level of detail provided with the plan application. Proposals that address most of the relevant approval criteria, but are not detailed enough to address all of the relevant approval criteria may be identified for tentative approval. Conditions of approval may be imposed to list those aspects of the plan subject to tentative approval, and to specify which approval criteria need further evaluation through a later review. The decision may also specify standards for future development or resource enhancement activities.

33.860.250 Overlay Zone Map Refinement
[No change]

"What's the use of a house if you haven't got a tolerable planet to put it on?"

- Henry David Thoreau



Tree canopy looking southwest from Council Crest

Aligning Other City Titles and Guidelines

In addition to the proposed Title 33, Planning and Zoning, the Recommended Draft proposal includes a number of companion amendments to other City Titles. These amendments update code citation references and relocate tree-related requirements from these titles, primarily to the new Title 11, Trees. The amendments also include several new provisions complement and reinforce tree protection requirements in Title 11. None of these amendments make major changes to current City practice, but are necessary to maintain consistency and reinforce the requirements of Title 11, Trees.

Updates are proposed to the following additional City Titles:

- Title 3, Administration
- Title 8, Health and Sanitation
- Title 14C, Public Order and Police
- Title 16, Vehicles and Traffic
- Title 17, Public Improvements
- Title 20, Parks and Recreation
- Title 24, Building Regulations
- Title 29, Property Maintenance Regulations
- Title 31, Fire Regulations

In addition to the code amendments, amendments to the Ladd's Addition Conservation District Guidelines are proposed to reflect the Title 11 prohibition on planting nuisance tree species on City property and streets.

Title 3, Administration

This title includes broad authorization and assignment of duties for the Bureau of Parks and Recreation (Parks) and the Bureau of Development Services (BDS). These amendments assign authority to administer Title 11 to the City Forester and BDS Director. Additionally, a remnant provision calling for a list of solar-friendly trees is being deleted. Title 11 authorizes the City Forester is authorized to develop tree lists for multiple purposes.

Title 8, Health and Sanitation

Chapter 8.44 relates to insect control and states that trees may be removed when they hamper the free spread of insecticide on standing water. New references clarify that a Title 11 tree removal permit is required. An obsolete reference to the Police Code was also replaced by an updated reference to Title 29.

Title 14C, Public Order and Police

Existing City code authorizes the Portland Police to enforce the provisions of Title 20, Parks and Recreation. Given that urban forestry regulations are being moved to Title 11, Trees, this authority is being extended to Title 11. It is understood that the primary enforcers of City tree regulations are Parks and BDS; however there may be instances where police intervention is necessary and this amendment continues to provide that authority.

Title 16, Vehicles and Traffic

This Title includes provisions relating to traffic visibility and safety. These provisions have been updated to recognize the need to trim Private Trees (as well as Street Trees) to maintain adequate visibility. New references clarify that Title 11 tree permits may need to be obtained when pruning or removing trees. Code references were also updated to replace Title 20 with Title 11.

Title 17, Public Improvements

The Citywide Tree Project affects four chapters in the Public Improvements Title. The first (17.42) addresses maintenance responsibilities for property owners who abut streets that are not publicly maintained. The amendment simply clarifies that should tree pruning or removal of a tree in the street be necessary, a Title 11 tree permit may be required.

The second affected chapter (17.44) relates to placing structures in the right of way. Provisions relating to placing "tree tubs" (containers with trees in them) in the right of way were moved from the tree chapter of this title because that chapter is being deleted. However, because the regulation pertains primarily to the effect of placing the container in the street, the provision was left in Title 17.

Chapter 17.48 includes requirements for moving buildings over city streets. Often these moves require temporary removal and replacement of street lights, power lines, and trees. Trees are not currently listed in the items that an applicant was responsible for. New language will now make that explicit, and clarifies that tree pruning or removal may require a Title 11 permit.

Finally, Chapter 17.52 currently houses the maintenance requirements for trees that affect public infrastructure. This includes branch clearance requirements above streets and sidewalks, sidewalk sweeping, repairing curb or sidewalk damage from trees, clearing roots out of sewer lines, and trimming trees away from overhead utilities. All these requirements have been updated and are proposed to be incorporated into the maintenance specifications chapter of Title 11.

Title 20, Parks and Recreation

Title 20 has the City's public and private tree permit programs and provisions establishing the Urban Forestry Program, and other provisions that are now proposed to be consolidated in Title 11, Trees. These requirements have been updated and clarified. Cross references are included in the code commentary, Volume 3, to indicate where the updated provisions of Chapters 20.40 and 20.42 have been located.

Title 24, Building Regulations

Title 24 includes updated references and terms. More significantly, s separate tree permit that has been required by this title is being integrated into Title 11, Trees. Title 24 currently requires a permit to cut five or more trees on slopes steeper than 25 percent. The requirement will now be part of the Tree Plan review that is required in conjunction with clearing and grading permits. A separate permit is no longer required.

This title also includes special requirements for constructing five story apartment buildings including fire access roads. Clarification was added to consider avoiding root protection zones when siting and constructing access roads. Also when trees cannot be planted as a result of siting the road, this section now states that a payment in lieu of planting will be required.

Title 29, Property Maintenance Regulations

Several updates were included to the Property Maintenance Regulations to increase consistency with Title 11 terminology.

Title 31, Fire Regulations

Like the updates to Title 24 access road requirements, these updates note that as part of the design and construction, fire access roads should consider alternatives to encourage tree preservation and minimize tree impact where practical.

Ladd's Addition Conservation District Guidelines

The Citywide Tree Project proposes to add language to the Ladd's Addition Conservation District Guidelines to signal that tree species listed as nuisance species in the Portland Plant List may no longer be approved for planting on City property or rights-of-way (see Volume 4). A general statement will be added, as well as a footnote to the existing street tree plan in the guidelines. The footnote will restate the prohibition on planting nuisance trees on City streets, and will note that the street tree plan should guide the selection of alternate street trees species that maintain the historic character of the district. The City Forester will develop an acceptable replacement tree species with similar characteristics as those nuisance tree species identified in the plan.

At issue is the identification of several nuisance species trees in the Street Tree plan; the Norway maple, Single seed hawthorn, and Globe locust trees. The Guidelines emphasize the importance of the Norway maple and American elm trees, and state that removal of these trees is warranted only when "an imminent danger to the public exists". However, The Ladd's Addition Guidelines also state that "the preface to each set of guidelines identifies the historic qualities that specific guidelines seek to preserve. The guidelines are not intended to be strict, inflexible standards." In addition the guidelines note that replanting should be done in accordance with the Street Tree plan and that "species designated in the plan should be consistent with the character, height, canopy and spacing of a street's original plantings, the width of the parking strip, and the scale and function of the street within the district". Exceptions have already been made to replace elms that test positive for Dutch elm disease.

The proposed amendments to the Design Guidelines are intended to clarify the relationship between the Design Guidelines and the new citywide prohibition on planting nuisance trees species along City streets. The proposed Ladd's Addition amendments are presented in Volume 4.

Creating an Interlocking Regulatory Framework

The previous two report sections presented the project proposals for a new comprehensive tree code, Title 11, Trees, and for substantial updates to the Zoning Code to improve the consistency and effectiveness of tree regulations in the context of land use reviews. Title 11 and the portions of the Zoning Code that are addressed in this report represent a new regulatory framework for Portland's Trees. Together, these proposals are designed to meet the Citywide Tree Project charge to develop a consistent and cohesive regulatory framework and to protect and enhance the urban forest through development and redevelopment. The proposals are also designed to meet project success criteria, including improving the equity, transparency, and efficiency of the regulations, and to support multiple city goals including urban forestry, watershed health, and development.

This chapter concludes with a brief summary of how the key components of Title 11, and the tree related portions of the Zoning Code, fit together in a complementary and reinforcing manner. As described earlier, the new and updated provisions of Title 11 and the tree-related portions of the Zoning Code are designed to recognize the interdependent, relational nature of the regulations. The provisions have been "synchronized" by eliminating gaps, duplications, and inconsistencies in the code. However, to create a cohesive system also requires consistency and continuity in how trees are addressed in non-development situations, during development, and after development.

This continuity relies primarily on the following proposal components.

- Updating development-related tree preservation requirements to focus on large, healthy trees and groves
- Addressing tree preservation in more types of land use reviews
- Applying tree preservation and tree density standards to most development
- Recording tree preservation requirements with final plats; establish 10-year "sunset" for tree preservation requirements of land use reviews
- Addressing trees more systematically in capital improvement and public works projects
- Establishing a consistent, efficient tree permit system for activities not associated with development proposals

Updating development-related tree preservation requirements to focus on large, healthy trees and groves

Increasing the emphasis on preserving large healthy trees and tree groves will improve the quality of tree preservation, and make better use of public and private investment in tree protection. Crediting the retention of smaller trees toward meeting landscape and tree density requirements provides an incentive to keep these trees, while not unduly limiting flexibility. The focus on retaining large healthy trees and effective replacement of smaller trees is mirrored in the tiered, uniform tree removal permit system (see tree permit system discussion below).

Addressing tree preservation in more types of land use reviews

Addressing tree preservation during certain conditional use and design reviews, in addition to land divisions, will expand opportunities for "designing with trees" during the early phases of development.

Applying tree preservation and tree density standards to most development

Applying new Title 11 tree preservation and tree density standards to all new development and most additions and site alterations, instead of only to new single family homes, will greatly improve consistency and fairness in the city's tree regulations. The proposed tree preservation standards would focus on retaining healthy trees, consistent with the proposed land division preservation standards and approval criteria. The proposed tree density standards would create consistent baseline tree planting standards for all development. Both the tree preservation standards and the density standards are intended to recognize constraints associated with small lots and the development requirements and characteristics of different land uses. In addition, the trees planted or preserved to meet any landscaping requirements of the Zoning Code or stormwater management requirements may be counted in a complementary manner for meeting tree density and preservation standards of Title 11.

This portion of the proposal would address a major gap and discontinuity in the existing regulatory system. Currently, in non-development situations, the City requires a permit to remove trees 12 inches or larger on developable or dividable private lots. However, once a building permit is submitted a developer can remove all the trees on the lot unless the lot is in a resource area or is subject to specific conditions of a land use review. Proposed new tree preservation and tree density standards in Title 11 will fill that gap without adding additional steps in the development process.

Recording tree preservation requirements with final plats; Establish 10-year "sunset" for current and future tree preservation requirements

Currently tree preservation plans are approved in conjunction with land divisions, however property owners often are unaware that they are required to preserve certain trees when they purchase the property. It is proposed that tree preservation requirements approved through land divisions be recorded with the final plat. These requirements would then be reflected on a property deed to be more readily identified by potential purchasers.

In addition, the city-approved tree preservation plans currently apply in perpetuity. This creates inconsistency, confusion, and inequity in how trees are addressed on properties with and without tree preservation plans. The static tree preservation plans do not accommodate the dynamic nature of trees and are difficult to administer. The proposal for tree preservation plans to expire 10 years after land use or final plat approval will address these issues, provide reasonable certainty that the trees will be preserved as approved, and create a consistent, equitable "level playing field" for trees over the long-term. During the 10-year period, at least a portion of the smaller or medium sized trees that were preserved or planted might reach the City's 12" or 20" tree removal permit size thresholds. *NOTE: The effectiveness of the plan expiration will depend on adoption of a uniform tree removal permit system. Because Multnomah County has no tree permit system, the County has requested that the proposal apply only within City limits, and not within the Multnomah County urban pockets.*

Systematically addressing trees in capital improvement and public works projects



Trees in capital improvement and public works projects

City code does not currently spell out procedures for addressing trees in public projects. Project stakeholders urged the City to apply tree requirements to public and private projects consistently and equitably. The proposal will add provisions requiring consultation with the City Forester early in the project design for capital and public works projects. Early identification of potentially affected trees, tree preservation opportunities, and tree protection issues will be integrated into the preliminary project design and carried forward throughout subsequent stages of the engineering design process. Mitigation will continue to be required when trees are removed. The modifications will provide additional consistency between trees in public and private

development situations, and will better complement the City's stringent Street Tree permit program.

Establishing a consistent, efficient tree permit system for activities not associated with proposed development

Approximately half of Portland's urban forest canopy shades public property, and half shades private property. Yet, the City's approaches for permitting trees on public and private property differ considerably. A major element of this project was to examine the current permitting requirements and recommend improvements.

The Current Tree Permit System

City Trees and Street Trees - Currently the City requires a permit to plant, prune or remove a tree of any size for any reason on a city street or on City-managed property (e.g., park, fire station). The City processes approximately 4,400 permits relating to City Trees or Street Trees per year. Urban Forestry staff conduct site visits to evaluate requested street tree permits. The site visits provide an opportunity to engage with and provide technical assistance to property owners. Staff can also collect relevant street tree data to incrementally build a more comprehensive street tree inventory.

The City does not generally approve the removal of large healthy street trees or trees on City-managed property. The City currently requires trees that are allowed to be removed to be replaced, "one tree for one tree." Only permit applicants may appeal a City denial of a permit for a City or Street Tree.

Private Trees - At present, the City requires permits to remove trees 12 inches or larger on all private property, except for non-dividable single family lots with homes on them. The private tree permitting system was established in 1995 to discourage removal of trees prior to development. The City processes roughly 100 private tree removal permits per year. Most are for dead, diseased, or dangerous trees.

The Urban Forestry Staff conducts site visits and generally approves the permit if the proposed mitigation plan is deemed sufficient. The replacement requirement for removing healthy trees on private property is up to "inch for inch." For example a 30 inch diameter tree would need to be replaced with 30 inches of new trees. The actual number of required trees can vary based on the size at which they are planted. This replacement requirement can serve to deter property owners from removing trees that don't qualify as dead, diseased or dangerous. Unlike public trees, any interested person may appeal a City permitting decision relating to trees on private property.

Issues with the Current System - Community stakeholders and City staff agree that the current tree permit system is inconsistent and hard to understand, explain, implement, and enforce. Project stakeholders expressed frustration, noting that the City's tree permit regulations pertaining to private property -- single family property in particular -- are confusing and unfair. Citizens have also suggested that requiring a permit for any type of street tree pruning is overly burdensome.

The single family exemption makes it difficult for City staff to answer permitting questions quickly. It is not always intuitive whether single family properties are "dividable" and therefore subject to permitting requirements. The exemption also creates a discontinuity between how trees are regulated in development and non-development situations. As noted above, it is challenging to make property owners aware of tree preservation requirements on their property that result from a land use condition of approval or other development requirement. The single-family exemption exacerbates this problem, since similarly situated properties, even next door neighbors, may have drastically different rules that apply to their trees, thus increasing the risk of inadvertent violations and complicating enforcement of land use conditions.

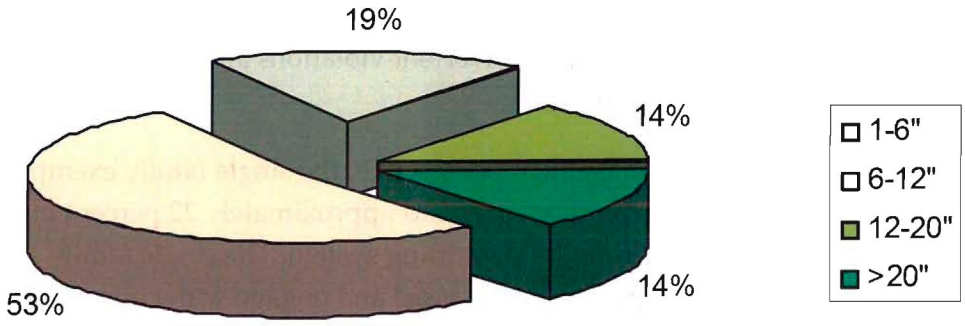
From an urban forest management perspective, the single family exemption excludes roughly half of the properties and approximately 22 percent of the urban forest canopy in the city from the permitting system. The single family exemption precludes the kind of opportunities to assist and engage with citizens provided by the City's existing street tree permitting system which applies to all street trees.

The disparity between tree size thresholds adds to the confusion and the discontinuity in how trees are addressed in development and non-development situations, and in different parts of the city. For land division and tree removal in resource overlay zones and certain plan district areas of the City, the tree size threshold for regulation is typically six inches (though removal of all native vegetation is regulated in environmental zone resource areas). When no development is proposed, Street Trees and City Trees are regulated at any size, while trees on private property are regulated at 12 inches. As a result, trees between 6 and 12 inches that would be addressed in a land division may be legally removed prior to applying for the development since they are below the regulated size. Alternatively, trees that were required to be preserved as part of a land division might be illegally removed after the development by a new property owner because the tree is otherwise exempt from tree removal permitting requirements, either because the tree was smaller than 12 inches or because the new lot would be considered "not-dividable."

The Proposed Tree Permit System

A number of different permitting options were evaluated with the goal of simplifying and improving the current permit system. Project staff addressed these issues and discussed potential solution options with the project Stakeholder Discussion Group and City bureaus. Solution options included clarifying the current system while retaining a single family exemption, and creating a more uniform permitting system without a single family exemption. Shifting the tree permitting size threshold was discussed as well. Shifting the size threshold to 6 inches would also address a larger portion of Portland's urban forest as indicated below. Shifting to a larger size threshold such as 20 inches would address a smaller portion of the urban forest but would be less costly.

Size Distribution of Trees
(based on public tree data)



The stakeholders supported simplifying and standardizing the system but did not reach consensus on the specific choices. They cautioned staff not to propose a system that was overly burdensome, time consuming or costly to property owners. Stakeholders suggested that the City consider establishing a tree permitting system that focuses on engaging and educating citizens about the benefits of trees and tree care.

Based on these discussions and additional analysis the current proposal is to establish a more streamlined "tiered permit system," and to apply the permit system consistently based on tree size and condition across all land uses, as described below:

Tiered permit system – The proposed system of Type A and B permits is meant to:

- Streamline and reduce the cost of permitting removal dead, diseased, dangerous trees, and trees on the City's Nuisance Plant List
- Establish consistent permitting and appeals procedures for Street Trees and Trees on Private Property
- Complement and reinforce tree preservation, planting, and landscaping required through the development process
- Continue preventing adverse public safety and ecological impacts from tree removal
- Clarify and strengthen criteria to encourage retention of large health trees that contribute to neighborhood character
- Create an efficient, effective process for replacing trees that are removed
- Enhance opportunities to engage with and educate the public.

Type A permit – Type A permits will provide the most streamlined process. Type A permits would be required to remove dead, dying, or dangerous trees. In addition, on private properties, Type A permits would be granted for trees on the City's Nuisance Plant List, trees within 10 feet of a building, and up to 4 trees between 12 and 20 inches in diameter. Type A permits would also be required for certain non-removal activities for City or Street Trees, such as planting, pruning, or other activities that may impact the health of these trees. Required tree replacement would be tree for tree. The permit would be non-discretionary, and only the applicant would have the ability to appeal the City Forester's decision.

Type B permit –Type B permit will be required to remove large healthy trees or to remove more than 4 trees from a site within a single year. The request would be evaluated for public safety and environmental criteria, and also to determine if there would be an adverse impact on neighborhood identity. The required tree replacement would be up to "inch for inch," to be determined based on consideration of key factors. The City Forester can also adjust required mitigation based on the amount of remaining trees on the site, and allow payment into the Tree Preservation and Planting Fund to plant offsite. Guidelines for determining appropriate mitigation are proposed to be developed and adopted as an administrative rule to allow testing and amendment as appropriate. These permit requests would be subject to public notice when the City Forester has tentatively approved the permit, and any person could appeal the City's permit decision to the Urban Forestry Appeals Board.

Pruning permit – Would continue to be required for City and Street Trees, and would be issued as a Type A permit. However, pruning would now be defined to exclude from permit requirements, removal of sucker shoots at the base of a tree and limited removal of branches not exceeding 1/4 inches in diameter in accordance with proper arboricultural practices. New pruning permits would also be established to allow limited pruning in environmental resource zones, currently only allowed as part of an environmental review.

The proposal is to continue charging only a nominal fee for these permits to encourage compliance and promote beneficial activities. The current fee for tree removal permits is $35. Permits for Street Tree pruning and planting are free. It is proposed that the City retain a nominal fee for tree removal permits to promote compliance, but shift to a "fee per tree." In this case the fee would increase with the scale of the removal, i.e. the more trees removed the higher the application cost. Alternatively, the City could graduate the fee based on the type of permit being applied for. For example, the City could retain the $35 flat fee for Type A permits, while Type B permit fees could be set at $50per tree. The graduated fee and fee per tree approach corresponds to additional staff time to evaluate the request, and could potentially discourage removal of large healthy trees.

Applicability

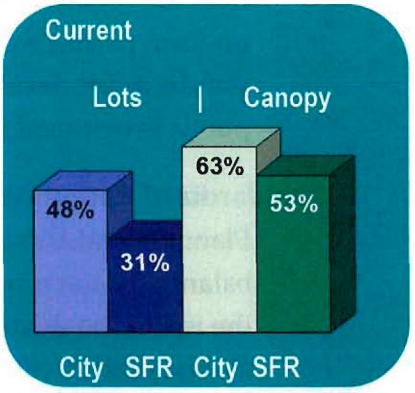
City and Street Trees - The current proposal is to continue requiring permits for activities involving City and Street Trees, but to institute a minimum tree size threshold of 3 inches (as opposed to the current "any size"). This approach would support City goals to maintain the quality and functions of trees on public rights of way and other city-managed lands, while providing a realistic threshold to help administer the permit requirement. The approach also will help advance efforts to manage trees as a capital asset as recommended in the Climate Action Strategy.

Trees on Private Property - As noted earlier, the City currently requires permits to remove trees 12 inches in diameter or larger on all private property except non-dividable single family properties with existing homes. Also exempt from the permit system (but partially regulated through the zoning code) are trees in environmental and other resource overlay zones and plan districts. Citizens find the current system confusing and inequitable, and it is also difficult to implement. Alternative permitting options were examined with the goal of simplifying and improving the efficiency and effectiveness of the existing system. More information on the fiscal impacts of these options is provided in the Fiscal Impacts and Funding Options section of this report.

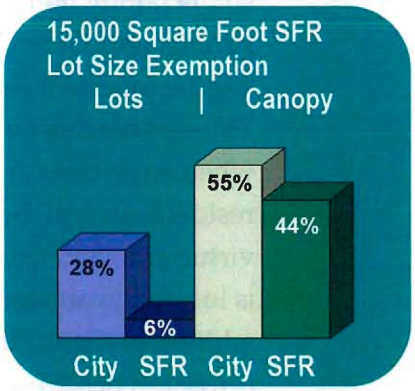
Single Family Exemption based on lot size - Staff examined a private tree removal permit option based on a single lot size threshold. Scenarios evaluated included exempting tree removal on lots smaller than 9,500 square feet, or on lots smaller than 15,000 square feet, from permit requirements. This "single lot size exemptions" approach would maintain a partial single family exemption, while simplifying the tree removal permit system and minimizing impacts on workload and staffing. The 9,500 square foot exemption, based on the minimum lot size of a dividable R5 zoned lot, would result in a modest decrease the number of lots, and a modest increase in the area tree canopy that would be served by the permit system. The 15,000 square foot lot exemption, based on larger lots in relatively undeveloped neighborhoods, would result in more significant decreases in the number of lots and amount of tree canopy that would be served by the permit system. The administration costs of either of these systems would be slightly less than the current permitting system.

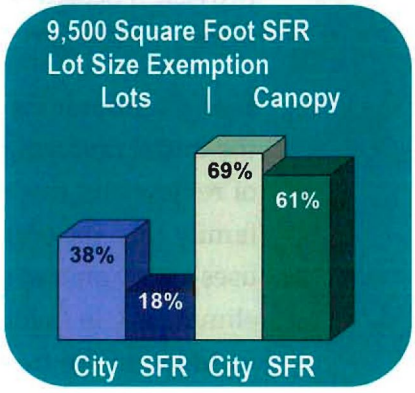
Uniform Permit Based on Tree Size and Condition; No Single Family Exemption - The other concept that was evaluated is a uniform tree removal permit system that would apply consistently to all lots across the city. This system would be applied based on tree size and condition, recognizing that the functions provided by trees are not affected by land use or lot size. Eliminating the single family exemption would be clear and equitable. The uniform permit would also provide more opportunity to engage with citizens, encourage retention of large healthy trees and ensure

The uniform tree permit system would be applied based on tree size and condition, creating a simple, equitable permitting process, recognizing that the functions provided by trees are important regardless of land use or lot size.









trees are replaced, similar to the City's current approach to street trees. The uniform permit would also bolster and reinforce tree-related criteria and standards for development. The uniform approach would require additional public investment in staff to implement and enforce the program.

Standardized Permit Based on Tree Size; No Single Family Exemption - Both the Planning and Urban Forestry Commissions struggled with the right regulatory balance for the proposed permit system. While the commissions acknowledged the issues the existing single family lot exemption creates, they also recognized the administration costs and the difficulty in gaining public acceptance for expanding the permit review process to 96,000 additional lots. The commissions also rejected the option to exempt a single lot size threshold (e.g. 9,500 or 15,000 square feet), due in part to the lack of a sound policy rationale, the disconnect between development and non-development tree related requirements, and that these options would fall short of addressing the problems the current exemption raises.

Staff developed a proposal to address non-dividable single family lots with a different permit approach than other regulated lots. This standardized approach would apply permitting requirements to all lots; however, sites developed with a single family house, that meet specific lot size requirements that vary based on the zoning, and do not contain protected trees would be subject to a simple tree for tree replacement requirement for trees that are 20 inches in diameter or larger. This approach focuses more on outreach, education, and ensuring replacement when large trees are removed. The emphasis of this approach is to encourage all residents to "call before you cut" to make sure that the tree is not protected by virtue of a land use condition or development requirement, is a Heritage Tree, or is located in an areas (such as an overlay zone or plan district area) where additional requirements may apply. For sites meeting the single dwelling provision described above, a Type A permit will be required only for trees 20 inches and larger.

Both Commissions voted to support this more standardized approach instead of the initial uniform permit approach. While there remains a distinction in the level of review and tree replacement between developable lots and non-dividable single family lots, the current proposal continues to apply permit standards to all land uses based on tree size and condition. The single family exemption would be eliminated, in favor of a more equitable approach whereby all properties are included in the tree permitting system and are active participants in the management of the urban forest.

The standardized tree permit provides an essential component of the "interlocking regulatory framework" that is the cornerstone of the Citywide Tree Project. The permit would establish a reliable mechanism to ensure that development related tree requirements are carried out and not overlooked. A standardized permitting approach will increase the feasibility and effectiveness of the proposed 24-hour tree hotline by making it easier to determine if tree cutting activities are permitted or not. Establishing a standardized tree permitting system would also send a strong message that trees are valuable community assets wherever they are, and whether or not development is proposed.

Tree Size Thresholds - The current proposal retains the 12 inch diameter tree size threshold for lots that are currently subject to tree permits for 12 inch and larger trees. Although shifting the tree size threshold to 6 inches in diameter would address more trees and improve consistency with the Zoning Code, requiring permits for all trees 6 inches and larger throughout the City would be overly costly and difficult to enforce. In addition, citizen resistance to the permit system is expected to be far greater were the city to propose regulating smaller trees on private property. One option for achieving consistency between the proposed tree removal permit system and the Zoning Code would be to increase the tree size threshold to 12 inch in diameter in overlay zones and plan districts. However, this would represent an approximate 50% reduction in the numbers of trees protected in these areas. Therefore, the proposal is to retain the 6 inch tree size threshold for these situations. Development applicants will be able to receive credit toward meeting the tree density standards when preserving smaller trees.

Increasing the tree size threshold to 20 inches was also evaluated. This approach would reduce cost but would significantly reduce the amount of tree canopy served by the system (a reduction from 28% to approximately 14% of the tree population of the urban forest). This threshold was deemed appropriate for the single family lots that are currently exempt as a way of ameliorating the costs of adding these lots to the system and focusing on the more iconic large trees.

The regulated tree size thresholds for the proposed permit system are therefore:

- 6 inches and larger for trees in specified overlay zones and plan districts (e.g. environmental zones, Rocky Butte, etc)
- 12 inches and larger for trees on lots that are currently subject to tree permits at 12 inches.
- 20 inches and larger for trees on lots (previously exempt) meeting the single dwelling provisions.

Maintaining these thresholds is intended to limit impacts on staffing and public cost, while significantly improving the current system and addressing more trees in the urban forest.

In conclusion, the regulatory framework is designed to be "greater than the sum of its parts." Key components are intended to support, complement and reinforce each other, without duplication, gaps or holes, and conflicts. The framework is intended to help meet City and community goals, including goals related to urban forestry and development. The framework is also intended to build on existing City procedures, improve efficiency, be affordable and provide a good value for the investment.

The recommendations presented in the next section include the development of a Community Tree Manual, a Single Point of Contact, 24 hour Tree Hotline Pilot Project, and improvements to the City's tree permit tracking system and online access. These would support and bolster the regulatory framework by improving customer service and community understanding and access to City tree regulations and urban forestry programs.

Customer Service and Community Access

The proposals presented in this section are critical components of the overall Citywide Tree Project recommendation package. Proposals for future projects to develop a Community Tree Manual and to establish a single point of contact for tree related inquiries were strongly supported by the project Stakeholder Discussion Group, along with a proposal to develop a 24-hour Tree Hotline. There was also significant interest in exploring ways to plan for and manage trees at a neighborhood scale, rather than site by site. During their work sessions, the Planning and Urban Forestry Commissions also expressed a desire to allow public access to tree permit records and activity through an on-line portal such as PortlandMaps. These proposals are presented below for consideration.

Community Tree Manual

The Citywide Tree Project Stakeholder Discussion Group, the Planning Commission, and the Urban Forestry Commission strongly supported the development of a "Community Tree Manual" (or "Tree Manual") to complement the tree regulations.

Initially the Tree Manual was envisioned primarily as a document that translates the tree regulations into "plain English." Development community representatives expressed interest in placing technical specifications in the Tree Manual as administrative rules, which can be more readily updated than the code. While there is still interest in converting some of the technical standards and specifications to administrative rule, the Tree Manual concept has evolved to focus on providing a community educational and informational resource rather than a regulatory document.

Neighborhood representatives warmed to the Tree Manual concept as a tool to provide information about the benefits of urban trees, tree care, and best management practices. There is also interest in creating a tool to educate children about the importance of trees, and foster their appreciation and understanding of trees in their neighborhoods and schools.

City staff and stakeholders also want the Tree Manual to be a "living resource" that would be housed and maintained on a new Tree Website. While there will likely be specific printed products, the primary focus will be on the development of user-friendly on-line products and tools.

As a community resource the Tree Manual will help support and complement other public initiatives and investments. For example, through the Grey to Green Initiative, the City initiated an aggressive rethink of its infrastructure policy, and has begun investing millions of dollars in green infrastructure facilities. In addition to the existing

urban forest canopy that faces the pressure of development, 50,000 street trees and 33,000 yard trees will be planted by the city over a several year period. Providing information to help Portlanders maintain existing tree assets is important to protect this investment in planting new trees.

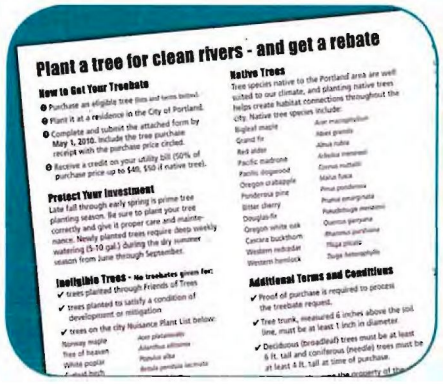
As envisioned, the Tree Manual will serve the following purposes and goals;

1. Raise community awareness of trees and benefits of Portland's urban forest
2. Provide information and case examples to assist Portland residents, arborists and developers in selecting, planting, caring for, and preserving/protecting trees
3. Provide simple and illustrative information to help property owners and developers understand and work with City tree regulations (graphics, standard operating procedures, example site plans and applications, etc.)

The Tree Manual will address the following topics:

Portland's Trees, Tree Programs and Benefits of Trees

The Community Tree Manual would provide information on Portland's urban forest and the ecological, social and economic benefits of trees in the city. It would describe the functions of trees and how they contribute to public, economic, and watershed health and welfare. The manual would also provide information on special trees and programs such as the City's Heritage Tree program and native trees in environmental zones. The manual would also identify City bureaus that implement urban forestry and other tree-related programs, and provide program information and appropriate links. The manual would provide information on community organizations such as Friends of Trees and local watershed councils, and ways citizens can participate in tree related community programs or events.


Plant a tree for clean rivers - and get a rebate

How to Get Your Treebate

Protect Your Investment

Native Trees

Additional Terms and Conditions

Tree Care and Topics of Interest

The Tree Manual would provide basic information to help Portlanders understand how trees work and how to care for their trees. The manual would also provide information and guidance on particular topics of interest. The format would rely on photos and graphics to help illustrate key points and encourage tree planting and maintenance.

- Basic tree care – planting, mulching and watering, pruning, removal, preventing hazards
- Trees and utilities
- Fire resistant trees and/or landscapes
- Trees and solar access
- Trees and stormwater
- Food bearing trees and edible landscapes
- Trees and wildlife – native trees; habitat trees, providing food and cover, preventing hazards
- Trees and views
- Alternative sidewalk and building construction to preserve trees
- Trees and groves – preservation in the long term – easements, tracts, neighborhood agreements
- Neighborhood tree plans

Tree Code Primer – "Tree Rules Made Simple"

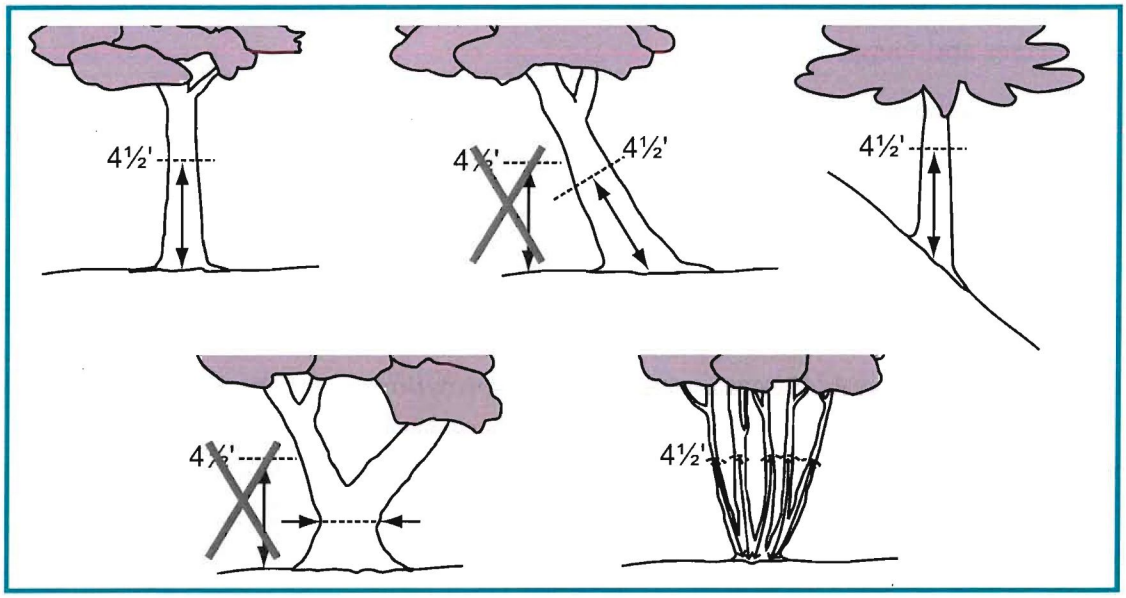
The Tree Manual would present user-friendly information, instructions, and examples to help people understand and comply with the tree regulations. The manual would outline City and property owner roles and responsibilities. The Tree Manual could provide updated forms and worksheets, and tips or example site plans with required tree information to assist in meeting development application submittal requirements.

The manual could also contain information and potentially technical specifications relating to tree protection, replacement, etc. Like the City's Stormwater Management and Erosion Control Manuals, the Tree Manual would feature 'lay language' information, diagrams and illustrations to foster creative site design and construction methods. The Tree Manual could potentially integrate information and guidelines contained in the City's existing "Tree and Landscaping Manual". The Tree Manual could be readily updated to reflect the ongoing evolution in urban forestry management guidance and technologies. The contents might look something like this:

City tree regulations - how to stay out of trouble!

- Tell me what I can (and can't) do – allowances, prohibited activities such as topping or harming active migratory bird nests
- When do I need a permit? - in development and non-development situations; trees on public, city and private property;

- What's a Tree Plan? – tips and examples for producing Tree Plans and producing complete project applications
- When should I hire an arborist? – to plant, prune and remove trees; to prepare tree reports when development is proposed
- Designing with Trees – innovative examples and approaches to integrate trees into proposed development and the payoff
- Measuring Trees - dealing with straight trunk; trunks on angle or slope, split trunk; canopy density



- Protecting Trees – fencing requirements; avoiding compaction in the root zone; alternative methods for root protection; subsurface root protection
- Tree planting requirements – tree canopy size, tree spacing, tree replacement and mitigation, recommended species
- Tree appraisal methods
- Standards and specifications - distance from utilities, clearance and visibility
- Forms

Potentially the Tree Manual could incorporate elements of the Tree and Landscaping Manual and, along with potential future administrative rules relating to trees, could complement other City manuals including:

- Water Bureau Developer's Manual - ARB UTL-4.02
- BES Stormwater Management Manual - ARB ENB-4.01
- BES Sewer and Drainage Facilities Design Manual - ARC ENB-4.14
- BDS Erosion and Sediment Control Manual - ARB ENB-4.10
- PBOT Design Guide for Public Street Improvements - ARB TRN-1.10
- Fire and Rescue - Design Manual for Fire Protection Systems and Processes - ARB FIR-2.01

A basic project work plan is presented below. Currently, it is envisioned that the project will be coordinated by the Urban Forestry program staff, in close collaboration with the Bureaus of Development Services and Environmental Services. The bureaus of Planning and Sustainability, Transportation, and Water will also be called on to assist or review draft products. The existing Urban Forest Action Plan Coordinating Committee will be consulted during the project.

	Tasks and Products by Fiscal Year (FY)
1	**FY 2010 - 2011**
1a	**Hone project work plan** Products: - Tasks, timelines, products - Stakeholder input - ID partners and other funding sources
2	**FY 2011 - 2012**
2a	**Project Management** Products: - Work plan (tasks/timeline)/budget - Project website development and maintenance - Interbureau coordination - Stakeholder involvement strategy development/coordination - Grant and contract management
2b	**Tree Benefits – Ecosystem Services/Watershed Health** Products: - chapters/brochures and website: - video?

2c	**Tree Care 'module'**
	Products:
	- chapters/brochures and website:
	  - tree planting and establishment
	  - tree maintenance (pruning, etc.)
	  - root protection methods

2d	**Tree 'Topics of interest'**
	Products:
	- chapters/brochures and website
	  - trees and wildlife/habitat
	  - fruit and nut trees
	  - trees and solar energy systems

2e	**Tree Code Primer** Products: - handouts explaining tree codes for development and non-development situations (scenarios, guidance) - forms w/ examples of complete permit applications, supporting documentation, trees on site and tree plans, etc. - instructions for accessing tree permit information
3	**FY 2012 - 13**
3a	**"Designing with trees"** Products: - case studies - illustrations - land divisions, developments, small sites

Proposed Tree Manual Products and Budget

City staff have started compiling information to produce the Tree Manual. The Tree Manual will be primarily maintained on-line, with targeted printed products. Other types of products may include videos or K-12 grade curriculum. The Tree Manual would be produced in a manner that supports City sustainability and waste reduction goals, and that makes the information accessible to the public at little to no cost. The manual will be readily accessible on-line as an interactive hyperlinked document. People seeking information would be able to get answers to questions on line, or could print the pertinent sections of the manual rather than purchasing a complete document.

The estimated cost and time needed to produce the Community Tree Manual will vary depending on staffing, funding availability and the extent of community involvement. Staffing is needed to coordinate the project, including coordination with bureaus, stakeholder involvement, contract and grant management, and product development. Staffing or other professional services are needed to develop the technical products, including producing text and graphics, creating and maintaining an interactive website, video production, and translation of materials for non-English speakers.

Currently the proposed budget for the Tree Manual includes the following one-time allocations from the general fund in FY 2011-12:

- $48,000 for 0.5 Botanical Specialist II in the Bureau of Parks and Recreation
- $47,000 for 0.5 City Planner II in the Bureau of Development Services
- $40,000 professional services contract(s) to assist in website development, graphics, etc.
- The Bureau of Environmental Services intends to staff the project using existing staff resources.

In order to hone the project scope and costs, and to ensure public acceptance and "ownership" of the Community Tree Manual, the next step is to engage City bureaus and community stakeholders in the project scoping process. This collaboration would help hone the scope of the Tree Manual, identify key audiences and users of the products, identify potential partnership and funding opportunities.

Single Point of Contact and 24-Hour Tree Hotline Pilot Project

Overview

To complement the adoption of the new, consolidated tree code (Title 11) and updates to the Zoning Code (Title 33), the project recommendations include the establishment of a single point of contact to field public inquiries, answer basic questions, and direct people to the appropriate City program staff, for various tree related regulations and procedures. This position will also help administer tree permits, including providing information to applicants, initial permit screening and logging into the permit tracking system, and reviewing applications for completeness. This position may be authorized to issue Type A permits or pruning permits where documentation from a qualified professional is included with the application.

Given these important functions, the single point of contact position will serve as a bridge between Urban Forestry and Development Services for customers and the public, to seamlessly integrate tree requirements for both development and non-development situations and negate the need to navigate through two separate bureaus to obtain tree information. Since a majority of inquiries will be coming in via the phone and the new tree website, the physical location of the staff fulfilling the screening function is not critical. Currently an Office Support Specialist II (OSSII) at Urban Forestry field public inquiries determines if they need to talk to BDS or Urban Forestry staff. The proposal is to add a Botanic Specialist I to work closely with the OSSII at Urban Forestry staff at Delta Park to answer the more complicated and difficult questions, help develop informational materials, and assist in tree permit research and administration.

In addition, the proposal includes establishing a 24-hour hotline to field questions and reports of tree cutting after normal City business hours and on weekends. Tree cutting after normal business hours and on weekends was a key concern outlined in the Southwest Tree Committee report, and was also raised during Citywide Parks Team meetings and other forums.

The Citywide Tree Project Stakeholder Discussion Group strongly supported establishing the single point of contact to assist the public by connecting them with the right bureau and expertise for their questions. Strong support was also voiced for the 24-hour hotline to improve customer service, help prevent inadvertent or intentional tree cutting violations, and to provide information during non-business hours. The Inter-bureau Project Team worked together to develop the following proposal and cost estimates.

Objectives

- The Single Point of Contact (SPoC) will be readily accessible to the public, providing prompt responses to questions on the full range of City tree programs. The SPoC will be well versed in City programs and regulations various tree-related permitting issues. The SPoC will have the ability to refer citizens to tree care and permit related information.
- The 24-Hour Tree Hotline pilot project will utilize the Bureau of Environmental Services' 24-hour Spill-Response line to facilitate processing of citizen complaints, confirm existence of a permit for a subject property, and collect information at the site when active tree cutting may be in violation of City regulations. Public awareness about the hotline and after-hours staff response should help deter egregious illegal tree cutting activities. It should be noted that the effectiveness of the tree hotline will likely depend on the establishment of the standardized tree removal permit system and upgrade of the tree permit information into TRACS.

These two services in combination will achieve the following benefits:

- Coordinated cross-referral with existing after hours phone lines and services
- Increased efficiency of City staff by utilizing automated telephone routing technology to help direct citizens to the appropriate City program.
- Improved customer service by providing automated responses acknowledging submittal of an inquiry. Automated responses may be programmed to be multi-lingual as well to reach a wider audience. Standard operating procedures may be later developed to establish timelines to respond to these inquiries.
- Enhanced routing of calls to the responsible bureau and program. Urban Forestry would be the entry point for questions about trees and tree permit requirements when no development is occurring, while BDS would be the entry point for tree requirements during development.
- Efficient technical and administrative support to ensure that tree permits are processed consistently and in a timely manner, and to support and facilitate the work conducted by City tree inspectors.
- Enhanced data and evidence collection on after-hours illegal cutting.
- Increased opportunities to raise public awareness of trees in neighborhoods, to deter violations, and to educate citizens about how they can access tree permitting information.

Portals - Tree Phone Line and Website

Tree Telephone Contact Line. A telephone contact line will be established provide an entry point for public inquiries and tree complaints. During normal work day hours, the single point of contact will field questions relating to tree programs, or route calls and emails to appropriate bureaus. This will be a live response. The single point of contact will be available by phone, email, or in person. Permit applications can be picked up at either the DSC or Delta Park Urban Forestry office, and returned by mail or in person to Delta Park or by email. It is also envisioned that permits may one day be applied for online.

At the conclusion of each workday, the daytime telephone line would shift to "after -hours mode". The system could route calls by using a touchtone menu operating system, for example the system could route callers as follows:

- For emergencies "hang up and dial 911."
- For trees obstructing or threatening to fall into the street, "press 1". The caller would be routed to the existing Bureau of Parks and Recreation Urban Forestry response crews called out by Stanton Yard.
- Callers concerned about possible illegal tree removal currently taking place, "press 2," to be routed to an after hours voicemail message.

The caller could leave a detailed message including the site address, whether the tree is on private property or in the planting strip or other public property, the type of tree removal activity, and questions/concerns. Callers would also be asked to leave their name and contact number so that a staff person can return the call "within the next 30 to 60 minutes."

For the duration of the pilot project, these after-hours calls will be automatically routed to the existing Bureau of Environmental Services (BES) Spill Response Hotline, 823-7180. BES staff would verify through the City's permit tracking system whether a tree removal permit has been issued or if a Tree Plan has been approved as part of a development proposal.

If there is no permit on record and there is a reasonable chance of stopping the tree cutting, staff could conduct a site visit to inquire whether the responsible party had the proper permits or to collect documentation of the potentially illegal cutting (e.g., photos). If there is not a reasonable chance of stopping the illegal tree cutting, the caller would leave information for subsequent follow up. All confirmed un-permitted or otherwise illegal tree cutting activities would be routed to Urban Forestry or BDS staff for enforcement.

Callers inquiring about general permit requirements or other general tree questions could automatically obtain additional information regarding the permit program and office hours would be played, and the caller could leave a message, which would be returned during the next 24 to 48 hours.

Tree Website

In addition to the telephone line portal, the bureaus plan to create a new City website specifically for trees. The website would provide the following types of functions:

- Access for the public to apply online for a tree permit (rather than making a trip to Delta Park or BDS)
- Prompts to help users determine which permits are needed
- Phone numbers to call with questions during and after normal business hours
- Links to BDS brochures regarding the tree regulations
- Resources and links to the community tree manual and information to learn more about trees and tree care, how to preserve trees through the development process, selecting the right tree for the right location, the value of trees, etc.

Program Monitoring

The 24-Hour Tree Hotline pilot project will last one to two years. During this period staff will monitor activity, evaluate the demand for the service, and determine if the program should be continued, modified or terminated. The following information should be collected and assessed:

- Number of complaint calls, number of calls resulting in an enforcement case, and number of site visits made to address after hours illegal tree cutting.
- Effectiveness of technology used to route and process different tree-related situations.
- Satisfaction of callers using the Single Point of Contact and automated phone system.
- Additional resources needed to support continuing these customer services, especially after-hours efforts.

Costs

- Single Point of Contact - This position would be staffed by a Botanic Specialist I, Forestry Specialty at 1 FTE. BDS and Parks will further develop the job description in preparation for the fiscal year 2012-13 budget process. The ongoing cost range for this position at the top of the pay scale and with benefits would be approximately $90,000.
- Phone Tree System Install - BTS estimates that this request is within the existing calling system. Assume $1,000 for any incidental line costs and up front work.
- After Hours Response - Assume 3 after hours calls a week, on-call fees already being paid by BES, and ½ hour of research per tree call. Assume every 4th call needs a site visit which takes 2 hours. Assume overtime rate 1.5 at the top of the Environmental Tech II wage rate ($30.72x 1.5 = $46.08) and 15% overhead.

156 calls x ½ hour x $46.08 =	$3,594
39 site visits x 3 hours x $46.08 =	$5,391
Overhead =	$1,348
TOTAL	$10,333

Permit Tracking System & Public Access to Permit Information

Overview

The City currently maintains a permit tracking software system (TRACS) that was established for development and land use-related case activity. This system has since been expanded to track public works permits, property nuisance abatement, and more recently Urban Forestry's tree permits.

The current tree permit tracking system has been designed primarily to respond to City and Street tree permit activity, not to track permits for trees on private property. Due to budget limitations the current system is not set up to process fees or to involve other bureau reviewers.

The proposal is to upgrade the City's permit tracking system to support the City tree permit system as proposed by the Citywide Tree Project before the updated tree permit regulations go into effect. Updating the permit tracking system will require revising forms and letters to reflect new code citations and requirements. Type A permits, Type B permits and Programmatic Permits will need to be incorporated into the types of Urban Forestry permits that TRACS handles. Additional information fields will help streamline the permit reviews and make reporting more meaningful. The system will also need a

field so that reviewers can confirm that the proposed tree removal will not violate any zoning requirements or land use conditions.

In addition to process and reporting efficiencies gained, the Permit Tracking system allows posting of information online at PortlandMaps. Applicants, neighbors, and others can obtain information on the status of permit applications or enforcement actions in the area. This tool will help the City investigate complaints as well. Future improvements to PortlandMaps may even allow the system to notify individuals when tree permits are applied for in their neighborhood. At present the tree permit system is designed for internal city use, making it difficult for the public to access the information. The system needs to be set up to process permit fees, and to allow the public to access information on the status and scope of tree permit applications via PortlandMaps

Objectives

- The proposed upgrades to the Permit Tracking system will coordinate and speed tree permit reviews, enable faster payment processing, allow payment by cash, check, or credit card.
- Make the permit system more transparent and accessible to permit applicants and the public. Applicants will be able to obtain real-time information on their application status. Interested parties can research tree-related activity in their neighborhoods, information on posted public notice of pending tree removals, and confirm that permits were obtained before calling in a complaint.
- Changes to the tree permit system will enable remote access to this information which is essential for the after-hours tree hotline to function.
- Provide the ability to track and analyze trends in tree removal and replacement citywide.

PROPOSAL

The Bureau of Development Services recently received City Council approval to convert TRACS to a new permitting software system (Accela). The conversion is expected to take two years or longer to complete. While tree permit tracking system improvements could potentially be integrated into the system-wide conversion to Accela, the new system might not ready before the Title 11 regulations become effective.

To avoid this problem, the proposal is to contract for services to complete the necessary improvements to TRACS during FY 2011-12 to ensure that the system is ready by the time the new regulations go into effect. This upfront investment should offset costs to

the Accela conversion project by readying the TRACS Tree Permits for the conversion as opposed to trying to integrate these system improvements concurrent with the conversion process.

Program Monitoring

With the permit tracking system the City can track:

- Number of permits
- Number of enforcement cases
- Number and size of trees removed
- Type of tree removed – evergreen vs. deciduous
- Number of mitigation inches planted
- Number of mitigation inches paid in lieu of planting
- Number of appeals

Costs

- The cost to upgrade TRACS for Tree Permits will depend on the amount of time required to program and test the changes to the system. Initial Bureau of Technology (BTS) Services staff believe that the following estimates are conservative based on their familiarity with TRACS programming for other types of permits. Since BTS will be largely occupied with the Accela conversion, this work will need to be contracted to a qualified service provider.

  Assume 320 hours at $100 per hour.

  320 hours x $100 = $32,000

- The costs for adding Tree Permit information to PortlandMaps should be negligible and can be addressed as part of future work assignments with the Accela conversion project. No additional cost is assigned to this task.

Neighborhood Tree Plan

Introduction

The Bureau of Parks and Recreation Urban Forestry Program is interested in advancing the concept of a Neighborhood Tree Plan. The Neighborhood Tree Plan concept was also supported by the Citywide Tree Project Stakeholder Group.

The Neighborhood Tree Plan would provide a mechanism for the City and community to work as partners in setting priorities for trees in specific neighborhoods or areas of the city. The plan could be entirely non-regulatory, providing a "vision," goals and set of priority projects and timelines. The Neighborhood Tree Plan could also potentially be "endorsed" by the City Council, providing a tool to use in seeking public or private funding for implementation.

The Neighborhood Tree Plan could also serve as a kind of "master plan," like the current Natural Resource Management Plans, with the purpose of to allowing tree related activities or projects with lesser or more streamlined permitting requirements.



Tree planting

Benefits

The Neighborhood Tree Plan offers unique benefits that cannot be obtained through individual tree permits and site-by-site tree preservation, maintenance and replacement. Benefits include the ability to:

- Establish tree preservation and planting goals for large sites or specific areas or neighborhoods

- Promote protection and enhancement of tree groves or corridors spanning larger areas or multiple properties
- Integrate objectives and activities for trees on public and private property, within and outside environmental resource areas (e.g., environmental and greenway overlay zones), and in development and non-development situations
- Focus tree planting on tree-deficient areas and community spaces (e.g., schools)
- Improve diversity of tree ages and species, and foster removal and replacement of nuisance trees, over time
- Generate opportunities to address other goals for stormwater management, traffic calming, solar access for energy systems and community or private gardens, integration of fruit and nut trees, etc.
- Opportunity to reduce conflicts between utility location and public works projects, and trees
- Leveraging funds and provide economies of scale (e.g., community tree planting projects)
- Fostering partnerships among neighbors

If the Neighborhood Tree Plan were adopted like a master plan, benefits might include:

- Offering 'tree credits' or 'advance mitigation credits' for proactive tree planting to increase ecosystem services
- Reducing the public and private costs associated with administering individual tree removal permits

Questions

While staff and stakeholders support this approach, the following questions should be considered:

- How should the Neighborhood Tree Plan be administered, including tracking tree preservation, removal, planting and maintenance activities over time?
- How would the Neighborhood Tree Plan be integrated with regulations pertaining to vegetation removal and planting in resource overlay zones or plan districts where tree removal and/or planting is governed by the Zoning Code?
- How would the Neighborhood Tree Plan interface with rules pertaining to trees in development and non-development situations?

- Which persons or entities would be responsible for implementing Neighborhood Tree Plans?
- What kind of agreements might be helpful, given that the plan would address multiple properties and a mix of public and privately owned land?
- What are some approaches to develop Neighborhood Tree Plans? Should they be endorsed by City Council? Used as a framework to allow future projects without permits or with more streamlined permitting?

Demonstration Projects

It is recommended that the City continue to pursue funding for Neighborhood Tree Plans. It would be beneficial to develop one or two demonstration projects, and in the process develop a general approach and protocol that could be used in future projects. The protocol could be included as a section in the City's Community Tree Manual.

The Urban Forestry Program would collaborate with other bureaus and Neighborhood Coalitions to identify one or more potential "demonstration neighborhoods." It might be possible to involve students, such as students in planning or landscape architecture fields, in partnership with the City and a 'demonstration neighborhood.'

The demonstration project would involve:

- Developing tree related goals and priorities for the neighborhood, including priorities for preservation or enhancement of trees, groves, and corridors, canopy quantity, quality, and distribution, tree age and species diversity, stormwater management, food source, habitat, solar access or other objectives as appropriate
- Generating an implementation plan, and identifying one or more entities that would be individually or collectively responsible for monitoring and tracking plan implementation
- Identifying allowed and required tree removal, planting and maintenance activities, clearly describing how these allowances and requirements would supersede and/or interface with other relevant regulations for development and non-development situations, and on public and private property

Funding

It is recommended that the City further develop the project scopes and explore potential grant or other funding options to carry them out. The City should seek potential partners including local academic institutions and public utilities to participate in the projects.

Tree Canopy Benefits, Financial Impacts and Budget Proposal

The previous sections of this chapter present the Citywide Tree Project proposal to update, refine, and strengthen existing City tree regulations and related programs and customer service activities.

This section presents the estimated tree canopy benefits and costs to implement the project, and the current budget proposal. Additional information about the financial impacts of the project is provided in the Financial Impact Statement (exhibit to the ordinances)

Tree Canopy Benefits

Introduction

As described in previous chapters, implementing the Citywide Tree Project Recommended Draft proposal will enhance the quantity and the quality of Portland's trees and associated canopy, and helps ensure that current and future tree canopy is distributed and sustained throughout the city.

Specifically, new Title 11 Tree Preservation and Tree Density Standards will encourage preservation of large healthy trees through new development standards an the updated tree permit system. Preserving existing trees will contribute to the management of this important City asset and help protect and reinforce City and community investments in tree planting. Title 11 will also ensure that a baseline amount of trees is maintained through preservation or planting on development sites.

Title 33, Planning and Zoning updates will now emphasize preserving healthy, high quality trees, native trees, and tree groves, and preserving a minimum amount of trees on land division sites. Title 33 amendments will also prompt consideration of tree preservation in the context of Design Reviews and certain Conditional Uses, where appropriate. Title 33 amendments will also ensure that tree protection and tree replacement are addressed more consistently in existing environmental resource overlay zones and specified plan districts.

In non-development situations, the standardized tree permit system will continue to encourage retention of large healthy trees, while providing for more consistent tree replacement across the city. The new prohibition on planting invasive tree species on City property and rights-of-way will support City and community investments in

managing invasive plants and adds consistency with existing prohibitions on planting these trees in required landscaping or natural resource areas.

Canopy estimating approaches are described below for the following project recommendations:

- Standardized tree permit system for trees on private property
- Tree preservation and tree density standards applied to development permits
- Trees and land use reviews
- Trees replacement in environmental zone transition and resource areas

In some instances the estimates are for acres of tree canopy preserved ***or*** tree canopy planted to replace or mitigate for trees removed or tree standards not met. In these situations, tree preservation and tree planting are inversely correlated. One can see that the future canopy of trees planted will be greater than the area of canopy generated from trees preserved today. This reflects the proposal to give "extra credit" for preserving existing healthy trees, and to require more than a 1:1 tree replacement ratio. This account for the loss of that asset and the time needed for new trees to provide similar benefits to larger trees. Staff has taken an average of preservation and planting to come up with an overall number to use in project discussions.

Like estimates for the financial impacts of the Citywide Tree Project, the tree canopy estimates have been refined as the project proposal has evolved through the Planning Commission and Urban Forestry Commission hearings process.

Approach

The following describes the general methodologies used to estimate incremental increases in tree canopy associated with the different components of the Citywide Tree Project. Changes in tree canopy would occur due to 1) increased preservation of existing trees, and 2) generation of future canopy through increased tree planting to replace existing trees or meet other requirements.

The scenarios developed to estimate the tree canopy generated each year are intended to be both plausible and conservative, to avoid over-estimating the projections. Therefore, the actual incremental tree canopy increases may be greater than the estimates. Relevant assumptions are also consistent with the assumptions used to evaluate potential financial impacts of the proposal (e.g., future development permit activity).

Standardized Permit System for Trees on Private Property (Absent Development)

Permit System	Acres Preserved	Future Acres Planted
Single Family Lots		3.4
Currently Regulated Lots	0.35	3.59

Single Family Lots Eligible for the Homeowner Permit

The standardized permit system will apply to trees on all lots in the city, including single family lots that are currently exempt from tree permit requirements. As a result, the permit system will address trees on 104,000 more lots in the city, or nearly double the lots addressed by current system. The additional lots contain ~ 37 percent of the total tree canopy in the city.

Currently the public is relatively unaware of the City's permit requirements for trees on private property. Only about 120 permits per year are filed with the City, while several thousand permits per year are filed for activities related to street trees. If private tree permit applications increased by 2 to 4 times given the additional lots and proposed "call before you cut" outreach campaign, the City would process about 500 permits per year, or 380 more permits than the 120 permits currently processed. (The City of Lake Oswego processes roughly 750 tree permits per year.)

The standardized permit system will establish a streamlined permit for homeowners, requiring replacement of any tree that is least 20 inches in diameter with another tree. If half of the total permit applications were for trees on these homeowner lots, the updated permit system would require replacement of 250 additional trees per year. If these replacement trees were, on average, medium canopy type trees providing about 600 s.f. of canopy at maturity, this would generate 3.4 additional acres of canopy in the future.

(250 trees planted/year x 600 s.f./tree) / 43,560 s.f. per acre
= 3.4 future canopy acres planted per year

Currently Regulated Lots

The standardized permit system will streamline current requirements by requiring 1:1 tree replacement for dead, dying and dangerous trees, and nuisance species trees, and up to 4 healthy trees per year between 12 inches and 20 inches in diameter. The City will continue to require up to inch-for-inch replacement for trees larger than 20 inches in diameter and requests to remove more than 4 healthy trees at least 12 inches in diameter.

UF staff reports that currently ~80 percent of the tree removal permit applications are for trees that are dead, dying or dangerous (DDD). If half of the total permit applications were for trees on the currently regulated lots, and 80% of those applications were for removal of DDD trees, the updated permit system would require replacement of 200 unhealthy trees per year. If these replacement trees were, on average, medium canopy type trees providing about 600 s.f. of canopy at maturity, this would generate 2.75 additional acres of canopy in the future.

(200 trees planted/year x 600 s.f. per tree) / 43,560 s.f./acre
= 2.75 future canopy acres planted/year

For the remaining 50 healthy trees, we assume that most of these trees are large trees that are no longer wanted. If half (25) of the trees are less than 20 inches in diameter and qualify for the 1:1 tree replacement, this would generate an additional 0.34 acres.

(25 trees planted/year x 600 s.f. per tree) / 43,560 s.f./acre
= 0.34 future acres planted/year

If the other half (25) of the remaining healthy trees are at least 20 inches in diameter, the City would require somewhere between one replacement tree and an inch-to-inch replacement. Based on City experience the inch-for-inch replacement requirement often acts as an effective deterrent to tree removal. If City required half of the 25 trees to be replaced with 3 trees (12x3=36 replacement trees), and half to be replaced inch for inch which in effect deterred their removal, and the canopy of those existing trees was on average 1,200 s.f., the canopy effect would be:

(36 trees planted/year x 600 s.f. per tree) / 43,560 s.f./acre
= 0.5 future acres planted/year

(13 trees preserved/year x 1,200 s.f. per tree) / 43,560 s.f./acre
= 0.35 canopy acres preserved/year

Tree Preservation and Density Standards (Applied Through Building Permits)

Development	Acres Preserved	Future Acres Planted
Tree Preservation	62	
Tree Density		121

New Title 11 Tree Preservation Standards will apply to all development permits where site disturbance will occur and trees 12 or more inches in diameter are present (with some exceptions). Consistent with assumptions used to estimate fiscal impact these

standards will address approximately 2,250 permits per year. If on average 1 large healthy tree were preserved on these sites, an additional 2,250 trees would be preserved. If the average canopy of an established mature tree was 1,200 square feet, the proposed standards would preserve an additional 62 acres of canopy per year.

(2,250 sites/year X 1,200 s.f. preserved per tree) / 43,560 s.f./acre = 62 acres preserved

It was projected for fiscal impact assessment the new Tree Density Standards will apply to 4,400 development permits per year. The standards will vary by development type. Across the development types (excluding open space zones), the tree density standards are projected to establish and maintain canopy coverage for distinct urban land elements (ULEs).

One medium canopy tree will generally be required for each 500 square feet of site area not occupied by buildings. If on average, each of the 4400 permits where tree density standards are applied results in planting two medium canopy trees, the net result would be 121 acres of future canopy.

(4400 permits/year x 2 trees planted x 600 s.f. per tree) / 43,560 s.f./acre
= 121 future acres planted/year

Tree Preservation and Land Use Reviews

Land Use Reviews	Acres Preserved	Future Acres Planted
Tree Preservation Criteria	5	
• Plus improved quality preservation on 200 sites per year		

The proposed new land division criteria should significantly improve the quality and quantity of tree preservation on more than 165 sites per year. The focus will be on preserving large healthy trees, tree groves and native trees. Additionally, trees on property lines will now be counted toward meeting preservation requirements.

The proposal includes establishing new tree preservation considerations for certain conditional use/master plan and design reviews. It is estimated that this would provide opportunities to preserve trees during an additional 35 reviews per year.

If 2 additional trees were preserved on half of the land division sites (2 trees x 0.5 x 165 sites =165 trees), and 1 additional tree was preserved on half of the conditional use and design review cases (1 tree x 0.5 x 35 sites =17 trees), an additional 182 trees would be preserved each year. Preserving these trees would also help applicants meet the

preservation and density standards at time of building permit. If the average canopy of an established mature tree was 1200 square feet, this would preserve an additional 5 acres of canopy per year.

(182 trees preserved/year x 1,200 s.f. per tree) / 43,560 s.f./acre
= 5 acres tree canopy preserved/year)

Tree Replacement in Environmental Zones

Environmental Zones	Acres Preserved	Future Acres Planted
Replacement requirements		4.4
• Plus conversion of nuisance trees to native tree species		

The proposal will clarify that trees in environmental overlay zone transition areas (~1,400 acres) must be replaced with native or non-nuisance species trees. This would apply to trees 6 inches or more in diameter, in both development and non-development situations. Currently these trees are not required to be replaced so the potential impact on tree canopy could be substantial over time.

Assuming only 1 tree per 10 acres of transition area received a permit each year, with requirements to replace with another tree, and the replacement trees were medium canopy type trees (on average), the additional replacement would generate almost 2 more acres of future canopy annually.

(1400 acres) x (1 tree planted/year/ per 10 acres)
= 140 trees planted/year

(140 trees planted/year x 600 s.f. per tree) / 43,560 s.f. /acre
= 1.9 acres future canopy planted/year

Moreover, the proposal clarifies that in the resource areas of environmental zones, replacement trees are required for non-native trees, as well as dead, dying and dangerous trees, and trees located adjacent to structures. These trees are presently exempt from replacement requirements. Replacement trees planted in the resource areas are required to be native species.

Assuming only 1 tree per 100 acres of resource area received a permit each year, with requirements to replace with another tree, and the replacement trees were medium canopy type trees (on average), the additional replacement would generate almost 2.5 more acres of future canopy annually.

(18,000 acres) x (1 tree replaced per 100 acres) = 180 trees replaced/year

(180 trees planted/year x 600 s.f. per tree) / 43,560 s.f. /acre
= 2.5 acres future canopy planted/year

Summary of Estimated Canopy Benefits from Tree Project Proposal

	Acres Preserved	Future Acres Planted
Tree Permits	0.35	7
Development	62	60-121*
Land Use Reviews	5	
Environmental Zones		4.4
TOTAL	**67.35**	**72 .4 - 132 .4**

* The City's current landscaping standards also generate additional tree canopy, however the Tree Density Standards provide assurances that baseline tree capacity is maintained even if landscape standards do not apply or are modified or waived. Trees planted to meet Tree Density Standards may also be used to meet Zoning Code landscaping standards so these rules are complementary and reinforcing. If it is assumed that only half of the additional tree canopy is attributable solely to the Tree Project proposal then the total annual net increase in tree canopy for development would be about 60 acres.

Comparing Tree Canopy Generated By the Tree Project Proposal with Canopy Generated By Tree Planting Alone

	Acres Preserved	Future Acres Planted
Tree Project Proposal (net)	67.35	72.4
City Tree Planting Alone		12.3

During the Planning Commission and Urban Forestry Commission hearings process stakeholders asked how much tree canopy benefit would be generated if the City invested the equivalent of the project implementation costs solely on planting trees.

The ongoing implementation costs of the project proposal are estimated to be $535,000 to support the staffing necessary put these programs into action.

According to Urban Forestry staff, the per tree cost of planting and establishing a 2 inch tree is estimated to be $600:

Tree cost	each/incl. acquisition and delivery	$175
Volunteer planting	1 hr coordinator	$60
Establishment	20 visits X .25 hr for 2 seasons	$375
	Total	$600

By applying the ongoing implementation costs to plant trees instead of administering the proposed regulations, the City could plant approximately 892 trees per year. Assuming the trees were medium canopy type trees (on average), this planting effort

would generate approximately 12.3 acres of future canopy annually. No trees would be preserved through this approach.

($535,000/$600 per tree)=892 trees

(892 trees planted/year x 600 s.f. per tree) / 43,560 s.f./acre
= 12.3 acres of future canopy planted/year

Considering that the project proposal would generate a total of almost 200 acres of current and future tree canopy, the proposed regulatory programs would achieve over 16 times the amount of tree canopy than City planting efforts alone.

(199.75 acres gross/12.3 acres)=16.24 times more canopy

Accounting for the fact that existing landscaping requirements of the Zoning Code also generate additional tree canopy that could be reflected in the acres planted through development, the net tree canopy that is solely attributable to this proposal remains well over 130 acres per year and more than 10 times the canopy that would be generated than had the City invested an amount equivalent to the project costs to plant trees only. Moreover, City tree plantings tend to be public property, while the proposal will foster equitable distribution of trees on public and private land throughout the city.

(139.75 acres net/12.3 acres)=11.36 times more canopy

Costs and Budget Proposal

Introduction

Although the Citywide Tree Project proposal is intended to streamline and standardize current City programs the proposal also increases the level of service provided by the City and will require a net additional investment to achieve desired benefits.

Together the City bureaus estimated the cost to implement the Tree Project, including changes in workload, staffing, equipment, and professional services. Staff also identified likely funding sources for each element of the proposal.

Approach

Staff assessed the financial impact for:

- Tree Permits in Non-Development Situations
- Trees in Development Situations and Land Use Reviews
- Customer Service and Community Education Projects

First staff itemized the main tasks for these program areas. Additional tasks and/or time associated with the tasks were noted. The additional time was then multiplied by the estimated number of permits or cases to arrive at a total additional time and associated staffing needs per task. FTE (Full Time Equivalents) were translated into salary using appropriate job classifications. Benefits were included at a rate of 40% of salary. Staff was advised that the level of recommended staffing increases should not trigger additional overhead, however, vehicles and technical services costs were accounted for separately.

Land use review, building permit, and tree permit activity assumptions were generally based on historical data provided by BDS and Urban Forestry, and some assumptions as to how this activity could change based on proposed code updates.

The estimates represent the project incremental changes in time spent on tasks affected by the proposal - not the full time spent on that task. For example, BDS land use review staff currently spend time evaluating tree preservation standards and writing findings. An incremental increase in time is estimated only for staff to apply new and updated tree preservation criteria. . Any current deficiencies in staffing are not captured or addressed by this analysis.

Trees in Non-Development Situations

The proposal includes recommendations to update the City's tree permit system for City, Street and Private trees when no development is occurring. The proposal will streamline the system overall by creating the Type A and Type B permits. The addition of a minimum 3 inch diameter threshold for permitting City and Street Trees will also streamline the system. Other recommendations are not expected to increase permit system staffing costs for City and Street Trees.

For private tree removal permits the proposal to extend City permitting authority to all properties in the city, including currently exempt single family lots, will increase staffing needs.

The staffing estimates for the proposed private tree removal permit program reflect an assumed number of permits each year. A range of potential permitting activity was considered to account for uncertainty. The staff and budget estimates summarized below reflect the high end of the range to ensure that fiscal impacts are not underestimated. An increase in permitting activity is expected as the tree removal permit program will apply to more properties. Public outreach is proposed to occur before and after updated requirements become effective, which will increase awareness of the permit program. The

staffing estimates do not reflect program efficiencies and economies of scale that are expected as the number of tree permit applications increase and procedures are become routine.

Currently, this City's tree permit system is paid for with general fund dollars. The $35 application fee is charged does not cover the City's to administer the permit, inspect trees, deal with appeals, etc. The proposal is to continue charging a nominal fee for the permit to encourage compliance so the program would not be fee-supported.

Trees in Development Situations

The proposal includes a number of recommendations to better address trees in development situations. Additional staff time will be needed to review, inspect and enforce the proposed standards and criteria related to trees. The proposal will also expand the role of Urban Forestry to provide technical assistance.

Land Use Reviews and Private Development Permits

Staff initially used an annual average case load based on the years 2000 to 2008 for land use reviews and 2004 to 2009 for development permit activity. The data from these higher development years were used to ensure that the fiscal impact is not underestimated if and when development activity increases. Staff also sued caseloads from 2009 to 2010 to estimate changes staff needs and costs during a period of lower development activity. The bureaus estimated the percentage of cases that would be affected by the proposal and additional time spent on individual tasks.

Additional costs are associated with increased Urban Forestry staff review and consultation and increased BDS staff time to apply updated standards and criteria related to trees, and to inspect for compliance with tree-related preservation, planting and protection requirements.

These activities will be funded through modest increases in land use review and development fees. Potential fee increases were estimated by applying the cost of the program across affected permit/case types. The projected fees include staff salaries, benefits and overhead. Some fees could be pro-rated based on project value or procedure type so that simpler projects pay a lower fee and more complicated projects pay a higher fee. Preliminary estimates of development fees show ranges between $50 and $60 for building permits. For land use reviews, fees could range from $60 to $70, to several hundred dollars, depending on how

they are applied across cases. BDS and Parks will propose specific fees for City Council adoption.

Capital Improvement Projects and Public Works

The Citywide Tree Project proposal standardizes current infrastructure bureau practice for involving Urban Forestry when public projects are likely to affect trees. Staff estimated the costs for more routine and frequent coordination between Urban Forestry and the infrastructure bureaus or more projects. Costs were also estimated for additional surveying and CADD time to identify trees within and adjacent to the project area on plan sheets. When considered in relation to the overall budget for capital projects, the increase is expected to be minor.

Infrastructure bureau staff also noted that the proposal could result in increased construction costs for City projects in order to avoid impacting trees. These potential costs should be acknowledged, but because they would not be routine and would be very difficult to anticipate or quantify, they have not been estimated in this fiscal impact assessment.

Required mitigation for tree removal could also increase the cost of some CIP projects. However, mitigation requirements are generally equal to or less than current requirements. The proposal will also allow City projects to plant replacement trees on another site in the same watershed, rather than requiring payments for required mitigation. This flexibility should make it possible for most City projects to mitigate without significant cost increases.

Customer Service and Community Education

The bureaus worked together to generate projected costs and staffing for customer service improvements as described in previous report sections.

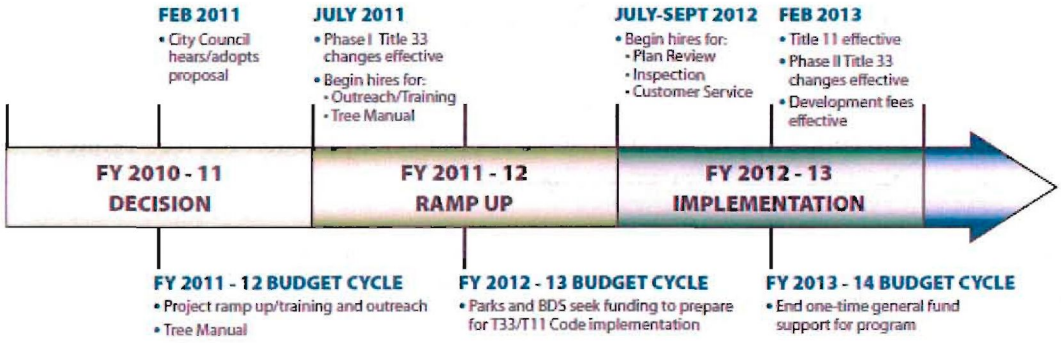
To summarize, the primary implementers of the Tree Project proposal, the Bureau of Development Services (BDS) and the Urban Forestry Division of Portland Parks and Recreation will need additional staff resources to administer and enforce the new tree regulations and provide a single point of contact for the public. There are also additional one-time costs for staffing and services to produce the tree manual, upgrade the TRACS permitting system, pilot a 24 hour Tree Hotline, and pay for new permit review and inspection staff until sufficient development fee revenue has accrued to allow the BDS to shift to fee-based funding. Other infrastructure bureaus (Water, BES and PBOT) will also experience relatively minor cost increases to address trees more systematically in conjunction with City capital improvement and public works projects.

During the Planning Commission and Urban Forestry Commission hearings the Citywide Tree Project proposal was revised to reduce complexity and implementation costs. Ongoing costs were reduced by 43 percent, and total costs by 33 percent. For example the commissions approved the use of spot-check approach for tree-related inspections to reduce costs, at least for the near term.

In addition, the commissions approved a phased project implantation strategy and funding strategy. The phased approach will provide time to prepare for the new codes to go into effect, including development of informational materials for staff and the public, conducting public outreach, upgrading the TRACS tree permit tracking system, and producing the community tree manual. This approach also allows the initial start up costs to be gradually spread over a longer period, reducing the burden on annual budget.

The phased project implementation strategy is outlined below, followed by the Budget Proposal Summary Table. Note that much of the one-time funding needed for projects and ramp up activities in the first two fiscal years will end or shift to fee supported funding for ongoing program implementation.

Phased Implementation Strategy



- **Decision (winter 2011) - City Council adopts the project proposal** and implementation strategy; directs the bureaus to budget for Phase I program activities.
- **Phase I (Fiscal Year 2011-12) – "Ramp Up", Tree Manual , Phase I T33 Improvements**
    a. City Council approves one-time general funds for project "ramp up" activities, i.e., permit tracking system upgrades, staffing in the Bureaus of Parks and Recreation and Development Services to develop administrative procedures and information on the new development standards and tree permit requirements, and to produce the Community Tree Manual
    b. Cost-neutral Title 33, Planning and Zoning amendments effective July 2011
- **Phase II (Fiscal Year 2012-13) - Implementation "Transition"**
    a. City Council approves increases in development and land use review fees and allocates general fund for staff to administer Title 11, Trees and remaining Title 33, Planning and Zoning improvements, to purchase vehicles for new tree inspectors, to hire the single point of contact, and to launch 24-hour tree hotline pilot project.
    b. In this first year of implementation, fees will need to accrue before fee supported staff can be hired. For this reason, the proposal reflects one time support of these positions through the general fund, the Urban Forestry Fund, or another alternate source. After this first year, sufficient reserves should be available to support the required staffing.
    c. Title 11, Trees, and remaining amendments to Title 33, Planning and Zoning and other City titles are effective February 1, 2013
    d. Code and program monitoring begins.
- **Phase III (Fiscal Year 2013-14 and future) - Ongoing Program Implementation**
    a. One-time general fund allocations are terminated
    b. Code and program monitoring continues

Budget Proposal Summary Table

FY 2011 - 2012

Program Start Up	Use of Funds			Total	Source of Funds				
	Bureau	Use	FTE		GF - OG	time	Fees	CIP	UF Fund
Program Organization and Start-up									
PPR Functions	Parks	Botanic Spec II	0.5	$48,000		$48,000			
BDS Functions	BDS	Planner II	0.5	$47,000		$47,000			
TRACS upgrade – Tree permits									
PTE	Parks	Contract		$32,000		$32,000			
Tree Manual									
Project manager	Parks	Botanic Spec II	0.5	$48,000		$48,000			
"Code Made Easy" Content	BDS	Planner II	0.5	$47,000		$47,000			
"Watershed Services" Content	BES	Program Specialist	0.5	$0					
PTE, M&S	Parks	Contract		$40,000		$40,000			
TOTAL			**2.5**	**$262,000**		**$262,000**			

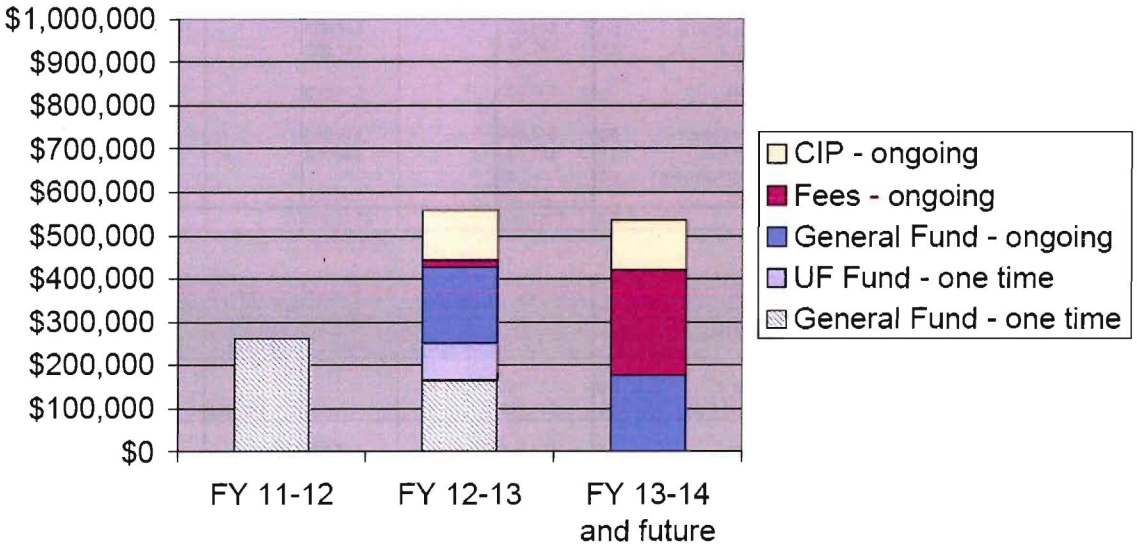
FY 2012 - 2013

Year 1 of Full Program	Use of Funds			Total	Source of Funds				
	Bureau	Use	FTE		GF - OG	GF 1-time	Fees	CIP	UF Fund
Land Use Reviews									
Application Review	BDS	Planner II	0.5	$0					
Arborist Consultation	Parks	Tree Inspector	0.2	$17,000			$17,000		
Building Permits									
Plan Review	BDS	Planner II	1.0	$95,000		$95,000			
Building Permit Inspection	BDS	Tree Inspector	1.0	$85,000					$85,000
Capital and Public Works Projects									
CIP/PW Plan Preparation	Water, BOT,BES	Survey/CADD	0.5	$90,000				$90,000	
CIP/PW Review/Inspection	Parks	Tree Inspector	0.3	$25,000				$25,000	
Tree Permit Program									
Tree Permit Inspector	Parks	Tree Inspector	1.0	$85,000	$85,000				
Vehicles and Equipment				$60,000		$60,000			
Single Point of Contact/Permit Assistance									
Delta Park Location	Parks	Botanic Spec I	1.0	$91,000	$91,000				
24 hour Hotline (pilot)									
Spill Response Line	BES	Overtime (existing staff)		$10,000		$10,000			
TOTAL			**5.5**	**$558,000**	**$176,000**	**$165,000**	**$17,000**	**$115,000**	**$85,000**

FY 2013 - 2014 and future years ongoing

On-going of Full Program	Use of Funds			Total	Source of Funds				
	Bureau	Use	FTE		GF - OG	GF 1-time	Fees	CIP	UF Fund
Land Use Reviews									
Application Review	BDS	Planner II	0.5	$47,000			$47,000		
Arborist Consultation	Parks	Tree Inspector	0.2	$17,000			$17,000		
Building Permits									
Plan Review	BDS	Planner II	1.0	$95,000			$95,000		
Building Permit Inspection	BDS	Tree Inspector	1.0	$85,000			$85,000		
Capital and Public Works Projects									
CIP/PW Plan Preparation	Water, BOT,BES	Survey/CADD	0.5	$90,000				$90,000	
CIP/PW Review/Inspection	Parks	Tree Inspector	0.3	$25,000				$25,000	
Tree Permit Program									
Tree Permit Inspector	Parks	Tree Inspector	1.0	$85,000	$85,000				
Single Point of Contact/Permit Assistance									
Delta Park Location	Parks	Botanic Spec I	1.0	$91,000	$91,000				
TOTAL			**5.5**	**$535,000**	**$176,000**	**$0**	**$244,000**	**$115,000**	**$0**

Budget Summary by Fiscal Year and Funding Source



Chapter 3 • Trees and the Portland Plan

Background

During the Citywide Tree Project community stakeholders and City staff identified a set of broad tree-related policy issues that go beyond the scope of the project, and that are recommended for consideration as part of the Portland Plan project. This section presents these recommendations as excerpted and adapted from the *Portland Plan Urban Forestry Background Report, fall 2010.* Several recommendations have been added for consideration.

The Portland Plan will provide strategic direction for the city for the next 25 years, and will result in an update to the City's Comprehensive Plan and Central City Plan and will provide guidance and direction for citywide policies, growth management, and urban form. The Portland Plan identifies nine action areas to help Portlanders begin thinking about our challenges and developing solutions in an integrated way, finding the synergies between topics like transportation and health, sustainability and prosperity, and housing and education, for instance. Many of the action areas relate to urban forestry management, most directly the action item relating to natural resources and sustainability where tree canopy is identified as a key factor.

Addressing the urban forest in developing the City's long-range growth management and urban form policies will be somewhat of a shift in thinking. For example, urban planners have become accustomed to making the connection between air pollution, reduced parking availability, and reduced vehicle miles traveled. But changing on-street parking availability, street width, development type, and urban form to achieve tree preservation and planting targets has not yet been considered.

The Portland Plan provides an important opportunity to address the following fundamental City policies and practices relating to trees in the context of a comprehensive long-range planning project. Recommendations are presented below.

Reflect Urban Forestry Goals in the Comprehensive Plan

The Comprehensive Plan provides the context and guidance for future city programs, major capital projects, and a coordinated set of guidelines for decision makers to guide future development of the city. Managing the urban forest must be considered within

the context of City programs, growth, and capital projects; however, the Comprehensive Plan does not currently include explicit policies or objectives pertaining to the urban forest.

Three overarching goals for managing the city's urban forest established in the 2004 Urban Forestry Management Plan (UFMP) should be incorporated into the Comprehensive Plan:

- Protect, preserve, restore, and expand Portland's urban forest.
- Promote stewardship of the urban forest.
- Provide equitable urban forest benefits for all residents of the city.

These goals and associated objectives should be integrated with the desired built form and other elements of the spatial plan (consideration of town centers, transit corridors, green corridors, access to nature, etc).

As noted in the 1980 Comprehensive Plan, "Physical conditions, economic factors, environmental considerations, and citizen's attitudes do not remain static, but change over time. Therefore, these Goals and Policies must be reviewed periodically and be modified when necessary to respond to changing conditions." (Comprehensive Plan Goals and Policies, page 5)

The inclusion of urban forestry goals in the Comprehensive Plan will require an understanding about the goals and how they could be achieved. The urban forestry goals relate to and will need to be integrated with many of the existing Comprehensive Plan goals, include Goal 2, Urban Development; Goal 3, Neighborhoods; Goal 4, Housing; Goal 5, Economic Development; Goal 6, Transportation; Goal 7, Energy; Goal 8, Environment; Goal 11, Public Facilities; and Goal 12, Urban Design. For example, the plan should provide a clear policy link between trees and public health policy (air quality along roads), heat island/carbon footprint policy (identify heat island hotspots and relationship to tree canopy targets), and food policy (identify policy for fruit/nut tree planting).

Shift Public Priorities -Trees as Infrastructure and a Key Community Asset

Historically, trees have been viewed primarily as an aesthetic or environmental asset, or as an element of landscaping. Trees also have been viewed, in some instances, as a constraint to development. Street trees are not systematically integrated into public and private infrastructure plans. Rather, existing trees often are removed or damaged as trenches, sidewalks, streets, and other facilities are constructed around them.

The Portland Plan project provides an opportunity to explicitly recognize of the key functions or "services" provided by trees in the urban and urbanizing environment:

- Stormwater management
- Air quality filtering and particulate capture
- Cooling and reduced heat island effects
- Aesthetics and improving neighborhood character
- Improvements to mental health and reduced crime
- Pedestrian-friendly streets
- Food source
- Wildlife habitat
- Slope stability and erosion control
- Carbon absorption
- Reduced energy demand as a result of shading
- Increased residential and commercial property value

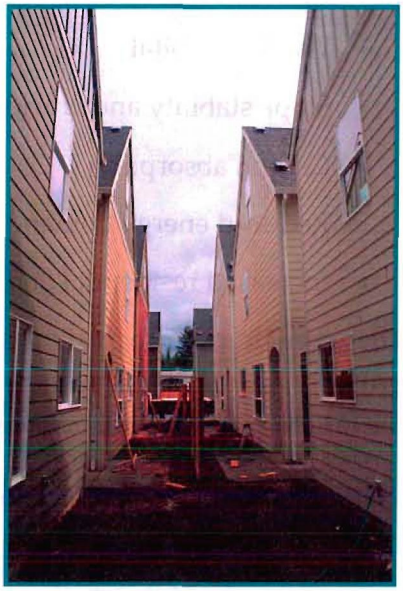
These benefits accrue to all urban development types and uses, including across property lines. Explicit acknowledgement of the benefits of urban trees provides a tool for future growth decisions when tradeoffs are examined.

Through the Portland Plan project, the City has an opportunity to address trees as integral elements of its infrastructure and amenity systems. Existing City programs such as the Watershed Revegetation Program and the Grey to Green program are steps in this direction, but these concepts need to be carried forward into City programs. The benefits and fiscal impacts of trees should be further characterized and quantified. Trees should be managed as assets with level-of-service targets, schedules for future installation and maintenance, and schedules for replacement of aging trees. A diverse array of funding options, including selling bonds to obtain capital dollars, should be examined.

Integrate Trees and Urban Form

The following should be addressed in evaluating Portland's future urban form goals and choices:

- Integrate trees and canopy targets and modeling as different scenarios are developed to accommodate growth. Recognize trees as critical elements of site design framework, neighborhood character, and the city's cultural landscape that need to be considered early in the planning and design process.
- Identify priorities and innovative mechanisms for preservation and planting, recognizing the respective roles of tree groves, habitat corridors and dispersed canopy in contributing to the City's goals. Identify tools and approaches to preserve and enhance tree groves and corridors on multiple properties.
- Design "tree systems" to provide key functions in different parts of the city. Examples include slope stability and healthy riparian corridors in hilly areas with streams, stormwater management and heat island mitigation in highly developed areas, pedestrian-friendly streets in neighborhoods and business districts, and air quality and carbon absorption citywide.
- Design with trees at site, neighborhood, watershed, and citywide scales, ensuring that space is reserved for trees. Consider canopy goals that reflect the zoning designation, lot size, and intensity of use in each zoning designation, and integrate canopy goals that are appropriate for the desired built form(s) for that zone. Integrate open space, impervious surface, and building coverage standards into the design standards that apply to new development.
- Address equity issues, such as tree-deficient areas, income, public health, and food security. For example, evaluate tree groves at the industrial/residential interface and along highways for noise buffer potential
- Provide for wildlife, including migratory birds.



No space for trees

- Evaluate the relative impacts that different housing types have on trees and space for trees. (For example, development standards in multifamily zones do not create sufficient open area to reach the tree canopy goals.) Evaluate setback and outdoor area requirements to ensure that there is enough space for trees. Consider urban form

that puts more emphasis on conserving green space in the interior of blocks in high-density areas.

- Identify tools to meet multiple objectives at an area scale. Possibilities might include transfers of development rights or flexible development standards. Identify and retain places for tree replacement and mitigation.
- Address the cumulative impacts of individual site planning decisions on the urban forest. The impacts of allowed development types should be evaluated as to how they generally do or do not maintain space for trees, along how they affect stormwater runoff, air pollution, heat island effect, and aesthetics.
- Evaluate the impact to trees from the lot confirmation process, which re-establishes historically platted lots. The confirmation process leads to infill development without the same consideration of trees that might occur during a land division process. Areas that have a high potential for lot confirmations should be identified so that potential tree impacts can be evaluated.

Address Potential Tradeoffs

The Portland Plan should seek to optimize and integrate trees with other key City goals. Potential considerations include the following:

- Housing affordability and environmental justice. How might the City establish affordable housing, environmental justice, and environmental quality goals and policies that complement and support each other? How can the City avoid pitting tree preservation against affordability?
- Industrial land supply, employment targets, and housing. How should the City balance its goals for industrial land, employment, and housing with efforts to ensure that all property owners share the responsibility and cost of maintaining and improving the urban forest?
- Solar access and trees. Consider identifying solar receiving sites for community energy projects. Consider solar access requirements in subdivision, site, and building design, drawing on contemporary examples (such as Boulder, Colorado and Oregon City), tempered by past experience implementing similar regulations and the unintended effects on urban form. Provide policy direction regarding tree removal for the purpose of installing a solar energy system.
- Goals for use of public rights-of-way. Portland is unique and fortunate to have a pedestrian friendly small block city. Generally intersections are spaced 200-feet apart and rights-of-ways are narrow ranging from 50 to 60 feet in width promoting a very walkable community. There is growing competition for the use of this public space. A few decades ago much less demand was placed on these public spaces. Today the

City has many plans and goals to do more in the right of way. Historically, the typical sidewalk space provided space near the curb to locate utility poles, mail boxes, street lights, fire hydrants and street trees. Today there are also goals to locate stormwater planters & swales, bike parking and bike lanes, media racks, transit stops, and other amenities, while still providing sufficient vehicle space, parking and loading. In more urban areas of the City there are few to widen the rights-of-way given fixed building locations. As such it is a growing challenge to locate public demands, including street trees, in smaller and smaller areas. A comprehensive look balancing multiple goals and recognizing the limitations of the available public space is needed to optimize and balance of the competing needs.

- Regional issues. What is the impact of preserving the urban forest canopy on the urban growth boundary, taking into consideration the City's growth strategy and urban form priorities? Explore opportunities to work with other jurisdictions and Metro to integrate urban forest management into long-range regional policies.

Other Questions and Research Recommendations

- Have other cities or jurisdictions shifted to view and manage "trees as infrastructure"? If so, what steps were taken and what kinds of data were used to inform and shape this approach?
- Property owners are currently responsible for the planting, maintenance, and replacement of street trees. In the interests of maintaining a public asset with public funds, what would be required for the City to take on this responsibility?
- Are there ways to shift the traditional locations for underground infrastructure within and adjacent to streets (sewer, water, and other utilities) to provide more space for trees?
- Evaluate the requirement that infrastructure be improved incrementally alongside infill development. Consider allowing development-related monetary contributions to be pooled for comprehensive design and one-time construction of facilities such as sidewalks and street tree improvements. This could delay the removal of trees for small stretches of roadway expansion, and allow comprehensive street tree planning.
- Continue working to integrate tree planting and maintenance with the sustainable stormwater green streets program.
- Evaluate the options to increase private tree planting, maintenance, and protection, including incentives, education and regulation.
- Identify practical, stable, dedicated funding sources to manage the urban forest.

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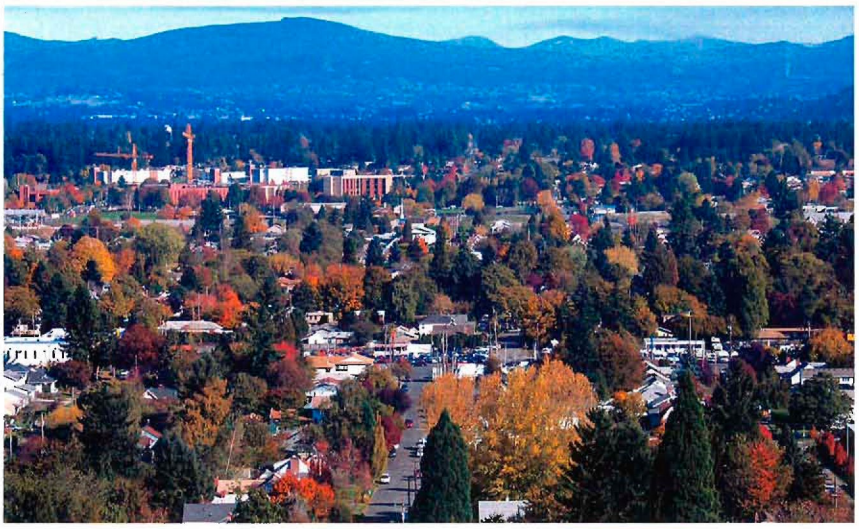
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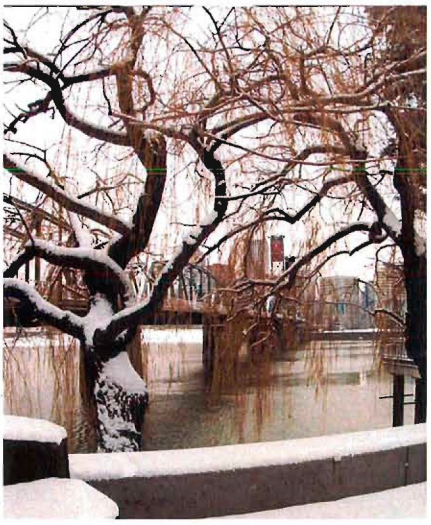
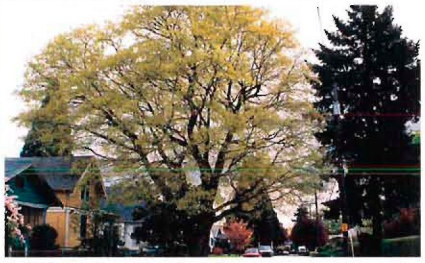
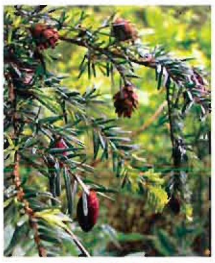
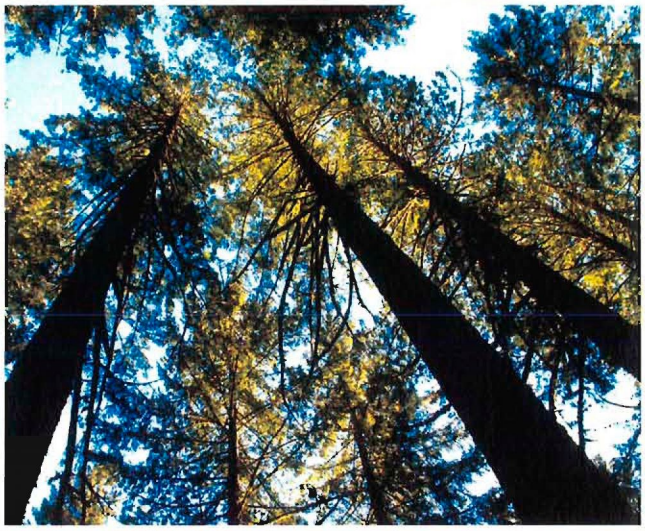
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Appendices to the Recommended Draft Report to City Council




Citywide Tree Policy Review and Regulatory Improvement Project

City of Portland
Bureau of
Planning and Sustainability
Sam Adams, Mayor
Susan Anderson, Director

Citywide Tree Project
Policy Review & Regulatory Improvement

Recommended Draft to Portland City Council
December 2010

The Bureau of Planning and Sustainability is committed to providing equal access to information and hearings.

If you need special accommodation, please call 503-823-7700, the City's TTY at 503-823-6868, or the Oregon Relay Service at 1-800-735-2900.

For more information about the **Citywide Tree Policy Review and Regulatory Improvement Project**, please contact:

Roberta Jortner, Morgan Tracy or Stephanie Beckman
Portland Bureau of Planning and Sustainability
1900 SW 4th Avenue, Suite 7100
Portland, Oregon 97201-5380
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B. Record of Testimony to the Portland Planning Commission and Urban Forestry Commission (March - July 2010)

C. Public Comments and Staff Response Report (June 21, 2010)

D. Citywide Tree Project Outreach Log (December 10, 2010)

E. Norway Maple Invasive Species Information

F. Southwest Tree Committee - Tree Protection and Preservation in Portland, A Call for Reforms (October 25, 2005)

G. Portland Urban Forest Action Plan (February 2007)

H. Citywide Tree Project Newsletters

I. Citywide Tree Project Scope

J. Citywide Tree Project Issue Papers

K. Fiscal Impact Analysis Detail

Appendix A

Staff Memorandum and Recommendations to Portland Planning Commission and Urban Forestry Commission (July 14, 2010)

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July 14, 2010

TO: Portland Planning Commission and Urban Forestry Commission

FROM: Roberta Jortner, Morgan Tracy, and Stephanie Beckman

SUBJECT: Citywide Tree Policy Review and Regulatory Improvement Project - Staff Recommendations

Attachments:

A. Citywide Tree Project Tracking Table and Staff Recommendations – July 14, 2010
B. Public Involvement Log – July 14, 2010
C. Citywide Tree Projects – Estimated Tree Canopy and Costs, July 14, 2010
D. Tree Project Overview – July 14, 2010

Staff Recommendations:

1. ***Approve the recommendations*** **presented in the** ***Citywide Tree Project Tracking Table and Staff Recommendations to the Planning Commission and Urban Forestry Commission*****(Attachment A)**

   The *Project Tracking Table and Staff Recommendations* (Attachment A) presents a comprehensive outline of the code sections proposed to be amended through this project and staff recommendations for action by the Planning Commission and Urban Forestry Commission. It includes the code sections addressed during the Planning Commission and Urban Forestry Commission work sessions held in April, May and June of 2010. It also contains all the other code sections proposed to be amended through the project. The commissions agreed that they would not discuss the other code sections during their work sessions due to time constraints, and because these sections do not raise major policy issues or cost concerns.

2. ***Direct staff to revise the proposal and produce the Recommended Draft*** **for public review and City Council action this fall.**

3. ***Endorse the phased project implementation and funding strategy*** **outlined on page 9 of this memo.**

Background

The Citywide Tree Project began in fall 2007. Project phases included:

- **Scoped project with community input;** **fall 2007/winter 2008**
  Researched other jurisdictions' tree regulations; drafted issue papers
- **Worked with Stakeholder Discussion Group** **spring/fall 2008**
  Examined key issues; evaluated potential solutions
- **Vetted initial solution package** **winter 2008/spring 2009**
  Planning Commission, Urban Forestry Commission, Development Review Advisory Committee, Citywide Land Use Group, Planning/Development Directors
- **Produced Proposed Draft; assessed fiscal impacts** **spring 2009/winter 2010**
  Collaborated w/City bureaus; consulted City Attorney
- **Planning Commission/Urban Forestry Commission** **winter/summer 2010**
  public hearing, work sessions, recommendations

The Bureau of Planning and Sustainability released the Proposed Draft of the *Citywide Tree Policy Review and Regulatory Improvement Project* to the Portland Planning Commission and Urban Forestry Commission February 17, 2010. The Proposed Draft is comprised of three volumes: Volume 1 Project Report, Volume 2 Proposed Code Amendments, and Appendices. Staff provided numerous briefings to the Citywide Land Use Group, Development Review Advisory Committee, the Homebuilders Association, and a number of neighborhood organizations. Staff also held two public open houses on March 9th and March 16th, 2010.

The Planning Commission and Urban Forestry Commission opened a joint public hearing on March 23, 2010. The commissions held joint work sessions on April 13, April 27, and May 11. The Planning Commission held a separate work session on June 8. The Urban Forestry Commission also held a separate work session on June 17, 2010.

During the work sessions the commissions discussed and provided initial direction on the major substantive elements of the project proposal. Staff outlined these elements in a Work Session Discussion Guide. For each of the key proposal elements, the Discussion Guide outlined the intended purpose and benefits, comments received in public testimony, and specific questions for Planning Commission and Urban Forestry Commission consideration. The Discussion Guide was updated after each work session to reflect direction from the commissions, and to present discussion items for the next work session. The Discussion Guides and PowerPoint presentations were posted on the project website after each work session.

Staff also produced a comprehensive Citywide Tree Project Tracking Table that outlines all of the proposed code amendments contained in the Proposed Draft. It included the substantive elements contained in the Work Session Discussion Guide, as well as proposed code amendments that the Planning Commission and Urban Forestry Commission reviewed but did not discuss during the work sessions. The Project Tracking Table was updated after each of the work sessions and posted on the project website. The July 14, 2010 version of the Project Tracking and Staff Recommendations Table presents the full set of recommendations for Planning Commission and Urban Forestry Commission approval, and is provided as Attachment A.

The commissions kept the public hearing record open during the April, May and June work sessions. They invited comments at the work sessions, and accepted written comments as well. In addition to the required mailing notice, staff sent electronic mail messages to notify those on the project mailing list that the public hearing remained open and the commissions were continuing to accept testimony. The Planning Commission closed its hearing on June 8th. The Urban Forestry Commission has not taken official action to discontinue public input on the proposal. Public

testimony provided verbally during these sessions is summarized in meeting minutes. The meeting minutes and additional written public testimony were distributed to both commissions and are posted in the "Documents and Resources" section on the project website, www.portlandonline.com/bps/treeproject. The public involvement log for the project is provided as Attachment B.

Staff has also prepared a report titled Public Comment and Staff Response Report (June 21, 2010). In this report, comments raised in the public testimony are organized and generally follow the key topic areas from the Discussion Guide. The staff responses address the comments or groups of comments for each key topic area. The responses provide explanations or clarifications of the project proposal and how it addresses concerns raised. The responses also describe how the February draft proposal will likely be revised in the next draft to address public concerns and to reflect direction provided by the Planning Commission and Urban Forestry Commission during their work sessions. This report is posted on the project website: http://www.portlandonline.com/bps/index.cfm?c=52162&a=305972.

Overview of Planning Commission and Urban Forestry Commission Review and Staff Recommendations:
The Planning Commission and Urban Forestry Commission received extensive comments on the Proposed Draft (February 2010) from neighborhood associations, developers and consultants, arborists, architects, environmental organizations, and Portland residents. City bureaus also provided detailed comments and suggestions on the project proposal. The following comment "themes" emerged during the public hearing and work sessions:

1. Support for consolidating the tree regulations into a new Title 11 Trees and treating trees as part of Portland's 'green infrastructure'
2. Support for stronger tree preservation, planting and protection requirements, flexible development standards to encourage tree preservation, consistent requirements for trees in environmental zones, and improved enforcement of tree rules
3. Concern about loss of large trees and groves of trees; interest in promoting native trees
4. Concern about impacts of the proposed tree preservation and protection standards on development costs and feasibility, particularly on smaller lots, and impacts on housing density and affordability
5. Support for a more standard tree permit system; desire for the permit system to be simple and non-onerous, concern about how the proposal would apply to homeowners
6. Varying views on tree size thresholds for permitting and development standards
7. Support for more standard replacement of trees removed, including dead, diseased, dangerous trees; mixed viewpoints requiring replacement of nuisance tree species
8. Support for proposed customer service improvements including: single point of contact for tree information, 24-hour tree hotline, community tree manual, and neighborhood tree plans
9. Concern about the complexity and cost of the proposal, especially given the current economic downturn and City budget cuts; requests to simplify and reduce cost

A variety of other comments and concerns were received, ranging from how the City Tree Fund is administered to how proposed restrictions on planting identified nuisance tree species, particularly Norway Maple, would affect the character of Portland's streets and the historic character of Ladd's Addition. Specific code suggestions were provided as well.

Based in part on testimony from the public and input from City bureaus, staff arrayed the key elements of the project proposal into the Planning Commission/Urban Forestry Commission Discussion Guide. Elements addressed in the Work Session Discussion Guide included:

I. **Trees in Development Situations**
   - Ia. Trees in Land Use Reviews
   - Ib. Trees in Building Permits - Tree Preservation Standards
   - Ic. Trees in Building Permits - Tree Density Standards
   - Id. Trees in Building Permits – Protecting Trees on Property Lines & Adjacent Sites during Construction
   - Ie. Trees in Environmental Zones
   - If. Trees in Public Works and Capital Improvement Projects

II. **Trees in Non-Development Situations**
   - IIa. Permits for City Trees, Street Trees and Trees on Private Property
   - IIb. Pruning Permit in Environmental Zones
   - IIc. Programmatic Permit
   - IId. Requirements for Dead, Diseased, Dangerous and Nuisance Trees

III. **Code Consolidation and Restructuring**

IV. ***Customer Service Improvements***
   - IVa. Single Point of Contact
   - IVb. 24-hour Tree Hotline
   - IVc. Community Tree Manual
   - IVd. Improved Permit Tracking System
   - IVe. Neighborhood Tree Plan

In light of the testimony, cost and budget issues, and initial feedback from the two commissions, staff from the bureaus of Parks and Recreation, Development Services, Environmental Services, Transportation and Water worked with Planning and Sustainability to simplify and reduce the costs of the proposal, while striving to retain improvements in tree preservation and future tree canopy across the city. The staff also met with the directors of Parks and Recreation, Development Services, Environmental Services and Planning and Sustainability to discuss key policy, implementation and budget issues, and proposed revisions to the proposal.

During the work sessions, staff asked the Planning Commission and Urban Forestry Commission for initial direction and unofficial approval for elements presented in the Discussion Guide and suggested revisions to the proposal. Staff also presented revised project implementation cost estimates and projected increases in tree canopy that would result from additional tree preservation or planting required by the proposal. As shown in Attachment C, the revised regulatory improvement components of the proposal are still projected to generate significant tree canopy benefits over time, at roughly half the cost of the original proposal. Staff noted that more than 90 percent of the canopy benefits (approximately 115 additional acres preserved or planted per year) and about 80 percent of the regulatory improvement costs are associated with trees in development situations. These costs would be covered through modest increases in building permit and land use review fees. The estimated increase in building permit fees is approximately $60, averaged across all affected permits. Land use review fee increases are estimated to range from approximately $65 to $300. The Tree Permit System and proposed Customer Service Improvements would be funded largely through the general fund or alternative sources (e.g., special assessments, grants). Ongoing general fund needs for the Single Point of Contact and 24-hour Tree Hotline are estimated to be approximately $120,000. Additional one-time funding of approximately $220,000 is also needed for start-up costs, including updating the City's permit tracking system, and to produce the Community Tree Manual.

Initial direction from the Planning Commission and Urban Forestry Commission is summarized below. Initial commission "endorsements" reported below do not represent official votes, nor do they represent consensus among commission members. Still, there seemed to be general agreement among the commission members on most issues. Areas of agreement and

disagreement helped staff shape the recommendations summarized below and specified in Attachment A.

I. Trees in Development Situations

Ia. Trees in Land Use Reviews – The commissions endorsed a revised proposal for trees in land use reviews. The proposal includes improved tree preservation criteria and standards for land divisions, requirements to record tree plans with final plats, and an expiration date for approved tree plans. The commissions also endorsed the addition of tree preservation as a factor to consider in Design Reviews and certain Conditional Use Reviews and associated Conditional Use Master Plans.

See Attachment A pgs 15-18: Title 33.600 series (Land Division), 33.700 series (Administration and Enforcement), 33.800 series (Land Use Reviews).

Ib. Trees in Building Permits: Tree Preservation Standards – The commissions endorsed a simplified version of the tree preservation standard. This standard provides an incentive to preserve trees, and yields additional tree canopy through mitigation when trees are not preserved.

The simplified standard would require preservation of 35 percent of the trees 12 inches in diameter and larger. Development on lots equal to or smaller than 3000 square feet or on lots where the proposed building coverage is equal to or greater than 90% would be exempt from the Tree Preservation Standards. Projects that are exempt from preservation standards would still need to meet Tree Density Standards. Some commissioners questioned the exemptions, however most seemed to agree with staff that the exemptions improve the balancing of City goals for the urban forest and for development. The exemptions would also reduce implementation costs.

To align with the proposed revisions for tree permits for homeowners on built out single family lots, Staff has also recommended exempting tree preservation requirements for additions to single family homes. Tree Density Standards would continue to apply to these situations, as described below (Ic.).

The simplified tree preservation standard continues to allow applicants to choose mitigation instead of meeting the standard. The commissions reviewed a simplified 2:1 "plant or pay," mitigation option for each tree removed below the 35 percent preservation requirement. Based on additional evaluation, staff recommends that the commissions approve a "pay only" mitigation option to simplify and reduce costs of implementation, and to prevent over-planting of development sites with trees. Staff is also recommending that a minimum tree preservation timeframe after the development has been completed be further evaluated to address potential gaps between development and non-development requirements.

In response to public comments regarding the importance of native species, staff recommends the tree preservation standards include an incentive to retain smaller native trees by allowing 6" and greater natives to count toward preservation requirements.

The commissions endorsed a spot-check inspection approach for the Tree Preservation and Tree Density Standards (below) to reduce implementation costs.

See Attachment A pgs 9 & 10: Title 11.600.060, Tree Preservation Standards.

Ic. Trees in Building Permits: Tree Density Standards – The commissions endorsed the Tree Density Standard in concept, and directed staff to continue working to simplify the approach. Staff has since developed a simpler approach that is more akin to the existing "T1" zoning code standards that currently apply to new single family development. The "tree unit" concept in the Proposed Draft would be replaced with requirements for small, medium, and large canopy tree types already used for other landscaping standards. The

standard would apply to all development types for new construction, additions greater than 200 square feet and alterations that trigger non-conforming upgrades. The number of trees required for a given site area would vary by development type.

See Attachment A pg 10: Title 11.600.070, Tree Density Standards.

Id. Trees in Building Permits – Protecting Trees on Property Lines & Adjacent Sites during construction – The commissions endorsed staffs' recommendation to scale back the initial proposal for protecting trees on property lines and adjacent sites. The revised proposal would encourage preservation of trees on property lines by allowing them to count toward tree preservation and density standards if their roots are protected. The revised proposal would also require trees on adjacent sites to be identified and considered during review of land divisions and public projects. Staff will develop provisions to allow limited encroachment into root protection zones for greater flexibility, and will provide educational materials to encourage protection of off-site trees and trees retained on a voluntary basis.

See Attachment A pgs 9 & 10: Title 11.600.050, Tree Plan Submittal Requirements and 11.600.080, Tree Protection Standards.

Ie. Trees in Environmental Zones – The commissions endorsed code amendments to require replacement of trees 6 inches and larger in diameter, specifically non-native non-nuisance trees, and trees in transition areas. The commissions endorsed amendments to existing definitions to ensure that stream and wetland setbacks are applied consistently in existing environmental zones. This will improve protection for trees in riparian corridors.

See Attachment A pgs 13 & 18: Title 33.430, Environmental Overlay Zones and 33.910, Definitions

If. Trees in Public Works and Capital Improvement Projects – The commissions endorsed the proposal to standardize consultation with Urban Forestry staff during design of public works and capital improvement projects. The commissions also agreed with a proposal for 1:1 tree replacement when trees are removed from partially and unimproved public rights of way, as well as providing the City Forester discretion to modify the mitigation requirement if it is disproportional to the impact.

See Attachment A pgs 9 & 10: Title 11.600.050, Tree Plan Submittal Requirements

II. Trees in Non-Development Situations

IIa. Permits for City Trees, Street Trees and Trees on Private Property

City Trees and Street Trees – The commissions endorsed the proposal generally, including a proposed revision to establish a 3-inch diameter tree size threshold to trigger permitting requirements. The proposal would continue to require a permit for pruning, removal and planting of City and Street trees, but would also establish certain pruning activities, such as small branches and removal of sucker shoots, that would be exempt from permit requirements. The proposal modifies the appeal process to be consistent with the process for trees on private property.

See Attachment A pgs 5 & 6: City Trees and Street Trees, Title 11.400.070-090 Tree Permits.

Trees on Private Property – The two commissions expressed differing views on the proposal to establish a standard tree removal permit system for trees on private property. The Planning Commission endorsed a revised staff proposal that would require a permit to remove any tree 12 inches in diameter and larger (6 inches in diameter for resource areas). The system would apply to all properties equally, including single family lots that are currently exempt from the City's tree permit system. Tree-for-tree replacement would be required for dead, diseased, dangerous and nuisance trees, and for removal of up to 4 healthy trees that are 12 to 20 inches in diameter. Escalating tree replacement would be required to discourage removal and/or mitigate for removal of healthy trees 20 inches in

diameter or larger (3:1 replacement), or removal of more than four healthy trees 12 inches in diameter or larger (up to inch-for-inch replacement). The Planning Commission endorsed suggestions to simplify the process, including reliance on documentation from private arborists and use of a spot-check approach to reduce inspection costs. The Planning Commission also recommended that the permit for homeowners be free, at least in the near-term.

The Urban Forestry Commission expressed mixed views on the Private Tree Permit proposal. Urban Forestry Commission Policy Committee members expressed initial support for the standardized permit (i.e. a single permit system that would apply the same rules to all types of properties in the city). Other commission members did not support requiring a permit for homeowners to remove trees on their property.

Revised Recommendation – Homeowner System

Given the range of opinions, and the general sensitivity about requiring homeowners to obtain permits, staff is recommending an alternative Private Tree Removal Permit approach. This alternative still simplifies the current system and addresses trees on all property types, but would create a separate approach specifically to engage homeowners.

Homeowners would be urged to contact city staff before removing trees greater than 6 inches in diameter. City staff would check the property information to help prevent inadvertent tree violations. If no special conditions or regulations apply, staff would notify the owner that they may remove the tree, and would provide information or other possible incentives to encourage tree replacement. To remove a tree 20 inches in diameter and larger, homeowners would obtain a simple permit and replace each tree with one tree. The City Forester could waive tree replacement for lots with sufficient trees. There would be no review and no public appeal. The homeowner tree permit proposal is shown in Table 2 below.

The approach shown in Table 1 would apply to all other situations, e.g., trees on multi-family, commercial or industrial properties, vacant single family lots, or single family lots that are large enough to create additional building sites. Initial screening would be done by the single point of contact. Existing complications relating to trees on corner lots would be eliminated.

PRIVATE TREE PERMIT SYSTEM

Table 1. Standard System

	Mitigation	Appeal
Confirmation:		
Dead, Diseased, Dangerous, w/in 10' of bldg.	1:1	Applicant
Nuisance Species		
4 trees 12-20"/year		
Review:		
≥20" healthy	3:1	Applicant & Public
≥5 healthy trees	up to caliper inch:inch	

Table 2. Homeowner System*

"Call before you cut"

To remove a tree <20" diameter, call 503-823-_____ or go online www._____ :

The City will:
1. Record in TRACS (permit tracking system)
2. Check for eligibility, conditions or other regs
3. Send "all clear" form or refer to correct process
4. Send tree planting/promo info, coupons, etc.

No tree replacement required

"Cut a tree – plant a tree"

To remove a tree ≥20" diameter (or ≥6" in resource areas**): *Replace each tree with 1 tree* (Applicant may appeal)

*Applies to built-out lots in single family zones and single family uses on lots ≤3,000 square feet in other zones
** Environmental and PV natural resource zones, Johnson Creek, Rocky Butte Plan Districts, etc.

See Attachment A pgs 7 & 8: Title 11.500.060-090 General Private Tree Permit Requirements

IIb. Pruning Permits in Environmental Zones – The commissions endorsed the proposal to allow limited native tree pruning in environmental zones, subject to a tree permit and oversight by a private arborist.

See Attachment A pgs 7 & 13: Title 11.500.060-090, General Private Tree Permit Requirements and 33.430, Environmental Overlay Zones

IIc. Programmatic Permit – The commissions approved a revised Programmatic Permit proposal. The revised proposal clarifies that only routine public agency and utility tree maintenance activities would be allowed under this permit. Based on concerns expressed by the City Forester and feedback from the Urban Forestry Commission, staff is recommending that removal of healthy non-nuisance trees 6 inches in diameter and larger not be allowed under a Programmatic Permit. The revised proposal also requires permit holders to submit annual activity reports to the City Forester, and requires the City Forester to report on pending Programmatic Permit applications and annual activity reports at monthly Urban Forestry Commission meetings. The City Forester may revoke a permit for non-compliance and enforcement procedures would apply to permit violations.

The commissions accepted the staff recommendation to explore a Tree Management Permit for ongoing private tree management activities for uses such as golf courses. The Planning Commission noted that eligibility for such a permit should be carefully limited, possibly by land use or site size. Both commissions directed staff to develop additional detail for review by the public and City Council in the revised proposal.

See Attachment A pg 3: Title 11.300.070, Programmatic Permit Application Requirements and Procedures

IId. Requirements for Dead, Diseased, Dangerous and Nuisance Trees – The commissions endorsed the proposal to require replacement of dead, diseased, dangerous and nuisance trees. Staff is not recommending special code provisions to allow planting of Norway maples on City streets or in Ladd's Addition Historic District. Rather, staff recommends that Urban Forestry continue working with stakeholders to identify suitable replacement species, refine historic district guidelines as needed, and develop an approved street tree list specific to Ladd's Addition to ensure consistent tree replacement in this unique area. Staff also proposes to include consideration of historic district character and design guidelines in the list of factors the City Forester must consider when reviewing street tree permit applications.

See Attachment A pgs 5-8: City Trees and Street Trees, 11.400.070-090 Tree Permits and 11.500.060-090, General Private Tree Permit Requirements.

III. Code Consolidation and Restructuring – The commissions endorsed consolidation of City tree regulations into a new Title 11, Trees.

IV. Customer Service Improvements
IVa. Single Point of Contact
IVb. 24-hour Tree Hotline
IVc. Community Tree Manual
IVd. Improved Permit Tracking System
IVe. Neighborhood Tree Plan

The commissions endorsed proposed Customers Service Improvements as important elements to the success of the project proposal.

A brief overview of the entire project proposal is provided in Attachment D. Note: Both commissions and implementing bureau directors have expressed a strong interest in tracking and reporting on project implementation, including tree preservation, removal and planting information and trends, how the codes are working, and whether changes are needed. A more complete outline of recommended program monitoring and evaluation activities will be developed for public review and council consideration in the revised proposal.

Phased Project Implementation and Funding Strategy

As reported, the Citywide Tree Project recommendations evolved substantially as a result of the Planning Commission and Urban Forestry Commission public hearing and work sessions. The Bureaus of Planning and Sustainability, Development Services, Parks and Recreation, Environmental Services, Water, and Transportation worked collaboratively to address key concerns raised by the public and the bureaus. Proposed revisions are intended to support and balance City goals for the urban forest and watershed health, development, affordable housing, compact urban form, neighborhood livability and social equity. Staff also worked hard to simplify and reduce the cost of the initial proposal, while maintaining most of the projected tree canopy benefits (see Attachment C).

Acknowledging the staffing, training, and outreach needs that must precede enactment of the proposed rules and given current economic and budget challenges, the Citywide Tree Project bureau partners recommend a phased implementation and funding approach as follows:

1. Request City Council approval of the revised "Recommended Draft" in fall 2010;
2. Request City Council to approve and budget the Customer Service Improvements and other one-time start up costs for FY 2011-12;and
3. Request City Council to make code amendments effective FY 2012 – 13, pending Council confirmation of the budget and allocation of funds and fee changes required to implement the regulatory improvements.

This phased strategy will allow time to develop information and outreach materials, and to connect with Portland residents, arborists, and developers about the upcoming rule changes. The phasing will hopefully provide the time needed for reasonable recovery of the local economy and the City budget. The Planning Commission and Urban Forestry Commission expressed initial support for this proposal.

Conclusion

Staff is recommending that the Planning Commission and Urban Forestry Commission approve the recommendations outlined at the beginning of this report, including the general recommendations in this memorandum and the more specific recommendations in Attachment A. Moreover, staff wishes to express our sincere thanks and gratitude to both commissions, our partner bureaus, and community stakeholders for the time and effort spent to make this a better proposal.

Staff recognizes that there will be substantial revisions to the draft code amendments, including continued simplification of Title 11, Trees. While the project proposal as outlined in the staff recommendations (Attachment A) has been revised and considerably simplified, the fundamental principles and basic components of the February Proposed Draft will be carried forward into the next draft of the proposal.

Citywide Tree Project
Policy Review & Regulatory Improvement

ATTACHMENT A

Planning Commission/Urban Forestry Commission

Project Proposal Tracking Table and Staff Recommendations
July 14, 2010

This document presents a comprehensive outline of the code sections proposed to be amended through the Citywide Tree Policy and Regulatory Improvement Project. It provides a tool to track recommendations related to the Proposed Draft, issued February 2010. These recommendations reflect direction received from the Planning Commission (PC) and Urban Forestry Commission (UFC), respond to issues raised during public testimony, and additional staff recommendations to maintain overall consistency or address technical issues.

Staff is requesting that the commissions take action in whole or in part to approve, modify, or reject the recommendations outlined in this table in order to guide development of the Recommended Draft for City Council's consideration.

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Citywide Tree Project Tracking Table and Staff Recommendations – Planning Commission/Urban Forestry Commission

Code Reference, Summary of Changes in Proposed Draft (Feb. 2010)	Recommendation
I. Title 11, Trees	Revise proposed draft Title 11 to clarify and simplify code language.
Introduction Chapter **Summary:** Establishes the purpose and authority for this title, orients the user to the title organization and structure, describes how these regulations relate to other titles of City code, and what process is used to determine the applicable regulations for particular proposals to plant, prune, or remove a tree.	
How to Use This Document Organization of Title 11 Determining the Tree Regulations Applicable to a Specific Tree Format of Title 11	**Approve** the concept of an Introductory chapter, with direction to; • Add further references to the goals of the urban forest management plan and canopy goals • Delete term "Development Trees" from Table 1 – use "trees in development situations" • Revise Table 2 to make it clear that tree permits are not required in development situations. Tree requirements will be addressed under the required development permit. • Revise to reflect changes made to the remainder of the title
11.100 - Administration of This Title **Summary:** Includes administration roles and responsibilities, provisions for amending the Title, adopting administrative rules, authorizes and clarifies tree fund(s), performance guarantees and fees, enables charitable contributions, and includes legal disclaimers related to severability and liability.	
11.100.010 Short Title	**Approve**
11.100.020 Authority	**Approve**
11.100.030 Code Administration and Duties Performed	**Approve**
11.100.040 Hierarchy of Regulations	**Approve**
11.100.050 General Rules for Reading and Applying the Code Language	**Approve**
11.100.060 Amendments to this Code	**Approve**
11.100.070 Administrative Rules	**Approve**
11.100.080 Interagency Agreements	**Approve**
11.100.090 Tree Planting and Preservation Fund	**Approve** with modification to change method of establishing in-lieu fee from "per inch" to "per tree".
11.100.100 Urban Forestry Fund	**Approve**
11.100.110 Charitable Contributions	**Approve**
11.100.120 Performance Guarantees	**Approve** with direction to correct filing information to reflect that filing with the City auditor is no longer required.
11.100.130 Fees	**Approve**
11.100.140 Severability	**Approve**
11.100.150 Liability	**Approve**

Citywide Tree Project Tracking Table and Staff Recommendations – Planning Commission/Urban Forestry Commission

Code Reference, Summary of Changes in Proposed Draft (Feb. 2010)	Recommendation
11.200 – Urban Forestry Program **Summary:** Defines membership provisions and roles for Urban Forestry Commission, and the appeals board. Establishes the Urban Forest Plan requirements (purpose, roles for coordination and plan updates). Also includes the heritage tree program.	
11.200.010 Purpose.	**Approve**
11.200.020 The Urban Forestry Commission. (Broadens membership to include other NGO's; two 4-year term limit before break in service required; adds BES,BDS and Water as ex officio members, along with PBOT (existing); requires adopting and filing rules of order; expands roles to include consultation on major city projects, input on Title 11 code amendments, advocacy roles for budget matters affecting the urban forest, and explicit reference to heritage tree nomination reviews)	**Approve**
11.200.030 The Urban Forestry Appeals Board. (Formalizes existing reference to an appeal "subcommittee" and makes this their specific role)	**Approve**
11.200.040 Technical Assistance. (Carried over from existing language)	**Approve**
11.200.050 The Urban Forest Plan. (Adapts the Urban Forestry Master Plan to a less project-specific type plan, to a more comprehensive asset management set of documents, including the UF Management Plan and Action Strategy. Also includes requirements for periodic updates)	**Approve**
11.200.060 Heritage and Historic Trees. (Folds in 6 pre-existing historic and historic landmark trees into the heritage tree program. Prohibits accepting new nominations for nuisance species trees. Changes standard of 'unanimous vote' to 'majority of commissioners' to de-list a heritage tree to be consistent with standard for approving nomination of a heritage tree.)	**Approve** with modifications: • Change heritage tree provisions, including requiring 6 vote majority of full UFC membership for listing and delisting. • Maintain the term "Heritage Trees" and clarify that "Historic Trees" are to be treated as Heritage Trees, • Use consistent terms for tree condition, and require UFC approval to remove except for dead/dangerous/emergency
11.300 – Permit Procedures **Summary:** This chapter presents the general requirements and procedures that would apply to each of the tree permit types authorized by this title. Review triggers, approval criteria, mitigation, and review authority are detailed in Chapters 11.400 and 11.500. This chapter establishes requirements for permit posting and expiration.	
11.300.010 Purpose	**Approve**
11.300.020 Overview of Tree Permits (Summary of permit applicability)	**Approve** with direction to simplify and align with other modifications resulting from discussions.
11.300.030 Application Requirements (Makes requirements for application materials explicit, but allows forester to waive particular requirements when not needed to review the request; clarifies who has authority to submit applications for city/street/private tree requests.)	**Approve** with modifications: • Allow permit application for city trees to be submitted by Bureau managing site. • Clarify that street tree removal permits require adjacent property owner's approval

Citywide Tree Project Tracking Table and Staff Recommendations – Planning Commission/Urban Forestry Commission

Code Reference, Summary of Changes in Proposed Draft (Feb. 2010)	Recommendation
11.300.040 - 060 Tree Permit Procedures - Type A, Type B, Type C (Includes notice, decision, appeals, posting, certifying replacement)	**Revise** proposed draft to create two permit types: 1) *Confirmation* that tree meets criteria for removal and replacement (e.g. dead, diseased, etc). No site visit necessary when adequate documentation provided, Forestry may continue to inspect all street tree requests. Applicant appeal only. 2) *Review* request against criteria (for larger trees and multiple trees). Forestry staff would visit site to evaluate request. Decision can be appealed by applicant or public. **Revise** to add provision for City Forester to waive public appeals process when necessary to provide timely issuance of permits associated with utility repair and maintenance when public health or safety are threatened. **Direct staff** to develop administrative rules to address permit review timelines, with recognition that timelines are dependent on adequate funding. Administrative rules should also include guidance for the City Forester when applying discretion provided in the code (e.g., determining the appropriate level of mitigation). *Reflects PC/UFC direction - 6/8/10 and 6/17/10*
11.300.070 Programmatic Permit Application Requirements and Procedures (Allows public agencies to apply for long term (5 year) permit to conduct routine and customary maintenance activities, e.g., pruning small nuisance tree removal, tree planting on city sites, etc. Heard by City Forester in consultation with UFC – no appeals process)	**Revise** parameters of programmatic permit as follows: • Permits would be limited to routine maintenance and program-related activities (pruning, root cutting, planting) and removal of any size dead, diseased, dangerous trees and nuisance tree species, and other trees less than 6" diameter. The City Forester would retain discretion to limit removal to smaller trees. (A separate permit would be required for removal of other trees) • Approval criteria include "net benefit" to the urban forest • City Forester to include pending Programmatic Permit applications and applicants' annual reports in Monthly Forestry Report to the UFC • The public could raise issues with pending permit applications or annual reports during comment period at monthly UFC meetings • Applicants could appeal decision to Urban Forestry Appeals Board • City Forester may revoke permit based on failure to meet reporting requirement or non-compliance (not following specifications, limitations on allowed work, or failing to consult UF when required) • Violations subject to same penalties that apply to other "unpermitted" activities **Direct staff** to evaluate a "Tree Management Permit" option to allow multi-year tree management activities on large private sites, such as open space and institutional uses (e.g., golf courses, college campuses, cemeteries). Identify implementation costs and funding options. *Reflects PC/UFC direction - 6/8/10 and 6/17/10*

Citywide Tree Project Tracking Table and Staff Recommendations – Planning Commission/Urban Forestry Commission

Code Reference, Summary of Changes in Proposed Draft (Feb. 2010)	Recommendation
11.400 – City Trees and Street Trees **Summary:** Chapter 11.400 essentially replaces Chapter 20.40 for permitting pruning, planting and removal of street and other 'public trees.' Applies to trees of 'any size'. Eliminates dual permit approval for tree removal in conjunction with a proposed development. Defines pruning to exclude minor trimming activities. Now prohibits planting Nuisance Trees in streets or on City properties. Adds a public appeal for removal of healthy 20"+ trees. Includes removal criteria and mitigation standards.	
11.400.010 Purpose	**Approve** with modification to remove "noise buffering" from list of benefits
11.400.020 When These Regulations Apply	**Approve** with revision to City and Street tree removal using a 3" regulated size for permits
11.400.030 Exemptions (Specifically exempts state/fed, city forester, and refers other situations like heritage trees, trees in development, tree activity as part of programmatic permit to relevant section of code)	**Approve** with possible modification to consolidate exemptions into Chapter 11.300 (Permit Procedures) to streamline this chapter.
11.400.040 Relationship to Other City Regulations (Cross-reference to other code titles)	**Approve** with modifications: • Consider consolidating this section into Chapter 11.300 (Permit Procedures) to streamline this chapter. • Revise to include restrictions in wellhead protection areas for conformance with the Water Code (Title 21)
11.400.050 Disposition of Wood from City and Street Trees (carries existing language over from T20)	**Approve**
11.400.060 General City Tree and Street Tree Permit Requirements (overview of permit type applicability)	**Revise** proposed draft : • Change regulated tree size for City and Street trees to ≥3" diameter, with caveat that newly planted trees must be maintained and/or replaced until they reach the 3" regulated tree size. *Reflects PC/UFC direction - 5/11/10*

Code Reference, Summary of Changes in Proposed Draft (Feb. 2010)	Recommendation
11.400.070 – 090 Tree Permits – Type A, Type B, Type C (criteria for review and approval)	**Revise** proposed draft for **street tree permits** to align with revisions to Private Tree permit system: ***Street Trees*** / **Mitigation** / **Appeal** **Confirmation:** Dead, Diseased, Dangerous — 1:1 — Applicant **Review:** <20" healthy (incl. nuisance species) — 1:1 — Applicant ≥20" healthy (incl. nuisance species) — 3:1 — Applicant & Public ≥5 healthy trees per frontage — Up to inch for inch — Applicant & Public **Revise** the criteria for removal of Street Trees to: • Clarify that the City's general policy is not to allow removal of mature healthy street trees except if not appropriate for the location • Consider historic district goals and guidelines or other adopted street or neighborhood tree plans if applicable. • Consider a tree's status as a species on the City's Nuisance Plants List, if applicable, along with other factors; Nuisance species could be removed by right in environmental zones. • Include discretion for City Forester to adjust mitigation requirements if there is insufficient space for replacement trees. **Revise** the street tree planting standards to consider character-defining streetscapes and/or Consider historic district goals and guidelines or other adopted street or neighborhood tree plans if applicable, when determining appropriate tree species for planting. Staff does not recommend adding special provisions for Norway maples. Instead, direct staff to identify appropriate replacement species for Norway maples and to address the impact of the City's Invasive Plants Policy on street trees in the next update of the Urban Forest Action Plan. *Reflects PC/UFC direction - 5/11/10, 6/8/10 and 6/17/10.*

Citywide Tree Project Tracking Table and Staff Recommendations – Planning Commission/Urban Forestry Commission

Code Reference, Summary of Changes in Proposed Draft (Feb. 2010)	Recommendation
11.400.070 – 090 Tree Permits – Type A, Type B, Type C (continued) (criteria for review and approval)	**Revise** proposed draft for **City Tree permits** to align with revisions to Private Tree permit system as follows: :

City Trees	Mitigation	Appeal
Confirmation:		
Dead, Diseased, Dangerous Nuisance species	1:1	Applicant
Review:		
<20" healthy	1:1	Applicant
≥20" healthy	3:1	Applicant & Public
≥5 healthy trees per site	Up to inch for inch	

- Include discretion for City Forester to adjust mitigation requirements if there is insufficient space for replacement trees.

11.500 – Private Trees

Summary: Chapter 11.500 essentially replaces Chapter 20.42 for permitting removal of 'private trees.' Applies to trees ≥6" in resource areas and all other ≥12" trees. Eliminates the exemption for "developed, not dividable, single family zoned lots" Emphasizes preserving priority trees (20"+), requires some replacement of trees in all cases (including dead, dangerous, and nuisance trees). Standardizes mitigation requirements. Adds new pruning permit in resource areas to avoid environmental review.

11.500.010 Purpose	**Approve** with modification to remove "noise buffering" from list of benefits
11.500.020 When These Regulations Apply	**Approve**
11.500.030 Exemptions (Specifically exempts container trees, trees on sites subject to federal, state, court order, trees grown for agricultural use, i.e. timber harvest and nurseries. Also exempts forester and refers other situations like heritage trees, trees in development, tree activity as part of programmatic permit to relevant section of code)	**Approve** with added clarification that nurseries are included in exemption. Also, possible modification to consolidate exemptions into Chapter 11.300 to streamline this chapter.
11.500.040 Relationship to Other City Regulations (cross reference to other code titles)	**Approve** with possible modification to consolidate relationship to other regulations into Chapter 11.300 to streamline this chapter. Include modifications to reflect restrictions in wellhead protection areas for conformance with the Water Code (Title 21).
11.500.050 Disposition of Wood from Private Trees (Mirrors section in city/street tree chapter, but notes requirements to leave wood in e-zones and clarifies that wood must be properly stored)	**Approve** with modification to include reference to the habitat values of tree snags and other woody debris along with considerations for fire safety and pests.

Citywide Tree Project Tracking Table and Staff Recommendations – Planning Commission/Urban Forestry Commission

Code Reference, Summary of Changes in Proposed Draft (Feb. 2010)	Recommendation
11.500.060 - 090 General Private Tree Permit Requirements (Type A, Type B, Type C) (Overview of permit types and applicability, criteria for review and approval. Includes pruning permit in "resource areas.")	**PRIVATE PRUNING PERMIT** (applies to specified resource areas only) **Revise** to ensure current pruning exemptions in e-zone regulations (33.430) are carried over to Title 11 private tree pruning exemptions. Clarify that pruning permits are required only in specified resource areas. **PRIVATE TREE REMOVAL PERMIT** **Revise** as follows: • Establish two permit types (confirmation and review) for properties currently regulated (multi-dwelling, commercial, industrial and vacant and/or dividable single-family) • Create a homeowner system that: - Provides a registration process for trees <20" to ensure that other conditions do not apply to tree removal (LU condition, e-zone, plan district, etc) – no fee, no permit, no appeals, replacement encouraged, but not required. - Requires a simple permit for trees ≥20". No fee, only applicant may appeal, tree-for-tree replacement required. • Include discretion for City Forester to adjust mitigation requirements if there is insufficient space for replacement trees. • Eliminate 6" size threshold for trees (oak and madrone) outside of resource area.

Standard System		
	Mitigation	**Appeal**
Confirmation:		
Dead, Diseased, Dangerous, w/in 10' of bldg.	1:1	Applicant
Nuisance Species		
4 trees 12-20"/year		
Review:		
≥20" healthy	3:1	Applicant & Public
≥5 healthy trees per site	up to inch:inch	

Reflects PC/UFC direction - - 5/11/10, 6/8/10 and 6/17/10

Code Reference, Summary of Changes in Proposed Draft (Feb. 2010)	Recommendation
11.500.060 - 090 General Private Tree Permit Requirements (continued)	**PRIVATE TREE REMOVAL PERMIT** (continued) **Homeowner System*** **"Call before you cut"** To remove a tree <20" diameter, call 503-823-_____ or go online www._____ : The City will: 1. Record in TRACS 2. Check for eligibility, conditions or other regs 3. Send "all clear" form or refer to correct process 4. Send tree planting/promo info, coupons, etc. *No tree replacement required* **"Cut a tree – plant a tree"** To remove a tree ≥20" diameter (or ≥6" in resource areas**): *Replace each tree with 1 tree* (Applicant may appeal) *Applies to non-vacant, built-out single family lots – to be defined based on lot size and zoning designation (e.g. R5 lot, less than 9,500 sf, developed with a house). Corner lots that do not exceed the size threshold for the zone, will be considered "built-out". Include single-family uses on lots <3000 sf in other zones. ** Environmental and PV natural resource zones, Scenic Overlay, Johnson Creek, Rocky Butte Plan Districts, etc.
11.600 – Trees in Development Situations **Summary:** Addresses the preservation, protection, and planting of trees through the development process. Adds tree preservation requirements to building permits, as well as a baseline tree density standard. Also includes tree protections for property line and nearby trees. Preservation standards vary by lot size. Density standards vary by size and development type and can be met by combination of preserving, planting or paying for trees.	
11.600.010 Purpose	**Approve** with modification to remove "noise buffering" from list of benefits
11.600.020 When These Regulations Apply	**Approve** with modification to add 10% project value cap on street tree improvements (similar to non-conforming upgrades for on-site improvements).
11.600.030 Exemptions Exempts certain trees (dead, diseased, dangerous, and nuisance) from preservation. Excludes Heritage Trees from these standards (subject to other requirements). Exempts certain activities (authorized by a programmatic permit, or emergency tree removal or pruning). Clarifies that prior approvals for preservation take precedence.	**Approve**
11.600.040 Relationship to Other City Titles	**Approve** with possible modification to consolidate relationship to other regulations into Chapter 11.300 to streamline this chapter. Include modifications to reflect restrictions in wellhead protection areas for conformance with Water Code (Title 21)

Citywide Tree Project Tracking Table and Staff Recommendations – Planning Commission/Urban Forestry Commission

Code Reference, Summary of Changes in Proposed Draft (Feb. 2010)	Recommendation
11.600.050 Tree Plan Submittal Requirements Includes details of what needs to be shown on development application plans.	**Revise** submittal requirements to reflect direction regarding trees on adjacent sites and property lines and add clarity: • Delete the requirement to identify trees on adjacent sites. Identification of trees located on property lines as well as trees adjacent to work within the right of way will continue to be required. • Clarify requirement to indicate trees that are proposed to be removed by adding "and those to be retained voluntarily." Trees retained voluntarily (without approved protection) may not be used to meet tree preservation or density standards. • Clarify that a tree plan is required only when tree preservation or tree density requirements apply • Clarify that tree plans must include an inventory of tree location and size. A tree survey is not required (Title 33 will continue to require tree surveys for some types of land use reviews). *Reflects PC/UFC direction - 4/27/10*
11.600.060 Tree Preservation Standards Requires preservation of a certain number of trees on site OR mitigation (plant or pay) when those trees are not preserved. Applies to private/public development and trees in rights of way.	**Revise** tree preservation requirements for **Private Trees** Retain a preservation standard/incentive along with proposed Tree Density requirements, with modifications: • Shift to a 12" diameter tree size threshold (vs. 20" in 2/10 proposal), and a 35% preservation standard (vs. 50% in 2/10 proposal) • Exempt lots≤3,000 from the preservation standard • Exempt proposals involving ≥90% building coverage from the preservation standard • Exempt proposals for additions on single family lots (to match homeowner system) • Tree density standards apply on sites exempt from preservation standards. • If preservation standard is not met, a payment into the Tree Fund is required for offsite mitigation (cost of planting and establishing two trees) • Clarify that preservation standards apply only when site disturbance activities are proposed. • Add incentive to preserve native trees by allowing smaller native trees (≥6") to count toward the preservation standard. This option would be available (not required) to applicants that provide documentation of tree species and size. **Direct staff** to evaluate the need for a minimum timeframe for retention of trees preserved during the building permit process. *Reflects PC/UFC direction - 4/27/10 and 5/11/10*

Citywide Tree Project Tracking Table and Staff Recommendations – Planning Commission/Urban Forestry Commission

Code Reference, Summary of Changes in Proposed Draft (Feb. 2010)	Recommendation
11.600.060 Tree Preservation Standards (continued)	**Approve** requirements for **City and Street Trees** with modifications: • Add requirement for 1:1 tree replacement to apply when partially and unimproved streets are improved (newly planted street trees count toward replacement requirements) • Provide the City Forester discretion to reduce mitigation where the above replacement requirement is disproportionate to the impact of tree removal • Revise replacement ratios and requirements for City Tree preservation standards to be more consistent with private tree requirements *Reflects PC/UFC direction - 4/27/10 and 5/11/10*
11.600.070 Tree Density Standards Establishes minimum tree planting requirements based on site area. Allows credits for trees preserved. Also allows for payments in lieu of planting.	**Approve** proposal to establish Tree Density Standards for all development types with preserve, plant or pay options. **Revise** standards as follows: • Replace "tree unit" with requirements for "small, medium and large" canopy tree types (promotes large canopy trees; consistent with other landscape standards). • Apply to all development types for new construction, additions >200 s.f., and alterations that trigger non-conforming upgrades. • Staff will continue refining tree planting ratios - vary by development type as appropriate. Staff will revisit and evaluate standards that would apply to industrial and employment uses to ensure they are reasonable. • Remove proposed allowance for small lots to count street trees toward tree density. • Clarify ability to define a development impact area on sites ≥1 acre for purposes of calculating tree density (except for non-conforming upgrades) *Reflects PC/UFC direction - 4/27/10 and 5/11/10*
11.600.080 Tree Protection Standards Requires protection of trees on site and on property lines. Includes two methods for tree protection: prescriptive path (numeric standard, less flexible) and performance path (prepared by an arborist, site and tree specific). Includes process for changing approved tree protection measures during the course of development. Specifies requirements for tree protection inspections as follows: 1) required initial inspection, prior to ground disturbance; 2) optional interim inspection; 3) required final inspection; and 4) optional post project completion inspection.	**Revise** proposed draft to remove requirement to protect off-site trees and trees on property lines in the building permit context: • Require protection for trees on property lines only if they are to count toward meeting preservation standards. Protection would not be required for trees voluntarily retained. • Address protection of trees on adjacent sites through the land division process and public projects. Encourage but do not require such protection in other land use reviews or the building permit process. • Develop provisions allowing minor encroachment into root protection zones and incorporate into tree protection standards. • Develop educational material for developers re: optional BMPs to prevent harm to trees voluntarily retained on-site, and to help prevent impacts on off-site trees. **Revise** proposed draft to remove specific inspection requirements from the code, with the intent of relying on a spot check system until sufficient funding is available to support a more robust inspection system. *Reflects PC/UFC direction - 4/27/10 and 5/11/10*

Citywide Tree Project Tracking Table and Staff Recommendations – Planning Commission/Urban Forestry Commission

Code Reference, Summary of Changes in Proposed Draft (Feb. 2010)	Recommendation
11.600.090 Optional Tree Standards Review Allows applicants who may have overly burdensome mitigation requirements to custom tailor the mitigation plan for the site and proposal with other types of mitigation measures or more reasonable tree planting scenarios.	**Delete** from proposal. Due to revisions to tree preservation standards (11.600.060), this optional review is no longer necessary. *Reflects PC/UFC direction - 5/11/10.*
11.700 – Enforcement **Summary:** emphasizes restorative actions before punitive measures, but includes escalating system of penalties depending on nature of infraction. Establishes roles of City Forester (absent development) and BDS (in conjunction with development, and in resource areas). Chapter includes maintenance requirements largely imported from other titles, includes prohibited actions (including planting nuisance trees in specific areas, and topping). Describes inspections and validates certain forms of evidence. Includes enforcement and nuisance abatement process largely adapted from T29. Includes menu of available remedies, types of enforcement actions and additional actions for City, street, and development situations.	
11.700.010 Purpose	**Approve**
11.700.020 Violations	**Approve**
11.700.030 Enforcement Authority	**Approve**
11.700.040 Maintenance Requirements and Responsibilities	**Approve**
11.700.050 Prohibited Actions	**Approve** with modification to topping prohibition recognizing Airport FAA restrictions. Would explicitly allow topping for trees that project above, or will upon maturity project above, the height limit delineated by the h-overlay zone
11.700.060 Inspections and Evidence	**Approve**
11.700.070 Notice and Order	**Approve**
11.700.080 Correcting Violations of this Title	**Approve**
11.700.090 Enforcement Actions	**Approve**
11.700.100 Nuisance Abatement	**Approve**
11.700.110 Administrative Review	**Approve**
11.700.120 Appeals to the Code Hearings Officer	**Approve**
11.700.130 Further Appeals	**Approve**
11.700.140 Waivers	**Approve**
11.800 – General Terms **Summary:** Includes a number of new terms and clarifications and updates to existing terms	
11.800.010 Use of Terms	**Approve**
11.800.020 Definitions Incorporates ANSI standards, defines tree injury, defines pruning to exclude removal of sucker growth and branches up to ¼ inch, defines dangerous, diseased tree, grove tree, non-native non-nuisance tree, defines by illustration the watershed boundaries.	**Approve with modifications :** • Delete definitions that are not used in regulations (e.g. vertical mulching, soil fracturing, tree unit). • Revise term "resource area" and modify throughout title (may cause confusion due to use in Title 33 e-zone regulations). • Revise definition of "tree grove" to incorporate smaller native trees and understory. • Add definition for "development". • Modify other definitions as necessary for consistency with code refinements.
11.800.030 Measurements (describes method to determine tree size)	**Approve**

Citywide Tree Project Tracking Table and Staff Recommendations – Planning Commission/Urban Forestry Commission	
Code Reference, Summary of Changes in Proposed Draft (Feb. 2010)	**Recommendation**
11.800.040 Referenced Regulations	**Approve**
II. Title 33 – Planning and Zoning	
Base Zones (100 series)	
Purpose statement amendments addressing tree function or urban forest • Purpose of OS zone 33.100.010 • Purpose of landscaped area in MD, C, E & I zones (33.120.235, 130.225, 140.225)	**Approve**
Cross-references in all base zones to Title 11 for demolitions and tree standards (includes on-site trees and street trees)	**Approve**
Flexible Development Options when priority trees are preserved: • Flexible location of required outdoor area in single dwelling zones (33.110.235) • Pedestrian connection standards in MD, C, E & I zones – allowance to increase straight line distance up to 150% (current code allows 120%) (33.120.255, 130.240, 140.240) • Minimum density reduction in MD zones for tree preservation (33.110.205) • Amenity bonus option for increased density in MD zones (33.120.265)	**Approve with modifications:** • Increase allowance for pedestrian standard to vary up to 200% of straight line distance. • Revise to allow use of flexible development standards when a tree 12" and greater will be preserved, as opposed to "priority tree" (20"+), consistent with the 12" tree size threshold for proposed Tee Preservation Standards (11.600.060).
Additional Use and Development Regulations (200 series)	
33.248, Landscaping and Screening • Size of trees at planting for single-dwelling – reduced from 1.5" to 1" caliper (33.248.030) • References to Title 11 for enforcement of topping violations, tree plan requirements, tree protection and street tree requirements •	**Approve**
33.248.020, Landscaping and Screening Standards that shift to "tree units"	**Delete** amendments that reference "tree units" in the landscaping standards (continue use of "small, medium and large" canopy tree terms).
33.258, Nonconforming Development – grouping of landscaping related items and adding tree density standards	**Approve**
Parking reduction for preservation of priority trees (33.266.110)	**Approve with modification** to allow use of flexible development standards when a tree 12" and greater will be preserved, as opposed to "priority tree" (20"+), consistent with the 12" tree size threshold for the proposed tree preservation standards (11.600.060)

Citywide Tree Project Tracking Table and Staff Recommendations – Planning Commission/Urban Forestry Commission

Code Reference, Summary of Changes in Proposed Draft (Feb. 2010)	Recommendation
Overlay Zones (400 series)	
33.430, Environmental Overlay Zones • References to Title 11 – applies when tree removal activities are exempt from e-zone chapter and tree plan requirements for permits • Exemption for vegetation removal activities (in non-development situation) – includes explicit requirement for erosion control, non-native non-nuisance trees, and trees within 10' of an existing building or attached structure (33.430.080.C.7) • Exemption for pruning conducted under Title 11 permit (33.430.080.C.8) • Planting standards made consistent at one-half inch trees and 1 gallon shrubs throughout • Tree removal and replacement standards apply to transition areas (33.430.140) • Replacement standards added for non-native non-nuisance trees - ratio based on size of tree removed, per table; 1 to 1 replacement added for nuisance trees (throughout standards, except for resource enhancements and right-of-way improvements)	**Approve** proposal to: • Apply e-zone tree removal and replacement standards in transition areas. • Establish provisions to address non-native, non-nuisance trees. **Revise** Standards for Utility Lines, Resource Enhancements, Outfalls & Public Recreational Facilities (33.430.150, 33.430.170, 33.430.180 & 33.430.190) to increase the size of native trees that can be removed and replaced from 10" to 12" diameter (for consistency with other regulations). **Revise** requirements for native vegetation to allow street trees to be non-native trees, when directed by the City Forester. Direct staff to develop written guidelines for when non-native street trees would be allowed. Planting of species on the Nuisance Plants List would continue to be prohibited. *Reflects PC/UFC direction - 4/27/10*
33.440, Greenway Overlay • Add tree removal to activities within greenway setback that are subject to greenway review unless exempt (33.440.210) • Add exemption from Greenway Review for removal of trees not located in greenway setback or within the river natural 'n' or river water quality 'q' overlays (33.440.320.M) • Add references to Title 11 - permit requirement for tree removal activities that are exempt from greenway review and tree protection standards	**Approve** with direction to incorporate minor amendments to 33.440 included in River Plan package.
33.465, Pleasant Valley (mirrors e-zone changes where applicable)	**Approve with modifications** consistent with environmental zone revisions where relevant.
33.480 Scenic Overlay – Scenic Corridor Standards • Clarification of tree removal allowances in the following areas: applies to trees within 10 feet of existing or proposed building and attached structures, within 5 feet of a proposed driveway, installation of utilities within a 10 foot wide corridor, trees in close proximity to RF facilities and nuisance species. (33.480.040.B.2.g) • Reference to Title 11 permit requirement – applies to allowed tree removal when no development is proposed (33.480.040.B.2.h)	**Approve**
Plan Districts (500 series)	
33.508 CS/PIC Plan District – Environmental Zones • Add references to Title 10 Erosion Control and Title 11 Trees – apply to exempt activities including allowed tree removal (33.508.314) • Add exemption for pruning conducted under Title 11 permit (33.508.314.N)	**Approve, with modification** to add exemption for tree removal within 10 feet of an existing building or attached structure (consistent with the proposed exemptions in 33.430).

Citywide Tree Project Tracking Table and Staff Recommendations – Planning Commission/Urban Forestry Commission

Code Reference, Summary of Changes in Proposed Draft (Feb. 2010)	Recommendation
33.515 Columbia South Shore Plan District • Add references to Title 10 Erosion Control and Title 11 Trees - apply to exempt activities including allowed tree removal (33.515.274) • Add exemption for pruning conducted under Title 11 permit (33.515.274.N)	**Approve, with modification** to add exemption for tree removal within 10 feet of an existing building or attached structure (consistent with the proposed exemptions in 33.430).
33.537 Johnson Creek Basin Plan District • Delete exemption from e-zone regulations for removing trees within Johnson Creek below the ordinary high water level (33.537.040) • Consolidate and clarify tree removal allowances: applies to trees within 10 feet of existing or proposed building and attached structures, within 5 feet of a proposed driveway or right-of-way improvement, installation of utilities within a 10 foot wide corridor and nuisance species. (33.537.125) • New allowance to remove trees within 15 feet of a proposed roadway or City required construction easement (33.537.125.C.5) • New allowance to remove trees between 6 and 12 inches, subject to replacement requirements (33.537.125.C.6) • New reference to Tree Review if standards aren't met and statement that if both environmental review and tree review are triggered by a proposal, only environmental review is required (33.537.125.C.6) • Reference to Title 11 permit requirement – applies to allowed tree removal when no development is proposed (33.537.125.D)	**Approve**
33.570 Rocky Butte Plan District • Clarification of tree removal allowances in the following areas: applies to trees within 10 feet of existing or proposed building and attached structures, within 5 feet of a proposed driveway, installation of utilities within a 10 foot wide corridor and nuisance species. (33.570.040.C) • New allowance to remove trees between 6 and 12 inches, subject to replacement requirements (33.570.040.C.6) • Reference to Title 11 permit requirement – applies to allowed tree removal when no development is proposed (33.570.040.D)	**Approve**
33.580 South Auditorium Plan District • Add 6" size threshold for triggering Design Review for tree removal • Amendments to approval criteria to allow additional reasons for tree removal to be considered and additional flexibility in determining the planting location of replacement trees (33.580.130.A) • Allowance for removal of dead, diseased or dangerous trees without design review (33.580.130.B)	**Approve**

Citywide Tree Project Tracking Table and Staff Recommendations – Planning Commission/Urban Forestry Commission

Code Reference, Summary of Changes in Proposed Draft (Feb. 2010)	Recommendation
Land Divisions (600 series)	
33.630 Trees • Changes to purpose statement emphasizing the opportunity to integrate trees early in site design in land divisions, the importance of making space for tree planting, preserving high value trees, and incorporating additional benefits (such as providing food, capturing carbon, and value of native species) (33.630.010) • Add exemption for Central City Plan District (33.630.020) • Reference to Tree Plan submittal requirements (33.630.100) • Include trees partially on site (trees on property line trees) in those subject to regulations (33.630.200) • Add exception to tree preservation requirements for developed C, E & I zoned sites – allowance to defer tree preservation review until future development (33.630.200.A.2) • Add exception to tree preservation requirements for sites partially in e-zone and undergoing concurrent environmental and land division review – only tree preservation criteria applied; no standards (33.630.200.A.3) • Delete significant tree table (18 native species at various sizes) and use of term in chapter. Replace with "priority tree" – 20"+ trees and 6"+ native oak and madrone. • Revise preservation standards to add focus on priority trees and groves, and note locations where trees may be preserved (33.630.200.C) • New tree preservation criteria that guide priorities for preservation (trees with greatest benefit and long-term viability), consider the intended use and intensity of development and site constraints, and guide mitigation where appropriate (33.630.200.D) • Delete Tree Preservation Methods section (33.630.200, current code), including the requirement for tree preservation tract boundaries to extend 5 feet beyond the root protection zone of trees preserved. Other requirements deleted are addressed through references to other code sections • Delete mitigation option criteria (33.630.300, current code) – concepts incorporated into new criteria • Revise minimum density modification section to refer to new allowance in multi-dwelling zones, increase maximum allowed reduction from 3 to 4 lots, delete requirement that trees preserved be placed in a tract, and add requirement that single-dwelling lots not be further dividable (33.630.300.B) • New criterion requiring adequate space be provided on proposed lots for required tree planting (33.630.400) • Change to tree preservation credit section clarifying that trees preserved in a tree preservation tract may count toward density, provided at least one trees is planted on single-dwelling lots (33.630.500) • New requirement to consider preservation of trees in right-of-way and street tree planting during preliminary plan review (33.630.600) • New requirement to record tree plans with the final plat (33.630.700)	**Approve** with modification: • Priority tree term would relate only to trees 20" and larger in diameter trees (delete reference to 6" oak and madrone – to be part of broader considerations of all native species). **Direct staff** to explore options to: • Add emphasis on native trees in the preservation criteria • Add information to administrative rule (e.g., Portland Plant List) or the tree manual regarding the size at which various native trees are important and should be retained. *Reflects PC/UFC direction - 4/27/10*

Citywide Tree Project Tracking Table and Staff Recommendations – Planning Commission/Urban Forestry Commission

Code Reference, Summary of Changes in Proposed Draft (Feb. 2010)	Recommendation
33.635 Clearing and Grading • Add criterion that requires consistency with the Tree Plan (33.635.100.F)	**Approve**
33.654 Rights-of-Way • Add the location of priority trees and groves, streams, floodplain and wetlands to the list of characteristics considered in determining the appropriate location of through streets (33.654.110.B) • New criterion that requires the design of new streets to provide space for street trees to the extent practicable (33.654.120.H) • Add requirement to show anticipated utility easements for telephone, cable, gas, etc with goal of avoiding conflicts with other services and tree preservation (33.654.130.A) • Add consideration of site characteristics when determining the location of future street extensions, including terrain, existing dwellings, e-zoning, water bodies, floodplain and priority trees and groves (33.654.130.C)	**Approve**
33.660, Review of Land Divisions in Open Space and Residential Zones 33.662, Review of Land Divisions in C, E & I Zones • Standardize procedure to modify tree preservation plans after preliminary approval – always processed as Tree Review (33.660.310.A, 33.662.310.A)	**Approve**
33.663 Final Plats • Add reference to required tree plan recording to Legal Documents section (33.663.200.F) • Delete section on Changes to Final Plat Before Recording (33.630.310 in current code) – repeats other sections • Clarify section on Changes to Final Plat After Recording is addressing changes to the final plat survey (33.663.310)	**Approve**
33.664, Review of Land Divisions on Large Sites in Industrial Zones • Add reference to required tree plan recording to Legal Documents section (33.664.220.G)	**Approve**
33.665 Planned Development Review • Add criterion in clearing and grading section consistent with 33.635 (33.665.340.E)	**Approve**
Administration and Enforcement (700 series)	
Expiration of Tree Preservation Requirements (33.700.115) • Tree preservation conditions expire 10 years after final plat recording for land division cases or 10 years after land use approval for other case types.	**Approve** establishment of an expiration date for tree preservation plans. Direct staff to continue evaluating and potentially refining the timeframe. *Reflects PC/UFC direction - 4/27/10*
Preliminary Tree Assessment for Type III land divisions (33.730.050) – occurs with required pre-application conference	**Delete** code requirement for Early Tree Assessment. Staff to explore an optional assessment and/or operational changes to meet early identification goals. *Reflects PC/UFC direction - 4/27/10*