



184522

City of Portland

March 7, 2011

AUDITOR 03/07/11 PM 1:37

From: Commissioner Nick Fish *NF*  
Commissioner Dan Saltzman *DS*

To: Mayor Sam Adams  
Commissioner Amanda Fritz  
Commissioner Randy Leonard

Cc: Auditor LaVonne Griffin-Valade

Re: Tree Code Implementation

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The *Citywide Tree Policy Review and Regulatory Improvement Project*, now under consideration by the Council, consolidates regulations from ten City titles into one, Title 11. It also recommends numerous changes to streamline, simplify and improve accessibility for the public and staff.

Inspired by the same spirit that guided work on the regulatory package, we believe now is also the right time to take a closer look at implementation issues. Currently, the City's tree regulations are administered by no fewer than five City bureaus, each with a different mission, focus and expertise. This organizational fragmentation has raised a variety of concerns for stakeholders.

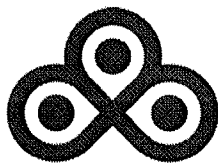
In order to ensure implementation is consistent, cost-effective and data-driven, in consultation with our colleagues, we have engaged a Special Projects Manager and charged her with the following assignment:

1. **Convene an interbureau workgroup to explore tree code implementation issues and make recommendations to the Council on the following issues:**
  - Organizational realignments
  - Staffing needs
  - Equipment needs

- Sustainable funding
  - Efficiencies to be gained through technology, streamlining or other means
  - Data collection needs; how to measure success
  - Timing of implementation
  - How penalties should be imposed, reduced or waived
2. **Convene a community advisory group and seek its feedback on the interbureau workgroup's deliberations.**
  3. **Return to Council by the end of July 2011 to present recommendations addressing the issues listed above.**

Hannah Kuhn, Special Projects Manager, will be leading this effort. She may be reached at 503-823-3595 or [Hannah.Kuhn@portlandoregon.gov](mailto:Hannah.Kuhn@portlandoregon.gov).

We look forward to working with you, your bureaus, and public stakeholders on this important project.



Bureau of Planning and Sustainability  
Innovation. Collaboration. Practical Solutions.

*Amendments not acted on  
2/2/11.*

February 2, 2011

TO: Mayor Adams and City Council

FROM: Joe Zehnder, Chief Planner

RE: Citywide Tree Project - Proposed Amendments to City Council Draft

Attached are proposed amendments to the Citywide Tree Project Recommended Draft to City Council (dated December 2010).

Nearly all the amendments are non-substantive clarifications, rewording to simplify or consolidate language, or typos. Several address recent requests from the Bureau of Development Services. A few of the amendments are substantive but minor and are not expected to be of concern to community stakeholders or bureaus.

The complete set of proposed amendments to Title 11, Trees and Title 33, Planning and Zoning are provided in attachments A1, A2, A3, B1, and B2.

Of the proposed amendments, three are substantive and more major, warranting City Council discussion and explicit direction. These are:

**Title 11, Trees:**

1. Broaden responsibility for Title 11 amendments dealing with development and enforcement to include the Planning and Sustainability Commission, to ensure a broad range of goals is considered. 11.10.040.
2. Exempt specified industrial, employment, and commercial zones from the Title 11 Tree Preservation and Tree Density standards in response to LUBA remand of North Reach River Plan. (11.50.040 and 050, as amended)

Apply the proposed standards in those I, E, and C zones that have existing 15% landscape area standards. The Tree Density standards do not exceed the required landscaped area, and trees preserved or planted may be used to meet both sets of standards. Property owners may plant elsewhere on the site or pay in lieu at their discretion. Funds go to plant trees anywhere in the watershed.

*(Return to Council with updated or supplemental recommendations if warranted when LUBA issues have been addressed.)*



City of Portland, Oregon | Bureau of Planning and Sustainability  
1900 SW 4th Ave. Suite 7100, Portland, OR 97201 | phone: 503-823-7222 | fax: 503-823-5311 | [portlandonline.com/bps](http://portlandonline.com/bps)

### Title 33 Planning and Zoning

3. Amend and re-adopt new Comprehensive Natural Resource Plan chapter (adopted previously as part of the North Reach River Plan 33.860)

This amendment establishes a 10-year "master plan" option for sites that contain one or more natural resource overlay zones (environmental, greenway n or q, Pleasant Valley). The City Council adopted this chapter with the North Reach River Plan with no controversy on this item.

Minor amendments proposed through the Tree Project will clarify that the tool may be used to manage natural areas as well as developed sites (requested by Metro).

The remaining amendments are primarily matters of clarification and minor changes to simplify application of the code. The following lists the subject matter of the issue and gives a brief description of the nature of the amendment. Additional detail can be found in the Attachments.

#### ATTACHMENT A1 (Proposed amendments to Title 11, Trees):

1. Broaden Planning Commission Role (see major substantive amendments above).
2. Replace permit thresholds table in Chapter 30 with public notice and appeal table.
3. Clarify public notice and appeal applicability in permit procedures section.
4. Clarify applicability of "homeowner" permit, define "Single Dwelling Developed Site".
5. Remove permit requirement for State/Federal/Court ordered activities, retain substantial conformance requirement for purposes of tree replacement.
6. Clarify that required public trees (<3") can't be removed without a permit.
7. Simplify standards for removal of dead and dying trees (City and Street Trees).
8. Clarify that Type B permits for removal of multiple trees excludes trees removed through a Type A permit (such as dead, dying, dangerous, nuisance, close to buildings, etc.).
9. Simplify standards for removal of dead and dying trees (Private Trees).
10. Reorganize sections for Tree Preservation and Density Standards for ease of use.
11. Clarify that tree plans apply throughout a development project (from demo through construction) and multiple project phases.
12. Clarify Tree Preservation exemption for Single Dwelling Developed Sites.
13. Expand Tree Preservation exemptions for IH, IG1, EX, CX, CS, CM and RX zones (see major substantive amendments above).
14. Clarify Tree Density exemptions for additions/exterior alterations and interior alterations.
15. Clarify Tree Density exemptions for sites subject to specific airport landscape standards.
16. Expand Tree Density exemptions for IH, IG1, EX, CX, CS, CM and RX zones (see major substantive amendments above).



17. Refine Development Impact Area Option to allow payment in addition to planting to meet tree density requirements for additional flexibility.
18. Relocate provisions relating to preserving Heritage Trees and other protected trees to a new section, "Where these regulations apply."
19. Clarify that Tree Plans for building permits only apply during the project. Following project completion, the site is subject to regular non-development tree permit requirements.
20. Clarify Table 50-2 refers to the planting area required for new trees.
21. Relocate geotech report submittal requirement to Title 24 Buildings, where it was located previously.
22. Rename Section 11.50.080 to make it easier to find emergency tree removal provisions.
23. Remove general tree planting location requirements and add as commentary.
24. Remove inadvertent reference allowing smaller size trees to be required in scenic corridors.
25. Provide flexibility for other sureties besides performance bonds to defer tree planting.
26. Clarify that root protection requirements of Title 11 may be applied to tree protection requirements of Title 33.
27. Define "County Urban Pocket Areas".
28. Correct erroneous references and terms.

For Issue #4, refer to **Attachment A2** for complete code language and commentary.  
 For Issues #10 through #20, refer to **Attachment A3** for complete code language and commentary.

#### **ATTACHMENT B1 (Proposed amendments to Title 33, Planning and Zoning)**

1. Clarify Pedestrian Connection Standards for consistent use of terms in code.
2. Clarify applicability of upgrading non-conforming parking lot landscaping.
3. Reinstate inadvertent omission of exemption to prune shrubs within 10 feet of structures in environmental zones.
4. For utility line projects in environmental zones, include allowances to plant replacement trees elsewhere in the overlay area when easements preclude tree planting between the utility line and stream.
5. Clarify tree removal for utility corridors applies to a development "site" and not each "lot" in the Johnson Creek, Rocky Butte and Scenic overlay areas.
6. Simplify tree replacement requirements for Johnson Creek Plan District.
7. Simplify tree replacement requirements for Rocky Butte Plan District.
8. Consolidate Street Tree requirements for land divisions into single chapter.
9. Reword land use review submittal requirements to be consistent with "Development Impact Area" terminology in Title 11.
10. Add new Chapter 33.860 Comprehensive Natural Resource Plans. (see description of major substantive amendments above, as well as **Attachment B2**)



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1	11.10.040 (p.19)	<p><b>Amending Title 11.</b> As proposed, the procedures to amend Title 11 require that the Urban Forestry Commission (UFC) hold a hearing. The Planning and Sustainability Commission (PSC) will provide advice to the UFC prior to the amendment going to Council for adoption.</p> <p>Concerns have been expressed, and it has been suggested that the Planning and Sustainability Commission be required to hold a public hearing and provide recommendations on changes to the development-related requirements of Title 11. The PSC has a broad charge to balance the many, varied, and sometimes conflicting goals of the Comprehensive Plan, as compared with the more targeted focus of the UFC. Members of the Development Review Advisory Committee feel that future revisions to portions of Title 11 warrant that balancing perspective and review.</p> <p><i>(substantive refinement)</i></p>	<p>Agree that development related requirements should be addressed by the Planning and Sustainability Commission. The UFC should remain the primary oversight body for the Title, but include the requirement that the PSC hold a hearing for development-related amendments.</p> <p>Revise this section as follows: <b>11.10.040 C.</b> Planning and Sustainability Commission (PSC). The PSC will provide advice on the proposed amendment to the UFC. The PSC <del>may choose to</del> <u>shall</u> hold a public hearing <u>for any proposed amendments to Chapter 11.50 Trees in Development Situations, Chapter 11.60 Technical Specifications, and Chapter 11.70 Enforcement.</u></p>												
2	11.30.020 Tbl 30-1 (p.43)	<p><b>Public Notice and Appeal for Tree Permits.</b> Replace Table 30-1 with appropriate procedural table. Permit threshold information is unchanged in Tables 40-2, 40-3, and 40-4. <i>(correction – no substantive change)</i></p>	<p>Agree.</p> <p><b>11.30.020 B. Types of Permits</b> Table 30-1 summarizes the activities <del>that are subject</del> <u>public notice and appeal procedures applicable</u> to a Type A or Type B permit.</p> <p>[Replace the proposed Table 30-1 with the following:]</p> <p style="text-align: center;"><b>Table 30-1</b> <b>Applicability of Public Notice and Appeal Procedures</b></p> <table><tr><th>Permit Type</th><th>Public Notice Required</th><th>Applicant May Appeal</th><th>Public May Appeal</th></tr><tr><td><b>A</b></td><td>No.</td><td>Yes</td><td>No.</td></tr><tr><td><b>B</b></td><td><b>Yes - for requests to remove healthy non- nuisance trees:</b><ul style="list-style-type: none"><li>• ≥ 20” diameter; or</li><li>• More than four trees ≥ 12” diam. per site or frontage per year;</li><li>• Excluding any trees subject to a Type A permit</li></ul><b>No - for other Type B requests</b></td><td>Yes</td><td><b>Yes - for requests to remove healthy non- nuisance trees:</b><ul style="list-style-type: none"><li>• ≥ 20” diameter; <u>or</u></li><li>• More than four trees ≥ 12” diam. per site or frontage per year;</li><li>• Excluding any trees subject to a Type A permit</li></ul><b>No - for other Type B requests</b></td></tr></table>	Permit Type	Public Notice Required	Applicant May Appeal	Public May Appeal	<b>A</b>	No.	Yes	No.	<b>B</b>	<b>Yes - for requests to remove healthy non- nuisance trees:</b> <ul style="list-style-type: none"><li>• ≥ 20” diameter; or</li><li>• More than four trees ≥ 12” diam. per site or frontage per year;</li><li>• Excluding any trees subject to a Type A permit</li></ul> <b>No - for other Type B requests</b>	Yes	<b>Yes - for requests to remove healthy non- nuisance trees:</b> <ul style="list-style-type: none"><li>• ≥ 20” diameter; <u>or</u></li><li>• More than four trees ≥ 12” diam. per site or frontage per year;</li><li>• Excluding any trees subject to a Type A permit</li></ul> <b>No - for other Type B requests</b>
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3	11.30.050 B.5 & C. (p. 52)	<b>Public Notice and Appeal for Tree Permits.</b> Clarify that public notice and public appeals procedures are limited to trees 20-inches or more in diameter or removal of more than four 12-inch diameter and larger trees per year.  (no substantive change)	Agree. With correction to Table 30-1, the following language will clarify that the public appeals are limited to removal of large trees and multiple trees, consistent with the intent expressed in Chapter 11.40. Revise these provisions as follows:  <b>11.30.050 B.5.</b> If the application is tentatively approved, <u>and public notice is required per Table 30-1</u> , the City Forester shall send notice... <b>11.30.050 C.</b> Appeal. The applicant may appeal the City Forester's decision. <u>In addition, when public notice is required per Table 30-1, the neighborhood association or any other person may also appeal.</u> Appeals shall be:...
4	11.40.020 B.2 (p.59)	<b>Tree Permits on developed single family homesites.</b> "Single dwelling site" needs to be defined, and clarified that the term includes sites in any zone that are developed with a single-dwelling, not just sites in single dwelling zones.  (no substantive change)	Agree. The intention is to include single dwelling sites in all zones, including commercial and multifamily zones, provided they contain a single house and meet the 3,000 square foot lot size limit.  See proposed definition of "Single Dwelling Developed Site" in ATTACHMENT 11-1.
5	11.40.020 D. (p.63)	<b>Hazardous Material Cleanup Orders.</b> Clarify that tree permits are not required for activities relating to hazardous material cleanup orders. These activities are exempt from city procedural requirements but must show that they substantively meet City requirements. State Law prevents the City from imposing permit requirements on these cleanup orders.  (substantive refinement to comply with State Law)	Agree. Revise Subsection 11.40.040 D. as shown to exempt such activities from tree permit requirements, instead requiring substantial conformance with tree replacement requirements.,  <b>11.40.040 D.</b> State, Federal, and court orders. Trees that must be removed or pruned by an order of the court, or State or Federal order, including hazardous material cleanup orders, are not subject to the <u>permit public notice and appeal procedures of this Title: Chapter 11.30 and however, the applicant must show substantive compliance with the approval standards and review factors of this chapter.</u> However, a tree permit is required and the tree replacement requirements of this chapter <del>shall be met.</del>
6	11.40.040 Tbl 40-2 (p.65)	<b>Removal of required trees requires permit.</b> Clarify that Street and City Trees planted to meet a City requirement may not be removed without a permit even if they are smaller than the minimum 3 inch diameter minimum regulated size threshold. There are no other provisions in the code to protect newly planted City or Street Trees.  (no substantive change)	Agree. Add a footnote below Table 40-2 stating:  <u>"Trees &lt;3 inches in diameter that were required to be planted may not be removed without a permit from the City Forester."</u>
7	11.40.040 A.4. (p.67)	<b>Dead and Dying Trees.</b> Simplify the standards for reviewing requests to remove Dead and Dying Trees. The proposed language was intended to key readers and implementers that alternatives may exist to treat diseased or damaged trees. However, this information is better conveyed by Forestry staff rather than being codified.  (no substantive change)	Agree. Revise <b>11.40.040 A.4</b> as follows: <b>a.</b> <del>Dead trees. For trees that are not completely lifeless, the City Forester may recommend a treatment regimen, including fertilization or inoculation, to revitalize the tree. The tree is dead or has been damaged beyond repair or where not enough live tissue, green leaves, limbs, or branches exist to sustain life.</del>  <b>b.</b> <del>Dying trees. The City Forester may recommend a treatment regimen, including fertilization or inoculation. For trees that are not treatable, The tree is 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.</del> The City Forester may apply a condition of approval to the permit to require specific disposal methods for infected wood.
8	11.40.050 Tbl 40-3 and Tbl 40-4 (p. 71, 73)	<b>Type A Permit allowance for trees less than 20 inches diameter.</b> Clarify the reference for removing "up to four trees per year" The proposal is that any number of dead, dying, dangerous, or trees on the City's Nuisance Plants List may be removed through a Type A permit. The 4-tree removal limit <u>only</u> applies to healthy, non-nuisance trees less than 20 inches in diameter.  (no substantive change)	Agree. Revise the statement in Tables 40-3 and 40-4 as follows:  "Up to four <u>healthy non-nuisance</u> trees per year"

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9	11.40.050 A.2. (p.77)	<b>Dead and Dying Trees.</b> Revise the standards for reviewing requests to remove Dead and Dying Trees per the rationale in Issue #7 above.  <i>(no substantive change)</i>	Agree. Amend Subsection 11.40.050 A.2 as proposed for Subsection 11.40.040 A.4, in Issue #7 above.
10	11.50 (p.91-107)	<b>Tree Preservation and Density in Development.</b> Clarify and reorganize exemptions to the Tree Density and Tree Preservation standards so that the reader can go to one section to see the requirements associated with each specific standard.  <i>(no substantive change)</i>	Agree. See proposed amendments and new organization of code sections in ATTACHMENT 11-2.
11	11.50.030 A.	<b>Tree Plans.</b> Clarify how the tree plan would apply tree preservation for demolition permits that are followed by a subsequent construction permit. Concern that the 35% standard would apply to on-site trees during demolition, and then only 35% of the remaining trees would be required to be retained for the subsequent construction. <i>(clarification - no substantive change)</i>	Agree. See proposed amendments to Section 11.50.020 in ATTACHMENT 11-2.
12	11.50.030 B.2.d (p.93)	<b>Tree Preservation Exemptions.</b> Clarify that this paragraph exempts from the tree preservation standards those lots that are developed with a single dwelling and are not further sub-dividable as intended. As currently worded, a tree smaller than 20 inches in diameter wouldn't qualify for this exemption and may be subject to the preservation requirement.  <i>(no substantive change)</i>	Agree. The intention is to relieve lots qualifying as Single Dwelling Developed Sites from the tree preservation requirements. Absent development, tree removal on these sites is subject only to a Type A permit and only for trees 20 or more inches in diameter. Applying the preservation standard to these sites would create a disconnect between the development and non-development related requirements. See proposed definition of Single Dwelling Sites in ATTACHMENT 11-1. See proposed amendments to Section 11.50.040 in ATTACHMENT 11-2
13	11.50.030 B. (p.93)	<b>Tree Preservation Exemptions.</b> The Oregon Land Use Board of Appeals (LUBA) remanded the North Reach River Plan, based largely on conclusions that the City did not adequately evaluate impacts on industrial land supply as required by State Land Use Planning Goal 9, Economic Development. The City Attorney has recommended that until further analysis has been completed to respond to issues raised in the LUBA opinion, that the Title 11 Tree Preservation and Tree Density Standards should not be applied within zones that do not have existing landscape standards, specifically the IH, IG1, EX, CX, CS, CM and RX zones. The standards would still be applied in zones that have existing landscape area standards. Applicants may choose to preserve trees or pay a fee in lieu into the Tree Planting and Preservation Fund to meet Tree Preservation standards. Applicants may utilize existing trees, plant new trees or pay a fee in lieu to meet Tree Density standards. Revenues from the fund may be used to plant or conserve trees anywhere in the same watershed that the development takes place, and are typically used to plant trees on City or other public property or rights of way.  <i>(substantive refinement to address LUBA remand)</i>	Agree. See proposed additional exemptions in ATTACHMENT 11-2.
14	11.50.030 C.1. (p.93)	<b>Tree Density Exemptions.</b> Clarify the exemptions for tree density related to "alterations" and "additions". Alterations include additions, which confuses the applicability of this exemption. Also, this list is missing a conjunction ("and","or") so it's unclear if all or just one of the conditions need to be met.  <i>(no substantive change)</i>	Agree. Also distinguish between single family additions and non-single family alterations, and clarify that on-site tree density standards do not apply to projects involving only interior alterations, and that the exemptions apply if any of the situations or conditions are met.  See proposed amendments to Section 11.50.050 in ATTACHMENT 11-2
15	11.50.030 C.2 (p.95)	<b>Tree Density Exemptions.</b> Clarify the tree density exemption for sites that are subject to the Airport Landscape standard. The proposed language includes sites within the Portland International Airport Plan District, but is silent on sites in the Cascade station/Portland International Center Plan District. The Airport Futures project has not yet been adopted by Council, so reference should be to the boundaries of the Airport Conditional Use Master Plan until the new plan district has been adopted. <i>(no substantive change)</i>	Agree. This was an inadvertent omission. Both plan districts are proposed to be subject to specific landscape requirements intended to prevent creating habitat that would attract species of concern to aviation.  See proposed amendments to Section 11.50.050 in ATTACHMENT 11-2



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16	11.50.030 (p. 95)	<b>Tree Density Exemptions.</b> See description in Item #13, above.  <i>(substantive refinement to address LUBA remand)</i>	Agree. See proposed additional exemptions in ATTACHMENT 11-2.			
17	11.50.040 (p.97)	<b>Development Impact Area Option.</b> Applicants utilizing the Development Impact Area Option to determine Tree Density requirements for large development sites should also have the option to pay a fee in lieu of planting. This is especially important for sites where tree planting would significantly disrupt existing improvements or operations. The fee would be tracked similar to sites meeting non conforming upgrade requirements for tree density. <i>(substantive refinement)</i>	Agree. See proposed amendment to the Development Impact Area Option in ATTACHMENT 11-2			
18	11.50.050 (p.97)	<b>Applicability of Tree Preservation Standards.</b> Clarify the applicability of the development-related requirements to Heritage Trees and trees required to be preserved through a land use condition of approval. These should not be in the preservation standard, but moved to "Where these regulations apply".  <i>(no substantive change)</i>	Agree. The Tree Preservation and Density Standards have been reorganized for a more logical flow. The applicability of the standard to Heritage Trees and other protected trees is made clearer by moving this language to "Where These Regulations Apply."  See proposed amendments and new organization of code sections in ATTACHMENT 11-2.			
19	11.50.050 A (p.97)	<b>Applicability of Tree Plan post construction.</b> Clarify that trees retained to meet development standards of Title 11 are not subject to any special protections following completion of the permitted development. Once the permit is final the regular rules apply. <i>(no substantive change)</i>	Agree. See proposed amendment to Section 11.50.020 in ATTACHMENT 11-2.			
20	11.50.060 A.2 Tbl 50-2 (p.101)	<b>Tree Density Requirement.</b> Clarify that the “minimum required area per tree” provision for tree density in this table refers to the planting area for new trees. This table is intended to require a minimum amount of soil volume for each tree, to ensure reasonable permeable area exists for root growth and tree trunk development. The standard is intended to help applicants anticipate and plan for newly planted trees to grow.  <i>(no substantive change)</i>	Agree. Revise the header in Table 50-2 as follows: <div><b>Table 50-2</b> <b>Tree Credits and Minimum Area Requirements</b> <b>Number of Required Trees and Minimum Planting Area</b><table><tr><th>Canopy size category (at maturity)</th><th>Number of trees required per size of tree area</th><th>Min. required planting area per tree (min. dimension)</th></tr></table></div>	Canopy size category (at maturity)	Number of trees required per size of tree area	Min. required planting area per tree (min. dimension)
Canopy size category (at maturity)	Number of trees required per size of tree area	Min. required planting area per tree (min. dimension)				
21	11.50.070 B.4. (p.107)	<b>Geotech Report Submittal Requirement.</b> Move the proposed geotechnical report requirement back to Title 24, Chapter 70, Clearing and Grading, and remove from Title 11. When the language relating to tree cutting permits was moved from Title 24 the associated geotechnical report requirement was also moved. These reports are required to address multiple site conditions addressed through the administration of Title 24, and could still be consulted if appropriate when addressing Title 11 development requirements.  <i>(no substantive change)</i>	Agree. Delete the requirement from Title 11 and replace in Title 24 as follows:  <b>11.50.070</b> Tree Plan Submittal Requirements. <b>B.</b> Narrative Requirements 4. <del>When removing 5 or more trees on a site with an average slope of at least 20 percent, provide a geotechnical engineering report that assesses the stability of the site after tree felling and root grubbing operations. The report shall be in accordance with Chapter 24.70.</del> <b>24.70.020</b> Permits. <b>C.</b> Tree Removal-cutting permit. Removal of trees six-inches and larger in diameter shall be reviewed with the clearing or grading permits as part of the Tree Plan review pursuant to Title 11. A tree cutting permit is required for tree cutting (except Christmas trees) and root grubbing operations on slopes with gradients which, in whole or in part, exceed 25%. This regulation applies when more than five trees of six inch diameter are to be cut or if the area to be cleared is greater than 2,500 square feet. This applies in all areas except those designated environmental zones under the provisions of Title 33. Tree cutting permits shall be issued in accordance with Section 24.10.070. <u>When removing 5 or more trees on a site with an average slope of at least 20 percent, provide a geotechnical engineering report that assesses the stability of the site after tree felling and root grubbing operations.</u>			
22	11.50.080 (p. 107)	<b>Emergency Situations during development.</b> Clarify that emergency situation provisions are provided in this section by adding the term to the Section title.  <i>(no substantive change)</i>	Agree. Reword Section header:  <b>11.50.080</b> Changes to Approved Tree Plans <u>and Emergency Situations.</u>			

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23	11.60.020 A.1. (p.109)	<b>Tree Planting Specifications.</b> The provision requiring consideration of site characteristics in choosing and siting a tree is not practical to implement or enforce and is better expressed as intent in the commentary.  <i>(substantive refinement)</i>	Agree. Move section 11.60.020 A.1 from code to commentary, renumber the subsequent paragraphs and reformat the text as follows:  For all trees, planting locations <del>shall</del> <u>should</u> be suitable for the anticipated size of tree at maturity considering available soil volume and above ground clearance, and avoid conflicts with utilities, buildings or other obstructions to the extent practicable.
24	11.60.020 B.3.	<b>Tree Planting Specifications.</b> The size requirement for native trees has been reduced for planting in natural resource areas as they are generally less accessible and typically not irrigated. The scenic corridor was inadvertently included in this list of areas, but should be removed as these areas are primarily along streets.  <i>(no substantive change)</i>	Agree. Delete "scenic corridor (s)" as follows:  <b>11.60.020 B.3.</b> Native tree exception. The minimum planting size for native broadleaf trees may be reduced to ½" caliper on sites when planted in an environmental (c, p), greenway (n, q or greenway setback and riverward portion of g, i, and r overlay zones), river environmental (e), <del>scenic corridor (s),</del> or Pleasant Valley Natural Resource (v) overlay zone.
25	11.60.020 E.2. (p.115)	<b>Mechanisms to Defer Planting.</b> The requirement for using Performance Guarantees to defer required planting on development sites creates a costly process for the City and applicant. Provide more flexibility for the implementing bureau(s) to establish efficient, cost-effective means to assure performance.  Retaining the performance guarantee language will authorize the bureaus to legally establish and collect deposits to ensure compliance; however, more flexible, less costly approaches may be able to be developed administratively. Allow for this flexibility in the code. <i>(no substantive change)</i>	Agree. Retain the existing authorization language for performance guarantees, and add flexibility for other approaches to be developed through administrative rule.  <b>11.60.020 E.2.</b> Timing. All trees required or approved to be planted by this Title shall be planted or payment in lieu of planting made prior to the expiration of the permit or City's final acceptance of the project, as applicable. However, planting of trees may be deferred between May 1 and September 30 upon filing a performance guarantee as provided in Section 11.10.060, <u>or other assurance deemed acceptable by the City Forester or Director, as applicable.</u>
26	11.60.030 B.1. (p.115)	<b>Applicability of Root Protection Requirements.</b> Clarify that these tree root zone protection requirements apply not only through Chapter 11.50 but also to meet other city code requirements, such as Title 33 Tree Preservation requirements for land divisions. <i>(no substantive change)</i>	Agree. Revise language as follows:  <b>11.60.030 B.</b> Applicability. These standards apply to any tree that is required to be retained on site or in the street during a development activity <del>subject to Chapter 11.50.</del>
27	11.80.020 B. (p.163)	<b>Definitions.</b> Define the term "County urban pockets"  <i>(no substantive change)</i>	Agree. Add the following definition to the code:  <u><b>11.80.020 B.</b> "County Urban Pocket Areas" refers to properties within unincorporated Multnomah County that are subject to the existing Intergovernmental Agreement to Transfer Land Use Planning Responsibilities Between the City of Portland and Multnomah County.</u>
28	Various pages	<b>Correct References</b> 1. Change all references of "County urban pockets" to "County Urban Pocket Areas", consistent with Issue #27, above. [See Subsections 11.05.040 B., 11.40.030 B., 11.50.020 B., 11.60.010 B., 11.70.020 B., and Table 70-1] 2. Remove references to River Environmental Zone from Subsections 11.40.020 B.3.; 11.60.020 B.3. & D.3.; and 11.80.020 B.19.b. (this zone is not in effect) 3. Section 11.10.050 change reference: "city public agencies", consistent with definition 4. Section 11.50.060 A.1. The 35% required tree area for institutional sites should be 25% as shown in the Proposed Draft to Planning and Urban Forestry Commission. 5. Section 11.80.020 B.14. Correct sentence as follows: "Development Permit" refers <u>to</u> permits issued by the City, <u>such</u> as building permits, zoning permits, site development permits, public works permits and capital improvement projects. 6. Section 11.80.020 B.33. Delete dash following the term "Watershed –" consistent with format for other definitions.	

LIST OF ATTACHMENTS	
A-2	Single Dwelling Developed Site
A-3	Tree Preservation and Density Requirements

Commentary

Chapter 11.40 – Tree Permit Requirements (No Associated Development)

Where These Regulations Apply

To clarify the applicability of the "homeowner permit," the term "Single Dwelling Developed Site" has been defined and is now simply referenced in this section.

Chapter 11.80 – Definitions and Measurements

This chapter is amended to add a definition for "Single Dwelling Developed Site". The original site size table has been revised to make it easier to use without changing the meaning.

11.40.020 B. Private Trees.

1. Generally. Trees at least 12 inches in diameter on sites and tracts not included in Paragraphs B.2 or B.3 are regulated by this chapter.
2. ~~Trees on single dwelling sites. On sites that meet all of the following, only trees at least 20 inches in diameter are regulated by this chapter. Trees at least 20 inches in diameter on Single Dwelling Developed Sites are regulated by this chapter. However, trees located in a specific overlay zone or plan district identified in Subsection B.3., trees required to be preserved by a tree preservation plan, a condition of a land use review, or provision of this Title or the Zoning Code; or any designated Heritage Tree may be subject to other requirements.~~

a. ~~— The site is already developed with a single dwelling;~~

b. ~~— None of the trees that will be affected by the proposed activity are:~~

(1) ~~— Located in an overlay or plan district listed in Paragraph B.3;~~

(2) ~~— Heritage Trees; or~~

(3) ~~— Required to be preserved by a tree preservation plan, a condition of a land use review, or provision of this Title or the Zoning Code; and~~

c. ~~— The site is not larger than the sizes listed in Table 40-1.~~
- Table 40-1 Maximum Site Size for Subsection 11.40.020 B.2.
- | Zone      | R2.5     | R5       | R7        | R10       | R20       | RF         | Other    |
|-----------|----------|----------|-----------|-----------|-----------|------------|----------|
| Site size | 4,749 sf | 9,499 sf | 13,299 sf | 18,999 sf | 37,999 sf | 165,527 sf | 2,999 sf |
- 11.80.020 B.26. "Single Dwelling Developed Site" are sites located in any zone that are developed with a single dwelling and where the site size is less than the following;
- | <u>Zone</u>      | <u>R2.5</u>     | <u>R5</u>       | <u>R7</u>        | <u>R10</u>       | <u>R20</u>       | <u>RF</u>         | <u>Non-single dwelling</u> |
|------------------|-----------------|-----------------|------------------|------------------|------------------|-------------------|----------------------------|
| <u>Site size</u> | <u>4,750 sf</u> | <u>9,500 sf</u> | <u>13,300 sf</u> | <u>19,000 sf</u> | <u>38,000 sf</u> | <u>165,528 sf</u> | <u>3,000 sf</u>            |
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Proposed Text to be deleted is ~~Strikethrough~~
- ATTACHMENT A-2 Page 1

## ATTACHMENT A-3

**Commentary**

Sections 11.50.020 through 060 have been reorganized to improve clarity. This document also incorporates several other amendments outlined in the Title 11 Amendment Package. These will be identified in the commentary that follows.

**When a Tree Plan Is Required**

Clarification: Adding the language "including demolitions and subsequent construction" specifies that a site is subject to a single preservation standard and tree plan for the duration of a particular project. This prevents the 35 percent tree preservation standard from being applied to the on-site trees through a demo permit, and then again to the trees that remain through a subsequent construction permit.

Clarification: Unlike land use reviews (Land Divisions, environmental reviews), tree plans required for development permits do not establish long term preservation requirements. Following final inspection, the site will be subject to the regular tree permit process of Chapter 11.40. This revision makes this intent clear.

**Development Impact Area Option for Large Sites and Streets.**

Revision: To provide greater flexibility for applicants that utilize the Development Impact Area Option for large sites, the amendment will allow payment of a fee in lieu of planting.

**Tree Preservation Standards**

Reorganization: Subsection A is adapted from language previously in Section 11.50.020 "Where these Regulations Apply". The term "County Urban Pocket Areas" will be defined in Chapter 11.80 Definitions through a separate amendment.

Clarifications and Revisions: Subsection B includes the list of situations that are exempt from the Tree Preservation Standards. Two minor clarifications are proposed in "B.2. " as well as a more substantive revision to exempt development in specific zones, see "B.1.b."

Substantive Revision: Subsection B.1.b. is added to exempt any portion of a site that is within the IH, IG1, EX, CX, CS, CM or RX zone from the Tree Preservation Standards. These zones do not currently have landscape requirements. This exemption is an interim response to the Oregon Land Use Board of Appeals (LUBA) recent remand of the North Reach River Plan, which is based in part on LUBA's determination that application of new planting requirements could affect industrial land supply. While the City determines how best to respond to the remand, this exemption eliminates additional tree planting requirements on sites with no existing landscaping requirements.

February 2, 2011

## Proposed Amendments to Tree Preservation and Density Requirements of Title 11

11.50.020 — Where These Regulations Apply.

[Subsections A. and B. have been moved into Sections 040-060.]

**11.50.030020 When a Tree Plan is Required.**

A. A tree plan is required in conjunction with all development permits, unless the site or activity is exempt from Section 11.50.040 both Tree preservation Preservation Standards; Section 11.50.050 On Site Tree Density Requirements; and Section 11.50.060 Street Tree Planting Requirements, and tree density in accordance with Subsections B. and C., below. If multiple development permits are required for a development proposal, including demolitions and subsequent construction, the same Tree Plan shall be included with each permit. For tree removal when no development permit is required or following completion of the development permit, see Chapter 11.40.

[Subsections B. and C. have been moved into Sections 040-060.]

**11.50.040030 Development Impact Area Option For Large Sites and Streets.**

Where development is proposed on a site larger than one acre or where work is occurring in the street and is not associated with an adjacent development site, the applicant may choose to establish a development impact area. For sites using the development impact area option, tree preservation requirements shall be based on the trees within the development impact area and on-site tree density will be based on meeting Option B as applied only to the area within the development impact area. Trees may be planted to meet tree density requirement elsewhere on the site. Payment in lieu of meeting the tree density standard is not allowed.

**11.50.050040 Tree Preservation Standards.**

A. Where these regulations apply.

1. This Section applies to trees within the City of Portland and trees on sites within the County Urban Pocket Areas.
2. Any Heritage Trees and trees required to be preserved through a land use condition of approval or tree preservation plan cannot be removed using the provisions in this Chapter, but may be counted toward the following tree preservation requirements of this Section.

B. Exemptions. The following are exempt from the tree preservation standards of this Section:

1. Development activities:
  - a. Where no ground disturbance will occur; or
  - b. On sites or portions of sites located within an IH, IG1, EX, CX, CS, CM or RX zone.
2. Sites meeting at least one of the following:
  - a. Contains no Private Trees 12 or more inches in diameter and no City Trees 6 or more inches in diameter.

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Proposed Text to be deleted is ~~Strikethrough~~

ATTACHMENT A-3 Page 1

## ATTACHMENT A-3

**Commentary**

Clarification: Subsection b., the term "site" was added to distinguish "site size" from "building size".

Clarification: Subsection d. is amended to simply use the term "Single Dwelling Developed Site" (see definition in ATTACHMENT 11-2):

Clarification: Added a subsection header for the preservation requirement.

**Proposed Amendments to Tree Preservation and Density Requirements of Title 11**

- b. Site size is 3,000 square feet or less in area;
  - c. Existing or proposed building coverage is at least 90 percent;
  - d. ~~Already developed with a house and qualifies for the Single Dwelling Provision in Chapter 11.40.020 B.2;~~ The site is a "Single Dwelling Developed Site";
  - e. Specific condition of land use review approval exempts the site from these preservation standards; or
  - f. Tree preservation requirements were addressed through a land division or planned development review under Title 33, Planning and Zoning and the requirements of that review are still in effect.
- 3. Street projects where the project area contains no Street Trees 3 or more inches in diameter.
  - 4. Trees that are dead, dying, dangerous, or a nuisance species, as documented in a Tree Plan per Subsection 11.50.070 B. These are subtracted from the total number of trees to be addressed by the standards.

**A-C. Tree Preservation Requirement**

Any trees preserved shall be protected in accordance with the specifications in Section 11.60.030

- 1. Private Trees.
  - ~~1a.~~ Tree Retention. An applicant shall preserve and protect at least 35 percent of the trees 12 inches and larger in diameter located completely or partially on the development site.  
Retaining trees at least 6 and less than 12 inches in diameter that are documented in a report prepared by an arborist or landscape professional to be Garry Oak, Pacific Madrone, Pacific Yew, Ponderosa Pine, or Western Flowering Dogwood species are not included in the total count of trees on the site but may be used toward meeting the 35 percent preservation standard.
  - 2b. Mitigation. For each tree removed below the 35 percent requirement, payment to the Tree Preservation and Planting Fund is required equivalent to the cost of two trees. See Section 11.15.010.
- B2. City and Street Trees.
  - ~~1a.~~ Tree Retention. For development on City owned or managed sites, new public streets, or improvements to existing streets, applicants are required to consult with the City Forester at the preliminary project design phase if City or Street Tree removal is likely to occur to complete the project. The purpose of this consultation is to identify potential impacts and opportunities to retain existing trees, as well as any measures required to protect trees on site, on adjacent sites, or in the street.

Commentary

**On Site Tree Density Standards**

Reorganization: The on-site and street tree requirements are split into separate sections to make it easier to relate the requirements and exemptions to each particular standard.

Subsection A is adapted from language previously in Section 11.50.020 Where these Regulations Apply.

Clarifications and Revisions: Subsection B includes the list of situations that are exempt from the On-Site Tree Density Standards. Three minor clarifications are proposed in "B.1." as well as a more substantive revision to exempt development in specific zones, see "B.2.c."

Clarification: The exemptions clarify that interior alterations are exempt from Tree Density requirements.

Clarification: Distinctions between additions to houses/ attached houses/ duplexes versus other development types have been added.

Clarification: Subsection f. is amended to clarify that the exemption applies to exterior alterations and additions when the project value is less than the Non-Conforming Upgrade threshold (currently \$132,850). When this threshold is triggered, the applicant would be subject to Non Conforming Upgrade requirements of the Zoning Code, and Tree Density is being added to the existing non-prioritized list of site improvement options (e.g., bicycle parking, pedestrian connection standards, and landscaping - refer to Title 33).

**2b.** Mitigation. Any required mitigation specified below shall occur on the site, in the street planter strip, or in the same watershed either by planting or a payment into the Tree Preservation and Planting Fund. The City Forester may reduce or waive the mitigation requirements.

**a-(1)** Approved Street Tree removal in conjunction with improvements to partially or fully unimproved streets. Each tree at least 12 inches in diameter that is allowed to be removed shall be replaced with at least one tree. Trees planted to meet Street Tree density will be credited toward meeting this requirement.

**b-(2)** Any other Street or City Tree allowed to be removed that is 6 or more inches in diameter shall be replaced with at least one tree in addition to trees required to meet required tree density.

**11.50.060050 On-Site Tree Density Standards.**

**A.** Where these Regulations Apply. This Section applies to all trees on sites within the City of Portland and trees on sites within the County Urban Pocket Areas.

**B.** The following are exempt from the on-site tree density standards:

1. Development activities associated with the following permits:

a. Demolition Permits

b. Site Development permits

c. Zoning Permits

d. Interior alterations;

**de.** Additions to a single dwelling or duplex that increase building coverage by less than 200 square feet; or

**ef.** Alterations: (1) Less than \$25,000 in project value are exempt from on-site and street Tree density standards; (2) Additions or exterior alterations to structures other than a single dwelling or duplex when the project value is less than the non-conforming upgrade threshold established in Title 33, Planning and Zoning. Title 33 Planning and Zoning are exempt from the on-site tree density standards only. When the value of the addition or alteration is equal to or greater than the non-conforming upgrade threshold identified in Title 33, the project is subject to Tree Density Standards through the application of Chapter 33.258.

## ATTACHMENT A-3

## Commentary

Substantive Revision: Exemptions from Tree Density standards for sites or portions of sites located in the IH, IG1, EX, CX, CS, CM or RX zones have been incorporated to respond to issues raised in the Oregon Land Use Board of Appeals (LUBA) remand on the North Reach River Plan. Exempting these zones is intended to address allegations that the Tree Density Standard establishes new planting standards that would affect the supply of land available for development on in these zones. Until issues surrounding the LUBA remand have been addressed, staff recommends that this exemption be included, and potentially reevaluated within the broader context of the Portland Plan. Tree Density standards will continue to apply in industrial, employment and commercial zones that have existing Zoning Code landscaping requirements. These existing Zoning Code provisions require landscape area that is equal to or greater than area to which the Tree Density Standards will apply, and trees planted in these areas can be used to meet both sets of standards. An applicant may also choose to pay in lieu of planting to meet Tree Density requirements into the Tree Planting and Preservation Fund. These revenues may be used to plant or conserve trees anywhere in the watershed, and typically the planting takes place on public lands or rights of way.

Clarification: PDX Futures has not yet been adopted, therefore the reference to the related Plan District is erroneous. The amended language will continue to apply the exemption to the affected area and subsequent passage of PDX Futures will amend this reference. The Cascade Station/ Portland International Center Plan District was inadvertently omitted from the list of exemptions. Sites in this area are subject to strict limits on landscaping and tree planting, consistent with the Airport wildlife hazard reduction objectives.

## Proposed Amendments to Tree Preservation and Density Requirements of Title 11

2. Sites meeting at least one of the following:
  - a. A specific condition of land use review approval exempts the site from these density standards;
  - b. The site is primarily developed with one of the following uses:
    - (1) Railroad Yards;
    - (2) Waste Related;
    - (3) Agriculture;
    - (4) Aviation and Surface Passenger Terminals;
    - (5) Detention Facilities;
    - (6) Mining;
    - (7) Radio Frequency Transmission Facilities; or
    - (8) Rail Lines and Utility Corridors;
  - c. Portions of sites located in an IH, IG1, EX, CX, CS, CM or RX zone.
  - ed. The site is within the boundaries of the Portland International Airport Plan District Conditional Use Master Plan Area or Cascade Station/Portland International Center Plan District and is subject to the Airport Landscape Standards; see Title 33, Planning and Zoning.
- AC. On-site Tree Density. ~~Private and City Trees.~~ Planting on sites shall meet the City specifications and standards in Chapter 11.60 and the following:
  1. The required tree area is based on the size of the site and the type and size of proposed and existing development. The applicant may choose Option A or Option B for calculating required tree area.



Commentary

Typo: The Tree Area for Institutional Development Type is capped at 25 percent as shown in the February 2010 Planning Commission/Urban Forestry Commission Proposed Draft, not 35 percent.

Clarification: The amended Table 50-2 heading is clear and more descriptive.

Table 50-1 Determining Required Tree Area

Development Type	Option A	Option B
One and Two Family Residential	Site area minus building coverage of existing and proposed development	40 percent of site area
Multi Dwelling Residential	Site area minus building coverage of existing and proposed development	20 percent of site area
Commercial/Office/Retail/Mixed Use	Site area minus building coverage of existing and proposed development	15 percent of site area
Industrial	Site area minus building coverage of existing and proposed development	10 percent of site area
Institutional	Site area minus building coverage of existing and proposed development	35 <u>25</u> percent of site area
Other	Site area minus building coverage of existing and proposed development	25 percent of site area

2. The required tree area shall be planted with some combination of large, medium or small canopy trees at the following rates:

Table 50-2  
~~Tree Credits and Minimum Area Requirements~~  
Number of Required Trees and Minimum Planting Area

Canopy size category (at maturity)	Number of trees required per size of tree area	Min. required <u>planting</u> area per tree (min. dimension)
Large	1 per 1,000 s.f.	150 s.f. (10' x 10')
Medium	1 per 500 s.f.	75 s.f. (5' x 5')
Small	1 per 300 s.f.	50 s.f. (3' x 3')

Refer to Chapter 11.60, Technical Specifications, to calculate tree canopy size categories. When the canopy size category of the tree species is not or cannot be determined, the tree will be considered a small tree.

~~C3.~~ Tree Density Credits

- ~~1a.~~ Trees planted to meet other requirements. Trees planted on site to meet any required stormwater or other landscaping requirement may be counted toward the On-site tree density requirements.
- ~~2b.~~ Trees that are retained and protected, including trees preserved per Section 11.50.050040, may be credited as follows:
- ~~a.(1)~~ Trees between 1.5 and less than 6 inches in diameter count as one small canopy size tree.



## ATTACHMENT A-3

## Commentary

**Street Tree Planting Requirements**

Reorganization: The on-site and street tree requirements are split into separate sections to make it easier to relate the requirements and exemptions to each particular standard.

Subsection A is adapted from language previously in Section 11.50.020 Where these Regulations Apply. Note that for street trees, these provisions do not apply in the County Urban Pocket Areas, since they are under the jurisdiction of the County Engineer and are not subject to the Intergovernmental Agreement.

Subsection B includes the list of situations that are exempt from the Street Tree requirements.

Clarification: The term "sidewalks" was added to ensure that sidewalk improvements will be required to integrate tree planting

Clarification: The provision has been clarified to recognize that existing trees can be used to meet the street tree requirement.

February 2, 2011

## Proposed Amendments to Tree Preservation and Density Requirements of Title 11

~~b.(2)~~ Trees 6 or more inches in diameter count as one medium canopy size tree for each full increment of 6 diameter inches.

**3c.** Payments made in lieu of planting to the Tree Fund. The applicant may pay a fee per tree which is equivalent to planting one medium canopy size tree.

**11.50.060 Street Tree Planting Requirements****A.** Where these Regulations Apply.

- 1.** This Section applies to all City-owned or -managed streets.
- 2.** For alterations where the project value is more than \$25,000, the cost of required Street Tree improvements is limited to 10 percent of the value of the proposed development.

**B.** Exemptions. The following are exempt from the Street Tree requirements:

- 1.** Additions, alterations, repair or new construction where the project value is less than \$25,000;
- 2.** The development activity is limited to the street, and does not modify or create s Sidewalks, tree wells, or tree planting areas; or
- 3.** Where physical constraints preclude meeting the Street Tree density requirement because:
  - a.** Existing above or below grade utilities prevent planting street trees; or
  - b.** The design of the street will not accommodate street tree planting because the planting strip is less than 3 feet wide, there is not a planting strip, or there is insufficient space to add tree wells.

**C.** Street Trees Planting.

Any proposed change in width in a public street right-of-way or any other proposed street improvement, including the development of new public streets, shall include areas for tree and landscape planting where practical. Utility connections and specifications for planting such areas shall be integrated into the site plan. Specific locations and species will be determined by the City Engineer and City Forester. Planting in public streets shall meet the specifications in Chapter 11.60 and the following:

- 1.** One Street Tree shall be planted or retained for each full increment of 25 linear feet per side of street frontage. When the required number of trees cannot be planted, a fee in lieu of planting may be required. For City projects, required trees that cannot be planted within the improvement area may be planted elsewhere in the same watershed, instead of paying a fee in lieu of planting.

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Proposed Text to be deleted is ~~Strikethrough~~

## ATTACHMENT A-3

## Proposed Amendments to Tree Preservation and Density Requirements of Title 11

No amendments on this page.

2. For projects affecting 200 linear feet of frontage or more, the applicant shall consult on the design of such improvements with the City Forester early in the project design phase to identify opportunities to integrate existing trees and maximize new street tree planting considering the planter width, the location of existing and proposed utilities, and visibility requirements.
3. When new streets are being created in association with a land division, Street Tree planting may be deferred until the completion of the building permit on each new lot, subject to City Forester approval.

**ATTACHMENT B-1 Amendments to Citywide Tree Project - Recommended Draft  
TITLE 33, PLANNING AND ZONING**

**February 2, 2011**

Item No.	Code Ref. (Page No.)	Description	Staff Recommendation
		Notes "Page No." refers to the page number in the Title 33 portion of Volume 4 of the Dec, 2010 Recommended Draft	Amendments proposed in the Dec, 2010 Recommended Draft are shown in <b>single underline</b> and <b>strikethrough</b> . Revisions to the Recommended Draft that add or delete language are shown with <b>double underline</b> or <b>strikethrough</b> . Language previously proposed to be added that is being deleted is shown with <u>underline/strikethrough</u> .
1	33.120.255 B.1.a. (p.19)  33.130.240 B.1.a (p.27)  33.140.240 B.1.a (p.31)	<b>Pedestrian standards.</b> Reword to refer to a "connection" rather than a "straight line connection" to provide for consistent code construction. Applies in multi-dwelling, commercial and employment/industrial base zones. <i>(clarification)</i>	<p>Revise as shown below:</p> <p><b>33.120.255.B.1 Pedestrian Standards – Connections</b> (Multi-dwelling zones)</p> <p>a. Connection between streets and entrances.</p> <p>(1) Sites with one street frontage.</p> <ul style="list-style-type: none"> <li>• <u>Generally.</u> [No change]</li> <li>• <u>Household Living.</u> Sites where all of the floor area is in Household Living uses are only required to provide a <del>straight line</del> connection to one main entrance on the site; <u>The connection may not be more than 20 feet longer or 120 percent of the straight line distance, whichever is less.</u></li> <li>• <u>Tree preservation.</u> [No change].</li> </ul> <p><b>33.130.240.B.1 Pedestrian Standards – Connections</b> (Commercial zones)</p> <p>a. Connection between streets and entrances.</p> <p>(1) Sites with one street frontage.</p> <ul style="list-style-type: none"> <li>• <u>Generally.</u> There must be a <del>straight line</del> connection between one main entrance of each building on the site and the adjacent street. <del>The straight line connection may not be more than 20 feet longer or 120 percent of the straight line distance, whichever is less.</del></li> <li>• <u>Household Living.</u> Sites where all of the floor area is in Household Living uses are only required to provide a <del>straight line</del> connection to one main entrance on the site. <u>The connection may not be more than 20 feet longer or 120 percent of the straight line distance, whichever is less.</u></li> <li>• <u>Tree preservation.</u> [No change]</li> </ul> <p>(2) Sites with more than one street frontage.</p> <ul style="list-style-type: none"> <li>• The standard of B.1.a(1) must be met to connect the main entrance of each building on the site to the closest sidewalk or roadway if there are no sidewalks. Sites where all of the floor area is in Household Living uses are only required to provide a <del>straight line</del> connection <u>meeting the standard of B1.a(1)</u> to one main entrance on the site;</li> </ul> <p><b>33.140.240 Pedestrian Standards – Connections</b> (Employment and Industrial zones)</p> <p>a. Connection between streets and entrances.</p> <p>(1) Sites with one street frontage.</p> <ul style="list-style-type: none"> <li>• <u>Generally.</u> There must be a <del>straight line</del> connection between one main entrance of each building on the site and the adjacent street. <del>The straight line connection may not be more than 20 feet longer or 120 percent of the straight line distance, whichever is less.</del></li> <li>• <u>Household Living.</u> Sites where all of the floor area is in Household Living uses are only required to provide a <del>straight line</del> connection to one main entrance on the site. <u>The connection may not be more than 20 feet longer or 120 percent of the straight line distance, whichever is less.</u></li> <li>• <u>Tree preservation.</u> [No change]</li> </ul> <p>(2) Sites with more than one street frontage. Where the site has more than one street frontage, the following must be met:</p> <ul style="list-style-type: none"> <li>• The standard of B.1.a(1) must be met to connect the main entrance of each building on the site to the closest sidewalk or roadway if there are no sidewalks. Sites where all of the floor area is in Household Living uses are only required to provide a <del>straight line</del> connection <u>meeting the standard of B1.a(1)</u> to one main entrance on the site;</li> </ul>

Item No.	Code Ref. (Page No.)	<b>Description</b> Notes "Page No." refers to the page number in the Title 33 portion of Volume 4 of the Dec, 2010 Recommended Draft	<b>Staff Recommendation</b> Amendments proposed in the Dec, 2010 Recommended Draft are shown in <u>single underline</u> and <del>strikethrough</del> . Revisions to the Recommended Draft that add or delete language are shown with <u>double underline</u> or <del>strikethrough</del> . Language previously proposed to be added that is being deleted is shown with <u>underline/strikethrough</u> .
2	33.258.070 D.1.a & D.2.b (p.45, 47)	<b>Non-conforming upgrades.</b> Removes existing language in non-conforming upgrades chapter related to expired Adjustments. With the reorganized list of upgrade options, this reference could be mistakenly read to indicate that only parking lot landscaping related to Adjustments approved prior to March 16, 2001 require upgrading. <i>(clarification)</i>	Delete the reference to Subsection 33.730.130.D, Expiration of adjustments approved prior to March 16, 2001. Revise as shown below.  <b>33.258.070.D Development that must be brought into conformance.</b> 1. Nonconforming development with a new conforming use or new nonconforming residential density. a. <u>Landscaping and trees required for the following areas:</u> • <u>Exterior display, storage, and work activity areas;</u> • <u>Setbacks for surface parking and exterior development areas;</u> • <u>Interior parking lot landscaping. See Subsection 33.730.130.D, Expiration of adjustments approved prior to March 16, 2001;</u> • <u>Existing building setbacks;</u> • <u>Minimum landscaped areas other than described above; and</u> • <u>Tree density standards of Chapter 11.50 for the site.</u> 2. Nonconforming development with an existing nonconforming use, allowed use, limited use, or conditional use. b. Standards which must be met. (1) <u>Landscaping and trees required for the following areas:</u> • <u>Exterior display, storage, and work activity areas;</u> • <u>Setbacks for surface parking and exterior development areas;</u> • <u>Interior parking lot landscaping. See Subsection 33.730.130.D, Expiration of adjustments approved prior to March 16, 2001;</u> • <u>Existing building setbacks;</u> • <u>Minimum landscaped areas other than described above; and</u> • <u>Tree density standards of Chapter 11.50 for the site.</u>
3	33.430.080 C.2 (p.55)	<b>Environmental zone pruning exemptions.</b> State that pruning shrubs within 10' of a building will continue to be exempt from environmental zone regulations. This exemption was inadvertently deleted when the current environmental zone tree pruning exemptions were consolidated into Title 11. <i>(clarification)</i>	Revise the proposed code to retain the current allowance for pruning trees and shrubs within 10 feet of buildings and make it consistent with updated language as shown below.  <b>33.430.080 Items Exempt From These Regulations</b> <b>C.</b> Existing development, operations, and improvements, including the following activities:  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. <u>Pruning trees and shrubs within 10 feet of structures</u> <u>Pruning trees and shrubs within 10 feet of buildings and structures attached to buildings, such as decks, stairs and carports;</u>

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4	33.430.150 E.5 (p.69)  33.465.155 F.4 (p.97)	<b>Environmental and Pleasant Valley Natural Resource overlay zone standards for utility lines.</b> Address the location of replacement plantings along streams when a utility easement does not allow tree planting. <i>(clarification)</i>	Revise as shown below:  <b>33.430.150 Standards for Utility Lines</b> <b>E.</b> <u>Tree removal and replacement standards are as follows:</u> 5. <u>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, except where a utility easement precludes tree planting.</u>  <b>33.465.155 Standards for Utility Lines</b> <b>F</b> <u>Tree removal and replacement standards are as follows:</u> 4. <u>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, except where a utility easement precludes tree planting.</u>																		
5	33.480.040B .g(4) (p.109)	<b>Scenic corridor tree preservation standards.</b> Reword the standard for tree removal related to utility installation to apply to a “site” as opposed to a “lot”. The intent was to apply the allowance to development sites which can be made up of several lots. <i>(clarification)</i>  <i>Note: The same revision is proposed for Rocky Butte and Johnson Creek Plan District chapters.</i>	Revise code language to allow tree removal within a utility corridor for each “site” as shown below.  <b>33.480.040.B.2 Development Standards - Scenic Corridors.</b> g. Preservation of trees. (3-4) <u>The tree must be removed due to installation, repair, or maintenance of is within a water, sewer, or stormwater services or other utility easement. For new installation of services, tree removal allowed under this provision is limited to a single 10 foot wide utility corridor on each lot site;</u>																		
6	33.537.125C .4 and C.6 Table 537-1 (p.127, 129)	<b>Johnson Creek plan district tree removal standards.</b> Simplify the proposed tree replacement standards, generally consistent with environmental zone standards. Also see Item No.4 for discussion of the proposed revision to 33.537.125.C.4. <i>(clarification/consolidation)</i>  <i>Note: The same revision is proposed in the Rocky Butte Plan District chapter.</i>	Consolidate tree size categories; require 2 to 1 tree replacement. Delete the proposed replacement tables because no longer needed. Revise to allow tree removal within a utility corridor for each “site”. Revise as shown below.  <b>33.537.125.C. Tree Removal Standards</b> 4. <u>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 site;</u>  6. <u>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 with two trees. 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</u>  <table><tr><th colspan="3">Table 537-1 Tree Replacement In Johnson Creek Basin Plan District</th></tr><tr><th colspan="3">Applicants may chose either Option A or Option B</th></tr><tr><th>Size of tree to be removed (inches in diameter)</th><th>Option A (no. of trees to be planted)</th><th>Option B (combination of trees and shrubs)</th></tr><tr><td>At least 6 to less than 9</td><td>1</td><td>not applicable</td></tr><tr><td>At least 9 to less than 12</td><td>3</td><td>2 trees and 2 shrubs</td></tr><tr><td>at least 12</td><td colspan="2">Tree Review Required</td></tr></table>	Table 537-1 Tree Replacement In Johnson Creek Basin Plan District			Applicants may chose either Option A or Option B			Size of tree to be removed (inches in diameter)	Option A (no. of trees to be planted)	Option B (combination of trees and shrubs)	At least 6 to less than 9	1	not applicable	At least 9 to less than 12	3	2 trees and 2 shrubs	at least 12	Tree Review Required	
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7	33.570.040C .4, C.6 & Table 570-1 (p.135, 137)	<b>Rocky Butte plan district tree removal standards.</b> See discussion under Item No. 4 and 5. Cross-reference 33.248 for replacement planting sizes. ( <i>clarification/consolidation</i> )	Revise as shown below.  <b>33.570.040.C Tree removal standards</b> <del>3</del> 4. The tree must be removed for installation, repair or maintenance of <del>is within a water, sewer, or stormwater services or other utility easement.</del> <u>For new installation of services, tree removal allowed under this provision is limited to a single 10 foot wide utility corridor per lot site.</u>  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 <del>according to Table 570-1 with two trees.</del> <u>Replacement plantings must meet Section 33.248.030, Plant Materials.</u>  Delete Table 570-1
8	33.630 Title, List of Sections 33.630.010 (p.141)  33.630.600 (p.163)  33.654.120H (p.169)	<b>Street tree standards for land divisions.</b> Consolidate land division standards regarding street trees from 2 chapters into the Rights-of-way chapter, which applies to all land divisions. Make corresponding change to the purpose statement and title of 33.630 since street tree planting will be addressed in a different chapter. ( <i>consolidation</i> )	Delete street tree standard in 33.630, change title of Chapter 33.630 back to "Tree Preservation" and update purpose statement consistent with change. Add relevant language to 33.654, Rights-of-way. See proposed changes below.  <b>AMEND CHAPTER 33.630, TREES PRESERVATION PRESERVATION</b> Change chapter title back to "Tree Preservation" where referenced throughout code.  Sections: <del>33.630.600 Standard for Trees in Existing Rights-of-Way</del>  <b>33.630.010 Purpose</b> <u>The land division process provides the flexibility and opportunity to promote creative site design that considers multiple objectives, including integration of trees. The regulations of this chapter preserve trees and mitigate for the loss of trees to require that trees be considered early in the design process with the goal of preserving high value trees, and mitigating for the loss of trees and ensuring space is available for street trees. Desired benefits of trees include:</u> [No change]  <del><b>33.630.600 Standard for Trees in Existing Rights-of-way</b></del> <del>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.</del> <del>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.</del>  <b>33.654.120 Design of Rights-of-Way</b> <b>H. Standard for Street Trees.</b> <u>For new existing and proposed public streets, the City Forester, in consultation with the City Engineer, has preliminarily approved the proposal street tree planting plan and found it acceptable for the retention of existing street trees and providing adequate areas for future street tree planting. For private streets, the Bureau of Development Services has preliminarily approved the street tree planting plan.</u>
9	33.730.060 C.3 (p.185)	<b>Submittal standards for land use reviews.</b> Reword land use review site plan requirements to refer to the development impact area option in Title 11, as opposed to "areas to be disturbed". ( <i>clarification</i> )	Revise site plan submittal standards as shown below:  <b>33.730.060.C.3 Required information for land use reviews except land divisions.</b> 5 <sup>th</sup> bullet: <ul style="list-style-type: none"> <li>The location, size and species of <del>a</del>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. <u>On sites where the development impact area option for large sites in Chapter 11.50 will be used, only trees within that area must be shown;</u></li> </ul>

Item No.	Code Ref. (Page No.)	Description	Staff Recommendation
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10	33.860 New Chapter  (See Vol. 1 Report, p.101)	<b>Add new Chapter 33.860 Comprehensive Natural Resource Plans.</b> This chapter was adopted as part of the River Plan/North Reach code package. It will not be going into effect in the near-term because of the recent LUBA decision on the River Plan. This chapter was not challenged as part of the LUBA case. It is recommended that it be adopted as part of the Citywide Tree Project because it provides an important tool for applicants that wish to take a master plan approach to sites in natural resource overlay zones. Some minor changes are proposed to what was originally adopted to address concerns expressed during the Citywide Tree Project process about the lack of a procedure to obtain approval for longer-range natural resource master plans for managed natural areas and other open spaces uses, such as golf courses or cemeteries. The changes clarify that the tool can be used for long-term resource management and enhancement projects, as well as for traditional development proposals.	See Attachment B-2, New Chapter 33.860, Comprehensive Natural Resource Plans.

LIST OF ATTACHMENTS	
B-1	New Chapter 33.860, Comprehensive Natural Resource Plans

COMMENTARY

Chapter 33.860 Comprehensive Natural Resource Plans

This chapter was adopted as part of the River Plan/North Reach code package, however it will not be going into effect in the near-term as a result of the recent LUBA decision on the River Plan. This chapter was not challenged as part of the LUBA case. It is recommended that it be adopted as part of the Citywide Tree Project because it provides an important tool for applicants that wish to take a master plan approach to sites in natural resource overlay zones. Some minor changes are proposed from what was originally adopted to clarify that this tool can be used for long-term resource management and enhancement projects, as well as for traditional development proposals to respond to concerns expressed during the Citywide Tree Project process.

This chapter was designed to allow a comprehensive review of multiple development actions occurring over time on sites containing natural resource areas. It will allow applicants to get approval for development and mitigation actions within the City's natural resource overlay zones for up to 10 years under one comprehensive land use review. This review will allow proposals to be evaluated in the context of the overall cumulative impacts on natural resource values and require mitigation accordingly. In addition, through a Comprehensive Natural Resource Plan, a property owner can gain flexibility to conduct mitigation in a phased approach that is more in line with how the planned activities are anticipated to unfold over the years. This will help to avoid situations where mitigation for one development action is conducted and then removed a few years later when additional development is approved. The Comprehensive Natural Resource Plan will allow a coordinated approach to planning development, disturbance and mitigation activities over time so that they will occur in a coordinated, efficient and holistic manner.

These plans are intended as a tool to provide flexibility for users such as universities, golf courses or cemeteries with long-term development and site and vegetation management strategies, and large industrial sites or facilities with ownerships that span multiple overlay zones (such as the Port). In addition, these plans could be used to guide resource management projects and activities in large natural areas, such as Smith and Bybee Lakes.

A Comprehensive Natural Resource Review can take the place of Environmental Review, Pleasant Valley Resource Review, and Greenway Review in the River Natural and River Water Quality overlay zones.

CHAPTER 33.860  
COMPREHENSIVE NATURAL RESOURCE PLANS

Sections

- 33.860.010 Purpose
- 33.860.020 When a Comprehensive Natural Resource Plan Is Allowed
- 33.860.030 Duration of a Comprehensive Natural Resource Plan
- 33.860.040 Procedure
- 33.860.050 Amendments to a Comprehensive Natural Resource Plan
- 33.860.100 Application Requirements
- 33.860.200 Approval Criteria
- 33.860.250 Overlay Zone Map Refinement

**33.860.010 Purpose**

For sites within one or more of the City's natural resource overlay zones, a Comprehensive Natural Resource Plan is intended to allow for the following:

- A. Comprehensive consideration of future plans for sites where multiple development, disturbance, or resource enhancement actions are anticipated over time within one or more natural resource overlay zones. An adopted resource plan may substitute for case by case Environmental Review, Pleasant Valley Resource Review, or River Review. Comprehensive Natural Resource Plans may be completed at various levels of detail. Generally, the more specific the plan, the less review will be required as the future development is built;
- B. Comprehensive consideration of the long-term cumulative impacts of development within a natural resource overlay zone, with attention paid to site-specific goals and objectives. With a Comprehensive Natural Resource Plan impacts to natural resources may be avoided by coordinating the timing of different development actions;
- C. Mitigation and resource enhancement strategies that occur throughout the life of the plan, with greater flexibility for when and how specific mitigation actions occur in relation to specific development impacts;
- D. Comprehensive consideration of resource management and enhancement projects for large natural areas or open space uses;
- E. A more integrated structure for considering overlay zone mapping refinements; and
- F. Greater coordination with local, state and federal agencies.

**33.860.020 When a Comprehensive Natural Resource Plan Is Allowed**

A Comprehensive Natural Resource Plan is allowed as an alternative to Environmental Review, Pleasant Valley Resource Review, or Greenway Review for sites that are fully or partially within one or more of the following natural resource overlay zones:

- A. Environmental Protection;
- B. Environmental Conservation;
- C. Pleasant Valley Natural Resource;
- D. River Natural; or
- E. River Water Quality.



## ATTACHMENT B-2

## COMMENTARY

**33.860.030 Duration of a Comprehensive Natural Resources Plan**

The plan may be approved for up to 10 years and must include all proposed development and disturbance activities on the site.

**33.860.040 Procedure**

Comprehensive Natural Resource Plans will originally be approved through a Type III review. Tentative proposals may be identified in the plan that are generally anticipated, but lack sufficient detail to evaluate their full impact and necessary mitigation. For example, construction management plans may not be available until the specific designs are completed. These tentative proposals can be approved subject to a second Type 1 review to evaluate those details.

**33.860.050 Amendments to a Comprehensive Natural Resource Plan**

This section specifies the review procedure that will be required if an applicant proposes an activity that is not included in the approved Comprehensive Natural Resource Plan. A Type III procedure is required for significant new impacts, such as new development or disturbance within an environmental protection zone or an increase of more than 10 percent in the area proposed to be developed or disturbed. Other amendments are processed through a Type II procedure.

## Proposed Amendments to add Chapter 33.860 Comprehensive Natural Resource Management Plans

**33.860.030 Duration of a Comprehensive Natural Resources Plan**

The Comprehensive Natural Resource Plan may be approved for up to 10 years. The plan must include proposed development, disturbance, or resource enhancement activities, and possible future development, disturbance, or resource enhancement activities that might occur within the next 10 years.

**33.860.040 Procedure**

A Comprehensive Natural Resource Plan is processed through a Type III procedure. Some proposals in a Comprehensive Natural Resource Plan may be identified as tentatively approved, and subject to an additional Type 1 procedure at a later date. The additional review will evaluate more detailed proposals and ensure conformance with the plan.

**33.860.050 Amendments to a Comprehensive Natural Resource Plan**

Amendments to a Comprehensive Natural Resource Plan are required for any development within the boundaries of the River Natural, River Water Quality, Pleasant Valley Natural Resources, environmental conservation, or environmental protection overlay zones that is not in conformance with the approved Comprehensive Natural Resource Plan. Amendments are not required for development listed as exempt from the relevant overlay zone regulations. Amendments are subject to the same approval criteria as the initial resource plan. The thresholds and procedures for amendments are stated below.

- A. Type III procedure.** Unless the resource plan specifically provides differently, the following amendments to a resource plan are processed through a Type III procedure:
  1. Any proposed development or disturbance within the environmental protection overlay;
  2. A proposed reduction in the area of the environmental protection overlay;
  3. An increase in the area proposed for development or disturbance more than 10 percent from what was included in the original resource plan;
  4. Substantial changes to conditions of approval; and
  5. Proposed development that was previously reviewed, but was denied because it was found not to be in conformance with the approval criteria.
- B. Type II procedure.** Unless the resource plan specifically provides differently, amendments to a resource plan not specifically stated in Subsection A. above are processed through a Type II procedure.

## ATTACHMENT B-2

## COMMENTARY

**33.860.100 Application Requirements**

Comprehensive Natural Resource Plans may be completed at various levels of detail. Generally, the more specific the plan, the less review will be required as the future development, disturbance or resource enhancement activities take place.

## Proposed Amendments to add Chapter 33.860 Comprehensive Natural Resource Management Plans

**33.860.100 Application Requirements**

An application for a Comprehensive Natural Resource Plan must include the following components:

- A.** An inventory of identified significant natural resources and functional values present within the site. Identified resources and functional values are those identified and described in the applicable City-adopted Natural Resources Inventory. The applicant may choose to provide a site-specific environmental assessment, prepared by a qualified consultant, to more precisely determine the location, type, extent, and quality of the City designated natural resources on the site. This assessment may verify or challenge the site feature information in the City's inventory. Site features include, for example, physical aspects of the site such as streams, wetlands, seeps and springs, topography, floodplains, vegetation, special habitat areas, or use of the site by plant/animal species of interest;
- B.** A description of proposed natural resource overlay zoning map refinements to be approved with the adoption of the resource plan.
- C.** A list of proposed development within natural resource areas to be approved with the adoption of the resource plan. The list must identify the development that will be allowed without further land use reviews, and the development that will be tentatively approved.
- D.** Other information necessary to understand the natural resource impacts associated with the listed development proposals.
- E.** A list of management objectives and strategies that will be used to maintain or enhance identified resources and functional values.
- F.** A description of the specific natural resource enhancement and mitigation actions proposed with the resource plan. This may include actions to be taken both on- and off site, as well as specific physical actions and programmatic actions related to natural resource conservation and protection.
- G.** Site plans and other maps necessary to understand the listed development and mitigation actions anticipated over the life of the resource plan, including maps of areas where mitigation and enhancement will occur and where development and uses will occur.
- H.** Timetables for the development, disturbance, mitigation, and resource enhancement actions;
- I.** A summary of anticipated state and federal permits required for the proposed development, disturbance, mitigation, and resource enhancement actions; and
- J.** The supplemental application requirements that would be required if the proposal were going through Environmental Review, Pleasant Valley Resource Review, or Greenway Review.

## ATTACHMENT B-2

## COMMENTARY

**33.860.200 Approval Criteria**

The approval criteria for a Comprehensive Natural Resource Plan have been modeled on the approval criteria for a Conditional Use Master Plan. The criteria focus comprehensively on the proposed development actions that will occur over the life of the plan. The criteria address the cumulative impacts of development over time, mitigation and phasing for mitigation actions, and the integration of resource conservation, protection and enhancement into the overall goals for the site.

**33.860.200.D** This criterion describes how to balance the need for detailed plans with the level of detail possible with a comprehensive plan. It allows certain actions to be identified for additional review. Tentative approval is appropriate for development that is generally anticipated but lacks specific development plans at the time of the resource plan submittal. The plan may also specify standards that will apply to projects at the time of development permitting. This allows additional flexibility for projects to occur without a future land use review when the scope of impacts can be limited through standards.

Criterion "D", requires that the Comprehensive Natural Resource Plan meet all relevant approval criteria for other reviews that would be required if the proposal was going through a resource review, such as Environmental Review. Therefore, resource enhancement projects will be subject to the relevant criteria for those reviews.

Criterion "D" also requires that the criteria of adopted Natural Resource Management Plans (NRMP) be met. NRMPs govern projects and mitigation for certain geographic areas. During the Citywide Tree Project process, property owners located within these areas raised concerns about adopted NRMPs being out of date and no longer allowing for projects that they would like to undertake. Property owners have expressed interest in using the Comprehensive Natural Resource Plan process to obtain long-term approval of planned activities, however in some cases that may not be possible because the projects do not conform to the current NRMP criteria. NRMPs are difficult to update because a legislative process is required. Because approval and amendment of a Comprehensive Natural Resource Plan is a quasi-judicial process, they can be developed and updated at the request of the applicant.

Applicants in NRMP areas will have the option to use the Comprehensive Natural Resource Management Plan tool, provided they meet the criteria of the adopted NRMP. If they are not able to meet the criteria of the NRMP, they would need to undergo a legislative process to change the NRMP criteria or to remove their property from the boundary of the NRMP.

## Proposed Amendments to add Chapter 33.860 Comprehensive Natural Resource Management Plans

**33.860.200 Approval Criteria**

A Comprehensive Natural Resource Plan, or an amendment to a Comprehensive Natural Resource Plan, will be approved if it meets the following approval criteria:

- A.** The plan establishes coordinated phasing of the development, disturbance, or resource enhancement actions within the natural resource overlay zones, with the goal of avoiding impacts that might arise if each action were planned separately. The plan includes the timing of anticipated construction access routes, building construction sequencing, and disturbance area boundaries for the site as a whole;
- B.** The plan will integrate natural resource conservation, protection and enhancement with other site planning plan goals and objectives;
- C.** On balance, the proposed mitigation plan demonstrates that all anticipated significant detrimental impacts on identified resources and functional values will be compensated for within the life of the plan. Each mitigation action is not required to directly correlate with a specific development proposal, but the overall mitigation plan will be evaluated against the overall list of anticipated uses and development actions, including cumulative impacts. The mitigation plan must include performance standards for judging mitigation success, a specific timetable for mitigation actions during the life of the plan, and a specific monitoring schedule;
- D.** The plan must demonstrate that all relevant approval criteria that would apply if the proposal was proceeding through an Environmental Review, Pleasant Valley Natural Resource Review, or Greenway Review, including approval criteria from an adopted Natural Resource Management Plan, are met. Consideration will be given to the level of detail provided with the plan application. Proposals that address most of the relevant approval criteria, but are not detailed enough to address all of the relevant approval criteria may be identified for tentative approval. Conditions of approval may be imposed to list those aspects of the plan subject to tentative approval, and to specify which approval criteria need further evaluation through a later review. The decision may also specify standards for future development or resource enhancement activities.

## ATTACHMENT B-2

## COMMENTARY

**33.860.250 Overlay Zone Map Refinement**

This section provides for environmental or Pleasant Valley natural resource overlay zone boundaries to be modified as part of the Comprehensive Natural Resource Plan process, instead of requiring a separate review to make changes. The river natural and river water quality overlay zones are not listed because they are applied to full parcels instead of being mapped based on the location of resources. Therefore, it would not be appropriate to refine/change the boundaries in those overlay zones.

## Proposed Amendments to add Chapter 33.860 Comprehensive Natural Resource Management Plans

**33.860.250 Overlay Zone Map Refinement**

The boundaries of the environmental conservation, environmental protection, and Pleasant Valley Natural Resource overlay zones may be modified as part of a Comprehensive Natural Resource Plan in any of the three situations stated below. All other requests for boundary changes are processed as a change of an overlay zone, as stated in Chapter 33.855, Zoning Map Amendments.

- A. Creation of new resource areas.** The natural resource overlay zone will be expanded as part of the Comprehensive Natural Resource Plan to include areas identified for mitigation.
- B. Loss of existing resource areas.** The natural resource overlay zone may be removed from an existing natural resource zone where approved development will eliminate the natural resource.
- C. Minor modification of natural resource zone boundaries based on a more detailed site-specific environmental study.** The natural resource zone line location may be modified to more accurately reflect the location of the identified resources and functional values on the site. The identified resources and functional values are those identified and described in the applicable City-adopted Natural Resources Inventory. The applicant may supplement the City's inventory information with a site specific assessment. The proposed new overlay zone line must be consistent with any legislative intent expressed when the overlay was applied to the site.



City of Portland  
Bureau of  
**Planning and  
Sustainability**

Sam Adams, Mayor  
Susan Anderson, Director

**Planning**

1900 S.W. 4th Ave., Ste. 7100  
Portland, OR 97201-5350

Phone 503-823-7700  
FAX 503-823-7800  
TTY 503-823-6868

**Sustainability**

721 N.W. 9th Ave., Ste. 195  
Portland, OR 97209-3447

Phone 503-823-7222  
FAX 503-823-5311  
TTY 503-823-6868

[www.portlandonline.com/bps](http://www.portlandonline.com/bps)

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**MEMORANDUM**

To: Mayor Sam Adams

From: Susan Anderson, Director

Date: January 19, 2011

**1. Ordinance Titles:**

a. Amend and consolidate existing tree regulations into new Code Title 11, Trees, adopt companion amendments in other Titles, and direct the establishment of customer service improvements and implementation funding (Ordinance; add Code Title 11 and amend related Titles)

b. Authorize Second amendment to the 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.

c. 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.

**2. Contact Name, Department, & Phone Number:**

Roberta Jortner, Bureau of Planning and Sustainability, x3-7855

**3. Scheduled Council Date:** February 2, 2011, 6 p.m. Time Certain

Consent Agenda Item: \_\_\_\_\_ or Regular Agenda Item:  X

Emergency Item (answer below): \_\_\_\_\_ or Non- Emergency Item:  X

**4. History of Agenda Item/Background:** The project was assigned a high priority in the adopted Urban Forestry Management Plan – Action Strategy (2007). The City Council funded the project in FY 2007-2008 in response to community urgings.

**5. Purpose of Agenda Item:** To respond to community concerns regarding the City's tree regulations and the loss of trees, and to achieve outcomes outlined in the adopted Urban Forestry Management Action Plan, specifically:

- Create a consistent, cohesive regulatory framework for trees in Portland
- Protect and enhance the quantity, quality, and distribution of Portland's urban forest. particularly through development and redevelopment

Adopting the Citywide Tree Project proposal will:

a. Consolidate City tree rules into a single code title, Title 11, Trees

- b. Elevate the role of the urban forest, treating trees as infrastructure
- c. Establish flexible development and root zone protection standards to encourage tree preservation
- d. Improve the quality and quantity of trees preserved and planted through development situations, and help the City meet its tree canopy targets
- e. Standardize and streamline the existing tree permit system
- f. Address trees more consistently in environmental resource areas, riparian corridors, and specific plan districts
- g. Align City tree regulations with Portland's Invasive Species Management Strategy
- h. Improve customer service by establishing a single point of contact, 24-hour tree hotline, improved tree permit tracking system and a community tree manual

The proposal reflects extensive collaboration with community stakeholders, City bureaus, and the Portland Planning Commission (now Planning and Sustainability Commission) and the Urban Forestry Commission. The proposal is intentionally designed to support multiple City goals, including goals for development and economic prosperity, public health and neighborhood livability, and healthy, functioning watersheds. The proposal will also help the City meet federal, state and regional mandates including Clean Water Act and Metro Title 13, Nature in Neighborhoods.

The proposal is intended to be cost-effective and efficient, putting process where process is due, avoiding increased permitting time and undue impact in costs, and creating streamlined procedures that are easy to understand and comply with. A phased implementation strategy is proposed to provide time to develop new and improved procedures, develop informational materials and agreements, and conduct public outreach.

6. **Legal Issues:** Some Ladd's Addition residents and the Hosford-Abernathy Neighborhood Association contend that the proposed prohibition on planting City-listed Nuisance species trees on City property and rights-of-way is counter to the Ladd's Addition Conservation District Guidelines. The City Attorneys office has reviewed their testimony and input from the State Historic Preservation Office, and provided assistance in developing the relevant ordinance findings and proposed clarifications to the guidelines.

7. **What individuals or groups are or would be opposed to this ordinance? Supportive?**

Support: Many neighborhood representatives and residents from throughout the city testified in support of the proposal before the Planning Commission and Urban Forestry Commission.

Supporters of the proposed stronger tree preservation and planting requirements for new development and a standardized permit system include local watershed councils, soil and water conservation districts, Friends of Trees, the Audubon Society of Portland, local economists involved with tree-related socio-economic research, and a number of individual Portland residents.

Agencies such as the Multnomah County Drainage district support the proposed Programmatic Permit and more flexibility in assigning tree permit duration.

Most testifiers expressed support for one or more customer service improvements including the Community Tree Manual, single point of contact, and 24-hour tree hotline.

Oppose: The Hosford-Abernathy Neighborhood Association and several Ladd's Addition residents oppose the proposed prohibition on planting of City-identified nuisance/invasive trees on City property or City streets. This is because the popular Norway maple, which is currently on the City's adopted Nuisance Plants List, could not be replanted in Ladd's Addition. These concerned parties feel that the prohibition would adversely affect

neighborhood character and historic resources, and would conflict with the designation of Ladd's Addition on the National Register of Historic places.

At the Planning Commission/Urban Forestry Commission hearing, the Homebuilders Association and several developers expressed opposition to development related requirements in the previous draft (dated February 2010). The commissions directed a number of revisions to address their concerns, particularly regarding the feasibility of construction on small lots. There may still be some remaining concerns, including worry that the proposal is coming a time when the Bureau of Development Services is understaffed due to budget cuts.

Some arborists expressed concern about the initial tree permit proposal as relates to homeowners. The Planning Commission and Urban Forestry Commission directed revisions to establish a simplified permit for homeowners. However, there may still be concerns.

8. **How Does This Relate to Current City Policies?** This proposal will better align City tree regulations to support the goals and objectives of Portland's Urban Forest Management Plan, Watershed Management Plan, and Climate Action Plan. The proposal is designed to support City goals for development as well, including infill and compact urban growth. The proposal also identifies policy issues that should be addressed through the evaluation of alternative growth scenarios and urban form options through the Portland Plan.

9. **Community Participation:** The Citywide Tree Project has involved extensive collaboration with community stakeholders. A broad-based stakeholder committee worked with City staff for almost a year to evaluate problems with City tree regulations and potential solutions. Staff provided numerous briefings to groups such as neighborhood organizations and the Citywide Land Use Group, the Development Review Advisory Commission, Homebuilders Association, local watershed councils.

Initial proposed solution concepts were vetted before the Planning Commission, Urban Forestry Commission and a number of local committees.

Notice of the Proposed Draft was sent to 621 people and organizations on the Citywide Tree Project mailing list and the Bureau of Planning and Sustainability's Legislative Mailing List. This includes all neighborhood and business associations. The notice also informed them of an opportunity to comment at a joint hearing before the Planning Commission and Urban Forestry Commission. Staff met with interested organizations and held two public open houses prior to the hearing. The Planning Commission and Urban Forestry Commission accepted written and oral testimony over the five month period between February and July 2010. More than 70 individuals and organizations testified during this period.

Notice of the City Council hearing was sent to 756 people on the updated combined project mailing list and Legislative Mailing List. Staff held a public open house to provide information and answer questions about the project on January 19<sup>th</sup>.

In addition, a project website was maintained throughout the course of the project and includes postings of issue papers, stakeholder committee meeting notes, project newsletters and a set of frequently asked questions and answers, draft documents, and notice of upcoming events.

10. **Other Government Participation:** Because this proposal involves amending multiple City titles, this project involved ongoing collaboration between the Bureaus of Planning and Sustainability, Parks and Recreation, Development Services, and Environmental Services, as well as coordination with the bureaus of Water, Transportation and Fire and

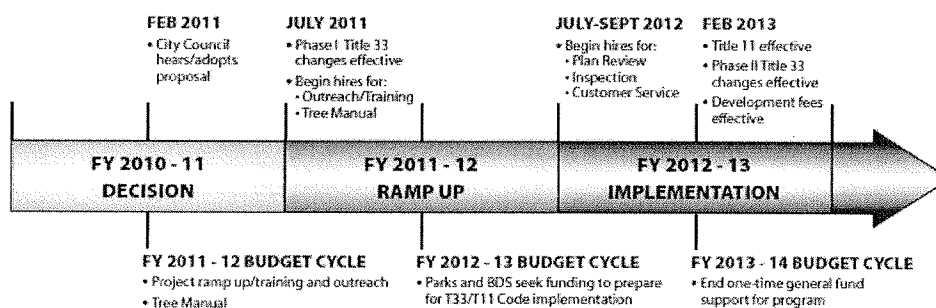


Rescue. Staff has coordinated with Multnomah County regarding those parts of the proposal that will apply in the urbanizing pockets within the City urban services boundary. The Multnomah County Drainage District was a member of the project stakeholder advisory committee, and staff has met with the Port of Portland to address issues relating to trees on industrial sites and at Portland International Airport. Staff met with a number of other cities in the Portland Metro region to discuss their tree regulatory programs, and is communicating with Metro since the project is part of the City's phased Title 13 compliance strategy. Staff also worked with Metro to identify ways to streamline review and updates of resource management strategies for areas such as Smith and Bybee Wetlands.

#### 11. Financial Impact:

The directors of the bureaus of Parks and Recreation, Development Services, Environmental Services and Planning and Sustainability are proposing a phased project implementation strategy to provide time to prepare for implementation, provide public outreach, and phase in the costs. The phasing would work as follows:

- a. FY 2011-2012 – Fund tree permit tracking system upgrades, 1 FTE each in Parks and BDS to “ramp up” for new code, and produce the community tree manual; phase 1 Title 33 amendments – Funding source: one-time general fund
- b. FY 2012-13 – Fund 3.5 additional staff to administer and enforce Title 11 and the phase 2 Title 33 amendments, and fill the single point of contact position. Also fund inspector vehicle purchases and 24-hour hotline pilot project – Funding sources: mix of one-time and ongoing general fund (one time funds needed to hire BDS staff until sufficient fee revenue is accrued, development and land use review fee increases, one-time Urban Forest fund contribution to hire BDS tree inspector
- c. FY 2013-14 and ongoing – Fund 5.5 FTE for ongoing program activities (code administration and enforcement) – Funding sources: Terminate one-time general fund, shifting 2/3 of total ongoing program costs to development fees and capital project funding. The remaining 1/3 cost would be funded by the general fund.



A detailed cost/budget table is attached.



## FY 2011 - 2012

Program Start Up	Use of Funds			Total	Source of Funds				
	Bureau	Use	FTE		GF - OG	time	Fees	CIP	UF Fund
<b>Program Organization and Start-up</b>									
PPR Functions	Parks	Botanic Spec II	0.5	\$48,000		\$48,000			
BDS Functions	BDS	Planner II	0.5	\$47,000		\$47,000			
<b>TRACS upgrade - Tree permits</b>									
PTE	Parks	Contract		\$32,000		\$32,000			
<b>Tree Manual</b>									
Project manager	Parks	Botanic Spec II	0.5	\$48,000		\$48,000			
"Code Made Easy" Content	BDS	Planner II	0.5	\$47,000					
"Watershed Services" Content/BES	BES	Program Specialist	0.5	\$0					
PTE, M&S	Parks	Contract		\$40,000		\$40,000			
<b>TOTAL</b>			<b>2.5</b>	<b>\$262,000</b>		<b>\$262,000</b>			

## 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
<b>Land Use Reviews</b>									
Application Review	BDS	Planner II	0.5	\$0					
Arborist Consultation	Parks	Tree Inspector	0.2	\$17,000			\$17,000		
<b>Building Permits</b>									
Plan Review	BDS	Planner II	1.0	\$95,000		\$95,000			
Building Permit Inspection	BDS	Tree Inspector	1.0	\$85,000					\$85,000
<b>Capital and Public Works Projects</b>									
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	
<b>Tree Permit Program</b>									
Tree Permit Inspector	Parks	Tree Inspector	1.0	\$85,000	\$85,000				
<b>Vehicles and Equipment</b>				\$60,000		\$60,000			
<b>Single Point of Contact/Permit Assistance</b>									
Delta Park Location	Parks	Botanic Spec I	1.0	\$91,000	\$91,000				
<b>24 hour Hotline (pilot)</b>									
Spill Response Line	BES	Overtime (existing staff)		\$10,000		\$10,000			
<b>TOTAL</b>			<b>5.5</b>	<b>\$558,000</b>	<b>\$176,000</b>	<b>\$165,000</b>	<b>\$17,000</b>	<b>\$115,000</b>	<b>\$85,000</b>

## 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
<b>Land Use Reviews</b>									
Application Review	BDS	Planner II	0.5	\$47,000			\$47,000		
Arborist Consultation	Parks	Tree Inspector	0.2	\$17,000			\$17,000		
<b>Building Permits</b>									
Plan Review	BDS	Planner II	1.0	\$95,000			\$95,000		
Building Permit Inspection	BDS	Tree Inspector	1.0	\$85,000			\$85,000		
<b>Capital and Public Works Projects</b>									
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	
<b>Tree Permit Program</b>									
Tree Permit Inspector	Parks	Tree Inspector	1.0	\$85,000	\$85,000				
<b>Single Point of Contact/Permit Assistance</b>									
Delta Park Location	Parks	Botanic Spec I	1.0	\$91,000	\$91,000				
<b>TOTAL</b>			<b>5.5</b>	<b>\$535,000</b>	<b>\$176,000</b>	<b>\$0</b>	<b>\$244,000</b>	<b>\$115,000</b>	<b>\$0</b>