

Volume 4

Amendments to Title 33, Planning and Zoning, and Ladd's Addition Conservation District Guidelines



Citywide Tree Policy Review and Regulatory Improvement Project



City of Portland
Bureau of
**Planning and
Sustainability**
Sam Adams, Mayor
Susan Anderson, Director

Ordinance and Exhibits

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
Phone: 503-823-7700
E-mail: BPSCTP@portlandoregon.gov

A digital copy of this report can be found at:
www.portlandonline.com/bps

Recommended Draft • Volume 4

Amendments to Title 33 and Ladd's Addition Conservation District Guidelines

Table of Contents

Ordinance No. _____, Amend Title 33 Planning and Zoning to 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, and update definitions. 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.

Exhibit A – Amendments to Title 33, Planning and Zoning

Exhibit B – Amendments to Ladd's Addition Conservation District Guidelines

Exhibit C – Tree Canopy Benefits, Financial Impacts and Budget Proposal (Excerpt from Report to City Council)

Exhibit D – Financial Impact Statement

ORDINANCE No.

Amend Title 33 Planning and Zoning to 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, and update definitions. 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.

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. These components of the proposal are addressed in a separate ordinance. The amendments include additional enhancement of other City titles to ensure that trees are considered as part of other reviews. For example, Title 24, Building Regulations, requires that deposits for damages to public infrastructure include street trees. Title 31, Fire Regulations, requires access roads to contemplate root protection zones to the extent practicable).
- 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. Amendments to Title 33 are projected to improve the quantity and quality of tree canopy per year through a combination of improved tree preservation and planting on development sites (see Exhibit C). The amendments will also ensure tree replacement requirements are applied to non-native trees in environmental resource overlay zones and trees in environmental zone transition areas, and will improve protection of riparian trees along Portland's streams and wetlands.
 22. 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 cost to implement the Title 33 amendments is presented in Exhibits C, Tree Canopy Benefits, Financial Impacts and Budget Proposal and D, Financial Impact Statement, and will be covered on an ongoing basis through modest increases in land use review fees. However, because it will take some time for fee revenues to accrue, the Bureau of Development Services will need initial one time general funding to begin implementing certain of the proposed amendments.
 23. 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.
 24. 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.
 25. The project will be implemented and funded 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. The first two years will be funded largely through one-time general fund allocations or alternate fund sources. Starting in FY 2013-2014, one time funding will be replaced with development fee supported revenues.

The phased implementation and budget proposal is outlined in Exhibit C, Tree Canopy Benefits, Financial Impacts and Budget Proposal and Exhibit D, Financial Impact Statement.

26. 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

27. 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.
28. **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 _____, the required public notice for the City Council hearing was mailed to individuals and organizations on the project mailing list and to the BPS legislative project mailing list.
- j. On _____, the Recommended Draft Report, ordinances, and exhibits for the Citywide Tree Policy Review and Regulatory Improvement Project were published. Additional public meetings and briefings took place between draft publication and the Council hearing.
- k. On _____, the City Council held a public hearing on the Citywide Tree Policy Review and Regulatory Improvement Project.

29. **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.

30. **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. 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 was the tree-lined streetscape, not the particular species of trees, which was an important element of the historic district nomination.

Although Norway maple and other species were 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.

31. **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.

32. **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.
33. **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.
34. **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 they will enhance Portland's urban forest and 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 positively can affect 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.

Moreover, 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.

Finally, amendments to City environmental overlay zone regulations require that regulated non-native trees and trees in transition areas be replaced when removed. This will help maintain tree-related amenities without limiting opportunities for development. 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.

35. **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.

36. **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

37. 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.

38. **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.

39. **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. 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.

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.

40. **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.
41. **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.
42. **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. 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

43. Only the Comprehensive Plan goals addressed below are found to apply to this project.
44. **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.

45. **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.
46. **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.
47. **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.

48. **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.
49. **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 explanation.
50. **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.

51. **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.

52. **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.
53. **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.
54. **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

55. **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.
56. **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.
57. **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.
- b. Amend Title 33, Planning and Zoning, as specified in Exhibit A.
- c. Adopt the commentary in Exhibit A as legislative intent and supplemental findings.
- d. Amend the Ladd's Addition Conservation District Guidelines as specified in Exhibit B.
- e. Direct the bureau of Development Services to budget as needed for activities to prepare for implementation of these amendments in FY 2011-12 and as described in Exhibit C, Tree Canopy Benefits, Financial Impacts and Budget Proposal and Exhibit D, Financial Impact Statement. Also, direct the Bureaus of Development Services and Parks and Recreation to report to City Council early in the FY 2012-13 budget process, on plans to fund administration of amendments that will go into effect in February 2013, including proposed increases in development and land use review fees, and allocations from the general fund.

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:

LaVonne Griffin-Valade
Auditor of the City of Portland

Commissioner: Mayor Sam Adams
Prepared by: Roberta Jortner
Date Prepared:

By

Deputy

Exhibit A

Amendments to Title 33, Planning and Zoning

Table of Contents

| | |
|--|---|
| Effective Dates for Title 33 Amendments..... | 3 |
|--|---|

Amendments by Chapter

BASE ZONES

| | |
|--|----|
| 100 Open Space Zone..... | 4 |
| 110 Single-Dwelling Residential Zones..... | 6 |
| 120 Multi-Dwelling Residential Zones..... | 12 |
| 130 Commercial Zones..... | 22 |
| 140 Employment and Industrial Zones..... | 28 |

ADDITIONAL USE & DEVELOPMENT REGULATIONS

| | |
|-------------------------------------|----|
| 248 Landscaping and Screening | 34 |
| 258 Nonconforming Situations..... | 44 |
| 266 Parking and Loading | 50 |

OVERLAY ZONES

| | |
|--|-----|
| 430 Environmental Zone..... | 52 |
| 440 Greenway Overlay Zones | 82 |
| 465 Pleasant Valley Natural Resources Overlay Zone | 86 |
| 480 Scenic Resource Zone..... | 106 |

PLAN DISTRICTS

| | |
|---|-----|
| 508 Cascade Station/Portland International Center (CS/PIC) Plan District..... | 114 |
| 515 Columbia South Shore Plan District..... | 118 |
| 537 Johnson Creek Basin Plan District..... | 122 |
| 570 Rocky Butte Plan District | 134 |
| 580 South Auditorium Plan District | 138 |

LAND DIVISIONS AND PLANNED DEVELOPMENTS

| | |
|--|-----|
| 630 Trees..... | 140 |
| 635 Clearing and Grading and Land Suitability..... | 164 |
| 654 Rights-of-Way | 166 |
| 660 Review in OS & R Zones | 170 |
| 662 Review in C, E, & I Zones | 172 |
| 663 Final Plats | 174 |
| 664 Review on Large Sites in I Zones | 178 |
| 665 Planned Development Review | 180 |

ADMINISTRATION AND PROCEDURES

| | |
|---|-----|
| 700 Administration and Enforcement..... | 182 |
| 730 Quasi-Judicial Procedures..... | 184 |

LAND USE REVIEWS

| | |
|---------------------------------------|-----|
| 815 Conditional Uses..... | 194 |
| 820 Conditional Use Master Plans..... | 200 |
| 825 Design Review | 202 |
| 853 Tree Review..... | 204 |

GENERAL TERMS

| | |
|------------------------|-----|
| 910 Definitions | 216 |
| 930 Measurements | 220 |

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

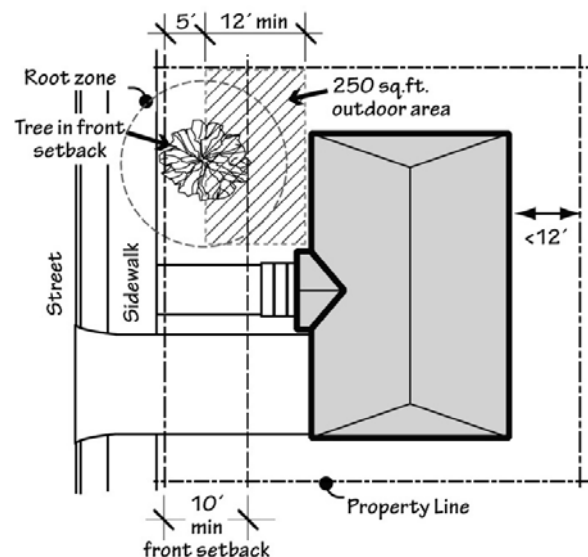
This is the first of several “flexible development options” proposed throughout the base zone regulations to encourage tree preservation during development. The flexible development standards may be used when trees at least 12 inches in diameter will be preserved. Several developers have described their 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.

COMMENTARY

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 <u>Reduction in Minimum Residential Density from Tree Preservation</u> | | |
|---|--|--|
| <u>Required Minimum Residential Density</u> | <u>No. of 12-Inch Trees To Be Preserved</u> | <u>Reduction of Minimum Residential Density</u> |
| <u>Up to 7 units</u> | <u>1</u> | <u>1</u> |
| <u>8-12 units</u> | <u>1</u> | <u>1</u> |
| | <u>2 or more</u> | <u>2</u> |
| <u>13-17 units</u> | <u>1</u> | <u>1</u> |
| | <u>2</u> | <u>2</u> |
| | <u>3 or more</u> | <u>3</u> |
| <u>18 or more units</u> | <u>1</u> | <u>1</u> |
| | <u>2</u> | <u>2</u> |
| | <u>3</u> | <u>3</u> |
| | <u>4 or more</u> | <u>4</u> |

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
- 33.130.230 Ground Floor Windows
- 33.130.235 Screening
- 33.130.240 Pedestrian Standards
- 33.130.242 Transit Street Main Entrance
- 33.130.245 Exterior Display, Storage, and Work Activities
- 33.130.250 General Requirements for Residential and Mixed-Use Developments
- 33.130.253 Additional Requirements in the CM Zone
- 33.130.255 Trucks and Equipment
- 33.130.260 Drive-Through Facilities
- 33.130.265 Detached Accessory Structures
- 33.130.270 Fences
- 33.130.275 Demolitions
- 33.130.285 Nonconforming Development
- 33.130.290 Parking and Loading
- 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 than 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;~~

~~e.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

~~ie.~~ 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) Screening; and~~
- ~~(8) Required paving of surface parking and exterior storage and display areas.~~
- ~~(9) 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 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.

Development Standards

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
- ~~65.~~ 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.

| <p align="center">Table 430-2 Minimum Site Enhancement Options</p> | |
|--|--|
| 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 <u>one-half</u> inch in diameter, shrubs must be at least <u>2 1/2</u> gallons, 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 <u>one-half</u> inch in diameter, shrubs must be at least <u>2 1/2</u> gallons, 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 <u>one-half</u> inch in diameter, shrubs must be at least <u>2 1/2</u> gallons, and groundcover plants a minimum pot size of 4 inches. Enhancements must be approved by the Bureau of Environmental Services as meeting the <i>Stormwater Management Manual</i> , and must also comply with parking lot landscape requirements of this Title. |
| Option 4 Revegetation Fee | <p>Pay a revegetation fee.</p> <p>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.</p> <p>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.</p> <p>3. Required fee contribution. The applicant must contribute the following revegetation fee before a building permit will be issued:</p> <ul style="list-style-type: none"> • 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 within 10 feet of any existing or proposed structures buildings and structures attached to buildings, such as decks, stairs, and carports;
 - (2) Within 5 10 feet of proposed driveways or right-of-way improvements, or
 - (3) To 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.

| <p align="center">Table 430-3 Tree Replacement in Environmental Overlay Zone</p> <p align="center"><u>Applicants may chose either Option A or Option B</u></p> | | |
|---|--|---|
| Size of tree to be removed (inches in diameter) | Option A (no. of <u>native</u> trees to be planted) | Option B (combination of <u>native</u> trees and shrubs) |
| <u>At least 6 to up to 12</u> | 2 | not applicable |
| <u>More than 12 13 to up to 20 18</u> | 3 | 1 tree and 3 shrubs |
| <u>More than 20 19 to up to 25 24</u> | 5 | 3 trees and 6 shrubs |
| <u>More than 25 to up to 30</u> | 7 | 5 trees and 9 shrubs |
| over <u>More than 30</u> | 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, the 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.

33.430.175 Standards for Right-of-Way Improvements

[No change.]

A. through C. [No change.]

D. ~~Native trees~~ 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 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.

Environmental Review

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 ~~4~~ 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.].

COMMENTARY

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 4 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 4 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 4 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;

COMMENTARY

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;~~

~~67.~~ Development over existing paved surfaces that are over 50 feet from any identified wetland or water body; and

~~78.~~ 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 devices;
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. Within 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.

| <p align="center">Table 465-2 Tree Replacement In Pleasant Valley Natural Resources Overlay Zone <u>Applicants may chose either Option A or Option B</u></p> | | |
|--|---|--|
| Size of tree to be removed (inches in diameter) | Option A (no. of <u>native</u> trees to be planted) | Option B (combination of <u>native</u> trees and shrubs) |
| At least 6 to <u>up to 12</u> | 2 | not applicable |
| More than 12 <u>13</u> to up to 20 <u>18</u> | 3 | 1 tree and 3 shrubs |
| More than 20 <u>19</u> to up to 25 <u>24</u> | 5 | 3 trees and 6 shrubs |
| More than 25 to <u>up to 30</u> | 7 | 5 trees and 9 shrubs |
| over <u>More than</u> 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 stream 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;

HG. 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;

~~**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;

~~**F.**~~ No fill or excavation may occur below the ordinary high water mark of the stream; and

~~**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.

Pleasant Valley Resource Review

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) 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 ~~4~~ 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~~ 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 ~~4~~ 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 ~~4~~ 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~~ 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 ~~4~~ 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.

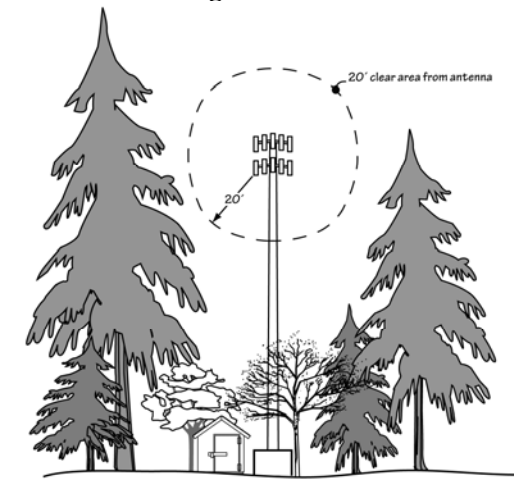
The requirements for utilities (2.g(4)) now specify that the tree removal is necessary for some aspect of the utility, i.e. maintenance or installation. As currently written, the tree need only be located in an easement to allow its removal, even if removal is not necessary for the utility to be installed 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 40 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~~

| <p align="center">Table 480-1 <u>Tree Replacement Requirements</u> <u>In Scenic Overlay Zone</u></p> | | |
|---|--|---|
| Applicants may chose either Option A or Option B | | |
| <u>Size of tree to be removed</u> <u>(inches in diameter)</u> | <u>Option A</u> <u>(no. of trees</u> <u>to be planted)</u> | <u>Option B</u> <u>(combination of trees and shrubs)</u> |
| <u>At least 6 to less than 9</u> | <u>1 tree</u> | <u>Not applicable</u> |
| <u>At least 9 to less than 12</u> | <u>3 trees</u> | <u>2 trees and 2 shrubs</u> |
| <u>At least 12</u> | <u>Tree Review Required (see 33.480.050 below)</u> | |

- ~~(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~~e~~main, 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.~~ more than 6 or more inches in diameter,
 - 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.

~~MN.~~ 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~~emain, or are placed, in the resource area of the same ownership on which they are cut; or
 2. Are removed, if t—The 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.

Development Standards

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.

| <p align="center">Table 537-1 Tree Replacement In Johnson Creek Basin Plan District <u>Applicants may chose either Option A or Option B</u></p> | | |
|---|--|---|
| <u>Size of tree to be removed</u> <u>(inches in diameter)</u> | <u>Option A</u> <u>(no. of trees</u> <u>to be planted)</u> | <u>Option B</u> <u>(combination of trees and shrubs)</u> |
| At least 6 to less than 9 | <u>1</u> | <u>not applicable</u> |
| At least 9 to less than 12 | <u>3</u> | <u>2 trees and 2 shrubs</u> |
| at least 12 | <u>Tree Review Required</u> | |

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 to 12 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.

| <p align="center">Table 570-1 Tree Replacement In Rocky Butte Plan District</p> <p align="center">Applicants may chose either Option A or Option B</p> | | |
|---|--|---|
| <u>Size of tree to be removed</u> <u>(inches in diameter)</u> | <u>Option A</u> <u>(no. of trees</u> <u>to be planted)</u> | <u>Option B</u> <u>(combination of trees and shrubs)</u> |
| <u>At least 6 to less than 9</u> | <u>1</u> | <u>not applicable</u> |
| <u>At least 9 to less than 12</u> | <u>3</u> | <u>2 trees and 2 shrubs</u> |
| <u>at least 12</u> | <u>Tree Review Required</u> | |

- 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
- ~~33.630.600800~~ 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 Buffering~~ from noise, wind, and storms;
- Providing visual screening and summer cooling;
- Reducing 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 |

33.630.100200 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 one 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 removed 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 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.

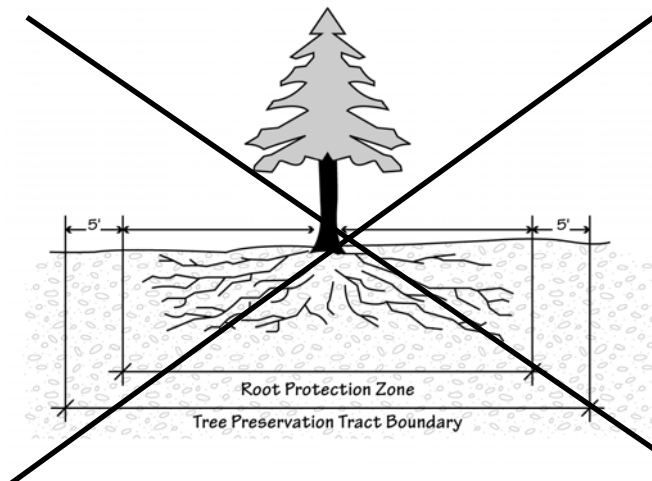
33.630.200 Tree Preservation Methods

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 to~~ 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 33.630.400~~ Subsection 33.630.200.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 eEnvironmental 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 any of the following environmental overlay zones interrupt the expected path of a through street or pedestrian connection:
 - Environmental, Pleasant Valley Natural Resource, or Greenway overlay zones;
 - Tree groves;
 - Streams;
 - Special flood hazard areas; or
 - Wetlands; and
 - (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 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;
- 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 Tree map and preservation plan. ~~A tree map~~ showing the following:

- Existing and 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;
- ~~23.~~ Public benefits of the use outweigh any impacts which cannot be mitigated; and
- ~~34.~~ 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, 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, 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.~~

COMMENTARY

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 preservation 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. ~~†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 |
| <u>Up to 12</u> | <u>3 trees</u> |
| <u>More than 12 to up to 20</u> | <u>5 trees</u> |
| <u>More than 20 to up to 25</u> | <u>7 trees</u> |
| <u>More than 25 to up to 30</u> | <u>10 trees</u> |
| <u>More than 30</u> | <u>15 trees</u> |

COMMENTARY

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, ~~—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

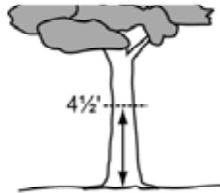
33.930.130 Measuring Tree Diameter

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.

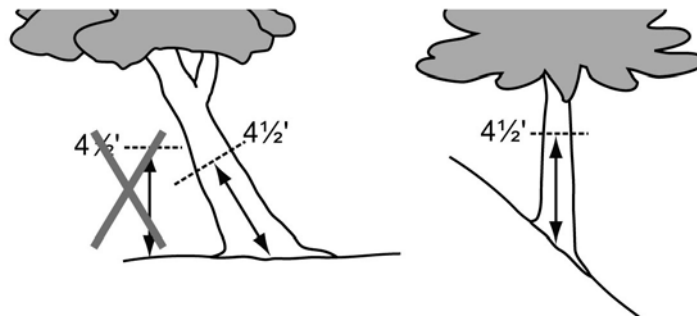
1. Existing trees are generally measured in terms of diameter inches at a height of 4-1/2 feet above the ground. The diameter may be determined by measuring the circumference of the tree trunk and dividing by 3.14. See Figure 930-19.

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.

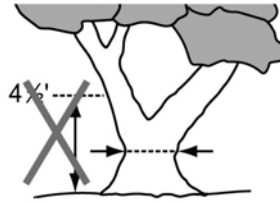
Commentary

33.930.130 Measuring Tree Diameter (continued)

B. New trees

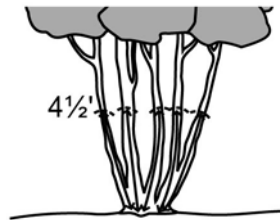
Language is added to note that tree planting sizes for coniferous trees are sometimes specified by the height of the tree. For example, this is the case in 33.248.

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".]

This page intentionally blank.

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 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.

This page intentionally blank.

Exhibit C

(Excerpt from Volume 1 - Recommended Draft Report to City Council)

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 and 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.

$$\begin{aligned} & (250 \text{ trees planted/year} \times 600 \text{ s.f./tree}) / 43,560 \text{ s.f. per acre} \\ & = 3.4 \text{ future canopy acres planted per year} \end{aligned}$$

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.

$$\begin{aligned} & (200 \text{ trees planted/year} \times 600 \text{ s.f. per tree}) / 43,560 \text{ s.f./acre} \\ & = 2.75 \text{ future canopy acres planted/year} \end{aligned}$$

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.

$$\begin{aligned} & (25 \text{ trees planted/year} \times 600 \text{ s.f. per tree}) / 43,560 \text{ s.f./acre} \\ & = 0.34 \text{ future acres planted/year} \end{aligned}$$

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:

$$(36 \text{ trees planted/year} \times 600 \text{ s.f. per tree}) / 43,560 \text{ s.f./acre} \\ = 0.5 \text{ future acres planted/year}$$

$$(13 \text{ trees preserved/year} \times 1,200 \text{ s.f. per tree}) / 43,560 \text{ s.f./acre} \\ = 0.35 \text{ canopy acres preserved/year}$$

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.

$$(2,250 \text{ sites/year} \times 1,200 \text{ s.f. preserved per tree}) / 43,560 \text{ s.f./acre} = 62 \text{ acres preserved}$$

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 (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.

$$(4400 \text{ permits/year} \times 2 \text{ trees planted} \times 600 \text{ s.f. per tree}) / 43,560 \text{ s.f./acre} \\ = 121 \text{ future acres planted/year}$$

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.

$$\begin{aligned} & (182 \text{ trees preserved/year} \times 1,200 \text{ s.f. per tree}) / 43,560 \text{ s.f./acre} \\ & = 5 \text{ acres tree canopy preserved/year} \end{aligned}$$

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.

$$\begin{aligned} & (1400 \text{ acres}) \times (1 \text{ tree planted/year/ per 10 acres}) \\ & = 140 \text{ trees planted/year} \\ & (140 \text{ trees planted/year} \times 600 \text{ s.f. per tree}) / 43,560 \text{ s.f. /acre} \\ & = 1.9 \text{ acres future canopy planted/year} \end{aligned}$$

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.

$$\begin{aligned} (18,000 \text{ acres}) \times (1 \text{ tree replaced per } 100 \text{ acres}) &= 180 \text{ trees replaced/year} \\ (180 \text{ trees planted/year} \times 600 \text{ s.f. per tree}) / 43,560 \text{ s.f. / acre} \\ &= 2.5 \text{ acres future canopy planted/year} \end{aligned}$$

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 |
| <u>Establishment</u> | <u>20 visits X .25 hr for 2 seasons</u> | <u>\$375</u> |
| | 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.

$$(\$535,000 / \$600 \text{ per tree}) = 892 \text{ trees}$$

$$(892 \text{ trees planted/year} \times 600 \text{ s.f. per tree}) / 43,560 \text{ s.f./acre} \\ = 12.3 \text{ acres of future canopy planted/year}$$

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.

$$(199.75 \text{ acres gross} / 12.3 \text{ acres}) = 16.24 \text{ times more canopy}$$

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.

$$(139.75 \text{ acres net} / 12.3 \text{ acres}) = 11.36 \text{ times more canopy}$$

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 used 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 on 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

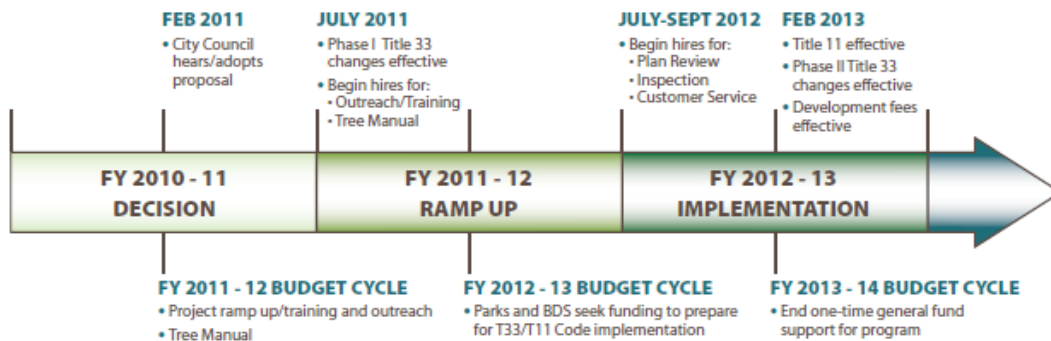
The bureaus worked together to generate projected costs and staffing for customer service improvements as described in previous report sections.

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.

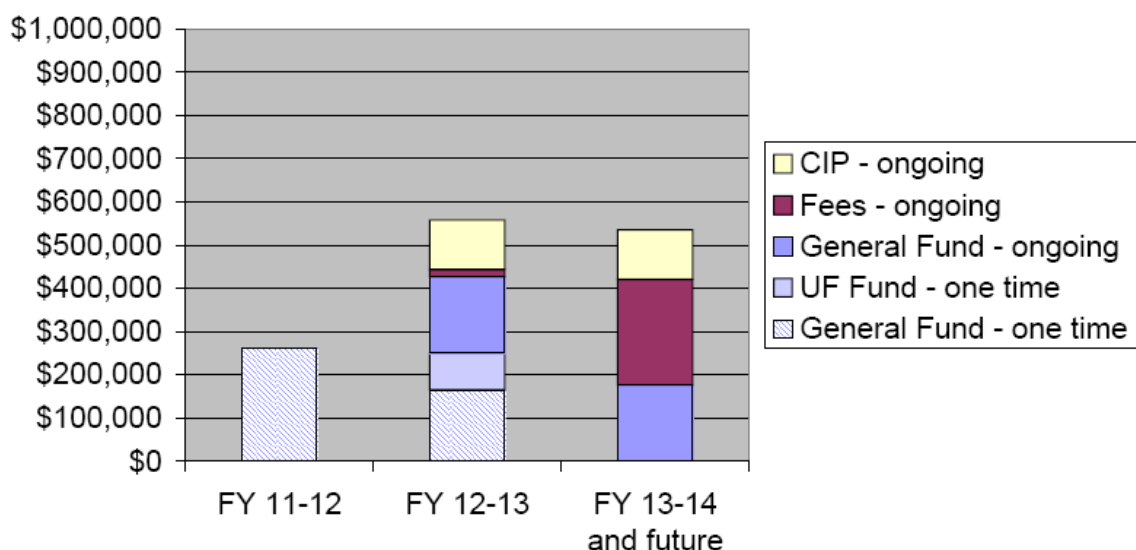
In addition, the commissions approved a phased project implantation strategy and funding strategy. The phased approach will provide time to prepare for the new codes to go into effect, including development of informational materials for staff and the public, conducting public outreach, upgrading the 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.



- **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 Summary by Fiscal Year and Funding Source



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 |

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 Consent 4/5ths X <input type="checkbox"/> <input type="checkbox"/> | 5. Date Submitted to FPD Budget Analyst: |

1) Legislation Title: Citywide Tree Policy Review and Regulatory Improvement Project

City Council will be asked to accept the Recommended Draft Report to City Council, and adopt 3 ordinances.

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:

- ADOPTED THROUGH SEPARATE 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.
- 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.
- SUBJECT OF THIS 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.
- ADOPTED THROUGH SEPARATE 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.

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 proposed code improvements and to customer service program improvements and projects are shown in the attached 3 tables Costs (staffing, equipment, materials and services) and recommended funding sources are shown for:

- a. FY 2011-2012 – Funding for tree permit tracking system upgrades, “ramp up” for new code, and community tree manual; phase 1 Title 33 amendments – Source: one-time general fund
- b. FY 2012-13 – Funding to implement Title 11, phase 2 Title 33 amendments, vehicle 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, Urban Forest fund
- c. FY 2013-14 – Funding for ongoing program activities (code administration and enforcement) – ongoing general fund, development and land use review fees

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 on the attached 3 tables. The positions and cost associated with this ordinance are listed under the “Land Use Review” heading.

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)

Citywide Tree Policy Review and Regulatory Improvement Budget Proposal

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 |