


184524

Bureau of Planning and Sustainability  
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## MEMORANDUM TO CITY COUNCIL

March 31, 2011

TO: Mayor Sam Adams  
Commissioner Nick Fish  
Commissioner Amanda Fritz  
Commissioner Randy Leonard  
Commissioner Dan Saltzman

FROM: Susan Anderson, Director 

CC: Zari Santner, Director, Portland Parks and Recreation  
Paul Scarlett, Director, Bureau of Development Services  
Dean Marriott, Director, Bureau of Environmental Services  
David Schaff, Director, Water Bureau  
Sue Keil, Director, Bureau of Transportation  
Kathryn Beaumont/Harry Auerbach, City Attorney's office  
Toni Anderson, Auditor's office

SUBJECT: Citywide Tree Policy Review and Regulatory Improvement Project  
(Citywide Tree Project)

On April 6, 2011 the City Council will reconvene to act on proposed amendments to the Citywide Tree Project. The amendments reflect Council direction on March 9, 2011. Council's initial direction on Discussion Items is summarized in Attachment 1. After acting on the amendments the City Council will decide whether to forward the three Citywide Tree Project ordinances to a second reading.

For this session Council has received three substitute ordinances prepared on March 31, 2011, re-titled:

- *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)*
- *Amend the Intergovernmental Agreement with Multnomah County to transfer land use planning responsibilities to address the administration of tree-regulations that require a development permit (Ordinance; amend Contract No. 51712)*



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

Each substitute ordinance package includes:

- Revised ordinance document (updated findings and directives)
- Unchanged exhibits or references to unchanged exhibits
- Substitute exhibits (e.g., updated Financial Impact Statement)

The ordinances that will establish Title 11, Trees and amend Title 33 Planning and Zoning each include a new exhibit comprised of specific amendments to the draft code and commentary. These amendments reflect initial direction Council provided on March 9, 2011.

Thank you for your attention and interest in this project. It has been an excellent collaboration among City bureaus and the public. We recommend that the Council approve the amendments and forward the revised ordinance and amendments on to a second reading.



**COUNCIL MEETING MARCH 9, 2011**  
**AMENDMENTS MOVED FORWARD IN CONCEPT**

184524

Documentation below refers to:

1. March 4, 2011 Bureau of Planning and Sustainability Memorandum to Council and Memo Attachments 1-6
2. "Additional Amendments Introduced by Commissioner Fritz" dated March 9, 2011.
3. Fish Amendments 3-9-2011

**Technical Amendments** - Attachments 2 and 3 plus Fritz amendments - passed.

**Discussion Items** - Options Passed (note: all are amendments to December 2010 Recommended Draft except 2.F. and 3.A..1):

- 1.A.1. - Option 1
  - 1.B.1. - Option 1
  - 2.a.1. - Options 1 and 2
  - 2.B.1. - Option 2
  - 2.B.2.a.- Struck
  - 2.B.2.b. - Option 2
  - 2.B.3 - Option 3 - Replace building coverage threshold of at least 90% to at least 85%
  - 2.C.1. - Option 2
  - 2.D.1. - Option 1
  - 2.E.1. - Option 2 (per Fritz amendment submitted 3/9/11)
  - 2.F1. - Option 2 (no amendment)
  - 2.F.2. - Option 1
  - 3.A.1. - Withdrawn
  - 3.B - Option 3
  - 3.C.1. - Option 1
  - 3.C.2 - Option 3 - per amended language submitted by Commissioner Fish (self-issued Street Tree Pruning permit vs. complete elimination of the permit)
  - 3.D.1 - Option 1 - w/direction to return to council within 8 months to a year or when BPS reports back on LUBA/Industrial lands re: whether Programmatic Permit could be extended to City golf courses or other such large site uses.
  - 4.A. Optoin 2 (per Fritz amendment submitted 3/9/11)
- Fritz Discussion Amendments:
- Street Tree Pruning permit proposal - withdrawn in favor of Comm. Fish's proposal - 3.C.2
  - Land Division Approval Criteria - Approved in concept along w/2.E.1
  - Phasiing and Budget Directives - Approved in concept along w/4.A.
  - Norway Maple Replacement Strategy - approved w/clarification that this should be forwarded as an Implementation Item, not to be incorporated into the code.

Per Kathryn Beaumont: These are "amendments moved forward in concept" as Council will be making official motions and voting on them at the April 6 meeting (10:15 a.m. Time Certain). The amended package will pass to a second reading and come back on the April 13th Regular Agenda for a final vote.

**Citywide Tree Project**  
**City Council Amendments Decisions made on March 9, 2011**

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**DECISION STEPS****1. The Council agreed to act on Technical Amendments without further discussion.**

- A. The Technical Amendments packets from February 2 and March 9, 2011 include non-substantive items primarily to clarify, simplify, or reorganize the proposed code. Substantive items in these packets are noted and addressed in the Discussion Items section of this guide.

**2. The Council reviewed and acted on Discussion Items individually.**

- A. The Discussion Items list included substantive amendment concepts, including amendments introduced by Mayor Adams, Commissioner Fritz, and staff on February 2<sup>nd</sup>. Several additional amendments were been included, reflecting inter-bureau discussions and consideration of public testimony between February 2<sup>nd</sup> and March 9<sup>th</sup>.
- B. Options were provided for Council consideration. Council decisions are marked with ☒.

**3. Council directed staff to develop specific language and return for a vote on amendments on April 6, 2011.**

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**TECHNICAL AMENDMENTS (YELLOW PACKET – ATTACHMENTS 2 AND 3) – APPROVE WITHOUT DISCUSSION**

1. February 2, 2011 Title 11 and Title 33
2. March 9, 2011 Title 11 and Title 33

**Motion options:**

- ☒ 1. Move to amend the Recommended Draft per the technical amendments described in Attachments 2 and 3, plus Technical Amendments introduced by Comm. Fritz.
- ☐ 2. Pull issue #'s \_\_\_ from the Technical Amendments for discussion; approve remaining technical amendments.
- ☐ 3. Move to \_\_\_\_\_

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**DISCUSSION ITEMS**

Discussion items are grouped in the following categories:

1. Commissions and Roles
2. Trees in Development Situations
3. Trees Absent Development
4. Ordinances



## **1. Commissions and Roles**

### **1.A. Urban Forestry Commission (Title 11, Trees)**

- 1.A.1. Ex-Officio Membership to Urban Forestry Commission (UFC) – Eliminate proposal to add bureaus as ex officio members of the Urban Forestry Commission; eliminate existing provision establishing the Bureau of Transportation as an ex-officio member of the UFC. [staff 3/9/11]

#### **Motion options:**

- ☒ 1. Move to amend the Recommended Draft to remove Bureau ex-officio members of the UFC
- ☐ 2. Move to add Bureau of Parks and Recreation or the City Forester to the list of existing and proposed bureau ex-officio members
- ☐ 3. Move to not amend the Recommended Draft – include PBOT, BES, BDS, Water staff as ex-officio members.
- ☐ 4. Move to \_\_\_\_\_

### **1.B. Commission oversight for Title 11, Trees**

- 1.B.1. Require the Planning and Sustainability Commission (PSC) to hold a public hearing and make recommendations to City Council regarding amendments to development related requirements of Title 11. [staff 2/2/11]

#### **Motion options:**

- ☒ 1. Move to amend the Recommended Draft to require the PSC to hold a public hearing and make recommendations to Council (in addition to the UFC) for amendments to Chapters 11.50, 11.60, and 11.70
- ☐ 2. Move to not amend the Recommended Draft – PSC may hold hearing at its discretion
- ☐ 3. Move to \_\_\_\_\_

## **2. Trees in Development Situations**

### **2.A. Industrial, Employment, Commercial Lands Exemptions (Title 11, Trees)**

- 2.A.1. Exempt industrial, employment and commercial zones that do not have existing landscaped area standards from the Title 11 Tree Preservation and Tree Density Requirements. [staff 2/2/11]

#### **Motion options:**

- ☒ 1. Move to amend the Recommended Draft to exempt land within IH, IG1, EX, CX, CS, CM zones from Tree Preservation and Tree Density standards.
- ☒ 2. Direct staff to return at a future date for further discussion when LUBA remand issues are addressed.
- ☐ 3. Move to not amend the Recommended Draft – do not exempt specified zones.
- ☐ 4. Move to \_\_\_\_\_

### **2.B. Tree Preservation Standard (Title 11, Trees)**

- 2.B.1. Preservation Percentage. Change the preservation standard from 35% of  $\geq 12$ " diameter trees to 33% of  $\geq 12$ " diameter trees on development sites [Mayor Adams 2/2/11]

#### **Motion options:**

- ☐ 1. Move to amend the Recommended Draft to reduce the preservation standard from 35% to 33%
- ☐ 2. Move to not amend the Recommended Draft – retain 35% standard.
- ☒ 3. Move to reduce the preservation standard from 35% to "one third of the applicable trees on the site."

**2.B.2. Small Lot Exemption**

2.B.2.a. Tree Mitigation. For development sites between 3,000 and 5,000 s.f.: Allow mitigation for one tree to be accomplished by planting on-site (instead of paying in lieu of preservation to the Tree Fund. [Mayor Adams 2/2/11],

OR

2.B.2.b. Lot Size Exemption. Change proposed lot size exemption from  $\leq 3000$  s.f. to  $< 5,000$  s.f. [staff 3/9/11]

**Motion options:**

- ☐ 1. Move to amend the Recommended Draft to allow one tree to be mitigated on site by planting two trees for lots greater than 3000 s.f. and less than 5,000 s.f.
- ☒ 2. Move to amend the Recommended Draft to increase the lot size exemption from "less than or equal to 3,000 s.f." to "less than 5,000 s.f."
- ☐ 3. Move to not amend the Recommended Draft – retain exemption for lots less than or equal to 3,000 s.f. with no special provisions for sites between 3,000 and 5,000 square feet.
- ☐ 4. Move to \_\_\_\_\_

2.B.3. Building Coverage Exemption. Change building coverage exemption threshold from 90% to 80% [Mayor Adams 2/2/11]

**Motion options:**

- ☐ 1. Move to amend the Recommended Draft to change tree preservation exemption for sites with high building coverage from at least 90% to at least 80%
- ☐ 2. Move to not amend the Recommended Draft – retain exemption for sites with at least 90% building coverage
- ☒ 3. Move to change tree preservation exemption for sites with high building coverage from at least 90% to at least 85%

**2.C. Tree Density Standard (Title 11, Trees)**

2.C.1 Counting Street Tree planting on Small Lots. Credit newly planted street trees toward the on-site Tree Density standards for lots  $\leq 3,000$  s.f. [Mayor Adams 2/2/11]

**Motion options:**

- ☐ 1. Move to amend the Recommended Draft to credit newly planted street trees toward on-site Tree Density for lots less than or equal to 3,000 s.f.
- ☒ 2. Move to amend the Recommended Draft to credit existing healthy, non-nuisance species trees AND newly planted street trees toward on-site Tree Density for lots less than or equal to 3,000 s.f.
- ☐ 3. Move to not amend the Recommended Draft – retain proposed Tree Density standards and keep on site tree and street tree requirements separate.
- ☐ 4. Move to \_\_\_\_\_

**2.D. Flexible Development Standard (Title 33)**

2.D.1. Delete proposed provision allowing required outdoor area to encroach into the front yard setback for the purpose of preserving existing healthy trees  $\geq 12"$  diameter [Comm. Fritz 2/2/11]

Motion options:

- ☒ 1. Move to amend the Recommended Draft to delete provision allowing the outdoor area to be partially located in the front setback when preserving trees within that area.
- ☐ 2. Move to not amend the Recommended Draft – allow the outdoor area to be partially located in the front setback when preserving trees within that area.
- ☐ 3. Move to \_\_\_\_\_

**2.E. Land Divisions (Title 33)**

2.E.1. Reintroduce the significant tree table into the Land Division criteria. [Comm. Fritz 2/2/11]

Motion options:

- ☐ 1. Move to amend the Recommended Draft by reintroducing the significant native tree table in the Title 33 land division approval criteria.
- ☒ 2. Move to amend the Recommended Draft by adding a reference in the land division approval criteria and include information about native tree growth rates and sizes in the Portland Plant List – (see Title 33 amendments, issue #16, Attachment 3).
- ☐ 3. Move to not amend the Recommended Draft – rely on discretionary criteria that speak generally to native tree preservation and do not address native tree growth rates sizes
- ☐ 4. Move to \_\_\_\_\_

**2.F. Environmental Resource Zones (Title 33)**

2.F.1. Retain the existing 10" diameter development standard for removing trees in conjunction with development in utility corridors, resource enhancement projects, stormwater outfalls, and public recreational facilities in environmental zones instead of changing the threshold to 12" diameter.

[Comm. Fritz 2/2/11]

(Note: Smaller trees are replaced per standards, larger tree removal triggers environmental review.)

Motion options:

- ☐ 1. Move to amend the Recommended Draft by retaining the existing 10" diameter tree size at which an environmental review is triggered for utility corridors, resource enhancement projects, stormwater outfalls, and public recreational facilities.
- ☒ 2. Move to not amend the Recommended Draft – retain the proposed 12" diameter tree size at which an environmental review is triggered for utility corridors, resource enhancement projects, stormwater outfalls, and public recreational facilities.
- ☐ 3. Move to \_\_\_\_\_

2.F.2. Adopt chapter 33.860, Comprehensive Natural Resource Plans that allow master planning for sites containing one or more environmental resource overlay zones. [staff 2/2/11]

Motion options:

- ☒ 1. Move to amend the Recommended Draft by adopting the Comprehensive Natural Resource Plan chapter to allow master planning of sites with environmental resource overlay zones.
- ☐ 2. Move to not amend the Recommended Draft – do not include provisions for creating Comprehensive Natural Resource Plans.
- ☐ 3. Move to \_\_\_\_\_

**3. Trees Absent Development****3.A. Nuisance Species Trees (Title 11, Trees) and Title 33, Chapter 33.430, Environmental Overlay Zones**

**3.A.1. Tree Replacement.** Delete proposed tree replacement requirement for City-listed Nuisance species trees, except for trees in environmental zones. [Comm. Fritz 2/2/11] **Withdrawn.**

Motion options:

- ☐ 1. Move to amend the Recommended Draft by eliminating replacement requirement for Nuisance species trees, except when located in environmental resource overlay zones.
- ☐ 2. Move to amend the Recommended Draft by eliminating replacement requirement for all Nuisance species trees.
- ☐ 3. Move to not amend the Recommended Draft—require nuisance species trees to be replaced by planting one new non Nuisance (or Native in environmental zones) tree.
- ☐ 4. Move to \_\_\_\_\_

**3.B. Private Tree Removal Permit (Title 11, Trees)**

3.B.1. Tree Permit Thresholds. [Comm. Fritz 2/2/11] Reduce the tree permit size threshold on single family lots from 20 inches diameter to 12 inches for greater citywide consistency.

3.B.2 through 6. Tree Permit Thresholds. [staff 3/9/11] Change the proposed private tree removal permit to potentially include an exemption for lots less than 5,000 or 3,000 square feet (or no lot size exemption), with a larger tree size threshold (16 or 20 inches) for single family zoned lots.

3.B.7 Retain current proposal. [no amendment] Permits address trees on all lots. Single Family zoned lots (qualifying lot size threshold varies by zone) require permits to remove trees 20" diameter and larger. Other lots continue to require permits for trees 12" diameter and larger.

(note: All options would retain the proposed 6" size threshold in natural resource overlay zones and specified plan districts)

Motion Options:

	<u>Lot size exemption</u>	<u>Tree size (diameter)</u>
<input type="checkbox"/> 1. [Comm Fritz]	None	12" for all lots
<input type="checkbox"/> 2. [Staff]	<5,000 s.f.	12" except 16" for single family zoned lots 5,000 - 10,000 s.f.
<input checked="" type="checkbox"/> 3. [Staff]	<5,000 s.f.	12" except 20" for single family zoned lots 5,000 - 10,000 s.f.
<input type="checkbox"/> 4. [Staff]	<3,000 s.f.	12" except 16" for single family zoned lots 3,000 - 10,000 s.f.
<input type="checkbox"/> 5. [Staff]	<3,000 s.f.	12" except 20" for single family zoned lots 3,000 - 10,000 s.f.
<input type="checkbox"/> 6. [Staff]	None	12" except 20" for single family zoned lots <10,000 s.f.
<input type="checkbox"/> 7. [No change]	None	12" except 20" for single family zoned lots (size varies by zone)

**3.C. Street and City Trees (Title 11, Trees)**

3.C.1. Temporary Attachments. Allow temporary attachments to street trees without a permit.  
[Comm. Fritz 2/2/11]

Motion options:

- ☒ 1. Move to amend the Recommended Draft by eliminating permit requirement for temporary attachments to street trees.
- ☐ 2. Move to not amend the Recommended Draft – temporary attachments would require permit from the City Forester.
- ☐ 3. Move to \_\_\_\_\_

3.C.2. Pruning Permits. Allow street tree pruning permit to be self-issued by applicants online.

Motion options:

- ☒ 1. Move to amend the Recommended Draft by allowing applicants to self issue an online permit for pruning street trees .
- ☐ 2. Move to not amend the Recommended Draft – pruning branches greater than ¼" would require permit from the City Forester.
- ☐ 3. Move to \_\_\_\_\_

**3.D. Programmatic Permit (Title 11, Trees)**

3.D.1. Allow removal of healthy trees larger than 6" in diameter with opportunity for public appeal to the Urban Forestry Appeals Board [staff 3/9/11]

Motion options:

- ☒ 1. Move to amend the Recommended Draft by expanding the programmatic permit to allow removal of healthy trees  $\geq 6$ " diameter with opportunity for public appeal (for removal of the larger trees). **Council also directed staff to monitor this tool and return in 6 – 8 months (after effective date) with recommendations on whether/how the tool could be applied to golf course or other such uses.**
- ☐ 2. Move to not amend the Recommended Draft – retain blanket limit on removing healthy trees  $\geq 6$ " diameter
- ☐ 3. Move to \_\_\_\_\_

**4. Ordinances**

**4.A. Phasing and Budget Directives.** Delete findings and directives relating to the code effective dates and budget considerations from Title 33 and Title 11 ordinances. [Comm. Fritz 2/2/11]

Motion options:

- ☐ 1. Move to amend the Title 33 and Title 11 ordinances by deleting implementation phasing and budget details from ordinances.
- ☒ 2. Move to amend the Title 33 and Title 11 ordinances by removing specific dollar amounts from ordinance, rely on budget process and budget impact statement. Retain code effective phasing plan.
- ☐ 3. Move to not amend the Title 33 and Title 11 ordinances – retain specific ordinance language pertaining to budget implications, and code effective phasing plan.
- ☐ 4. Move to \_\_\_\_\_

The Council also directed an amendment proposed by Commissioner Fritz, to direct the Urban Forestry Commission to prepare a neighborhood street plan as developed by the City Forester for the implementation of a Norway Maple Street Tree Replacement Plan for Ladd's Addition Historic District. The Council directed that this be addressed as an implementation action and would not be addressed in code.

## Additional Amendments Introduced by Commissioner Fritz

Commissioner Fritz has introduced several additional amendments. A number of these are of a technical nature, and would not be discussed unless pulled for discussion by another commissioner. The remainder is being forwarded as discussion items. A brief description of each follows, along with a notation of where these items fit with the decision guide (Attachment 1).

### SUMMARY OF ADDITIONAL TECHNICAL AMENDMENTS:

1. Include education as one of the purposes of the tree permit chapter (11.40)
2. Clarify when permits are required for attaching objects to street or public trees.
3. Include a statement that encourages tree planting to occur in the "wet months"
4. Add requirements for women and multi-cultural representation on the Urban Forestry Commission (UFC).
5. Add requirements for equal representation on the UFC appeals board.

### SUMMARY OF ADDITIONAL DISCUSSION ITEMS:

Discuss With	Amendment Item Description
Item 2.E.1	Land Division Significant Tree Table - Incorporate reference in land division criteria to link to significant tree information in Portland Plant List.
Item 3.C.2	Street Tree Pruning permits - Revise pruning exemption to allow pruning branches up to 1-inch diameter rather than the 1/4" size proposed.
Item 3.C.3 (new)	Norway Maple Street Tree Replacement Plan - Include a requirement that the Urban Forestry Commission, in consult with the Landmarks Commission, HAND and others to develop a neighborhood street tree plan with non-Nuisance species trees to substitute for the Norway maple tree.
Item 4.A.	Phasing and Budget Directives Remove specific dollar amounts from ordinance language, clarify phased effective dates for Title 33 and Title 11 amendments.

### SUMMARY OF IMPLEMENTATION ITEMS (FOR POSSIBLE DISCUSSION):

1. Certification of completion of tree replacement should mirror e-zone requirements for documenting mitigation compliance.
2. Permit tracking software should be set up to track and flag certification of completion letters described above.
3. Tree Hotline should be staffed from dawn to dusk rather than 24 hours as proposed. Voicemail should also include answers to frequently asked questions.

Proposed **ADDITIONAL TECHNICAL AMENDMENTS TO TREE CODE** Titles 11 and Titles 33  
 From: Office of Commissioner Fritz

**TO BE ENTERED WITH OTHER TECHNICAL AMENDMENT PACKAGES**

Section	Issue	Proposed Amendment
11.40.010 Tree Permit Requirements	<b>Education:</b> Include statement that reinforces the notion that education is a key component of the permit system.	<b>11.40.010 Purpose</b> The purpose of this Chapter is to manage, conserve and enhance the urban forest when development activity is neither proposed nor occurring. The provisions of this chapter encourage preservation of high quality trees, large trees, and groves; regulate pruning and planting on City-owned and managed sites and streets to protect public safety and public infrastructure; and ensure replacement for trees that are removed. <u>The permitting procedures that are required to implement these provisions, are intended to not only enforce maintenance, removal and preservation requirements but also to educate property owners about the intrinsic urban benefits of trees as well as the principles of tree care.</u>
11.40.040 Tree Permit Requirements	<b>Other Activities:</b> Clarify and simplify the requirements for hanging on objects on trees.	<b>11.40.040 (3) Other Activities:</b> A permit is required to attach <u>permanent objects (e.g. lights, signs, or artwork)</u> to a tree or <u>its supports (e.g. guides, wires, stakes)</u> , or for any other type of activity the City Forester determines has the potential to harm a City or Street tree. In reviewing these requests, the City Forester may impose limitations on the method, location, or duration of such activities.
11.60.020 E Installation and establishment	<b>Planting requirements</b>	<b>Timing:</b> (At end of existing wording) ..... <u>It is encouraged that planting occur during the wet months or as per City Forester recommendations.</u>
11.20.020 A Also Decision Guide 1.A	<b>Membership of UFCommission:</b> Require women and minorities to be represented on the Commission	"Membership. The Urban Forestry Commission consists of eleven members who have demonstrated an interest in the protection and enhancement of the urban forest, appointed by the Mayor in consultation with the Commissioner of Parks and Recreation and confirmed by the City Council. <u>Women and multi-cultural groups shall be represented.</u> At least three members .....
11.20.030 A Also Decision Guide 1.A	<b>Membership of UFCommission:</b> Require women and minorities to be represented on the Commission	"Membership. The Urban Forestry Appeals Board consists of five members <b>representing all interest groups on</b> of the Urban Forestry Commission, selected by a majority of the Commission. Members will serve .....



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## DISCUSSION AMENDMENTS TO TREE CODE Titles 11 and Titles 33

Section	Issue	Proposed Amendment
11.40.040 A 2 & Table 40-2; Discussion Item 2E	<b>Pruning:</b> Revise to include higher threshold for cutting diameter and focus on Arborist standards; While pruning can be a relatively innocuous procedure, it can also be overdone or done in such a way as negatively impact tree growth.	The City Forester will grant <u>A</u> permit <b>is required</b> for pruning or root cutting of lateral branches or roots <del>1/4</del> <u>1</u> inch or larger. <del>As part of the permit process the applicant must demonstrate to the City Forester's satisfaction that the pruning or root cutting will be performed in accordance with proper arboricultural practices, and that it will not adversely impact the health or structural integrity of the tree. –</del> (It is hoped that this permit process will be electronically available for submission and approval)
33.630.200.A (renumbered from 33.630.200.C.1 in Dec 2010 draft, see Att. 3B-2) (p.153)  Noted as Item 16 in Attachment 3B-1; Discussion Item 2E	<b>Land division approval criteria.</b> Add a reference to the criteria to information contained in the Portland Plant List about the size and growth rates of native trees. The Portland Plant List will also be amended to incorporate the information in the "Significant Tree Table" that is currently in 33.630, but that is proposed to be deleted. See Attachment 3B-3, for an example of how the Portland Plant List would be amended. The Plant List will be updated through a separate rulemaking process	<u>To the extent practicable, trees proposed for preservation provide the greatest benefits as identified in the purpose of this chapter. In general, healthy, native or non-nuisance species trees that are 20 or more inches in diameter and tree groves, are the highest priority for preservation. However, specific characteristics of the trees, site and surrounding area, should be considered and may call for different priorities, such as preserving native tree growth rates and priority tree sizes the size and growth rates of native species as described in the Portland Plant List, buffering natural resources, preventing erosion or slope destabilization, and limiting impacts on adjacent sites;</u> (renumbered from 33.630.200.C.1 in Dec 2010 draft, see Attachment  (Revise Portland Plant List in Code Implementation Package to be approved by Council).
Phasing and Budget Directives. Title 33 and Title 11 ordinances.	Delete findings and directives relating to the code effective dates and budget considerations from Title 33 and Title 11 ordinances.	See Attached Language Changes to both Ordinances – Strikeout and Clean copy versions.
11.20.050 D.	Replacement strategy for Norway Maples	11.20.050 D. Norway Maple Street Tree Guidance Plan,  <u>1. The Urban Forestry Commission shall prepare a neighborhood street tree plan as developed by the City Forester for the implementation of a Norway Maple Street Tree Replacement Plan for Ladds Addition Historic District. This plan shall incorporate input from the Historic Landmark Commission, Hosford Abernathy Neighborhood Development association and other interested stakeholders.</u>

3-9-2011

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3.C.2. Pruning Permits. Allow street tree pruning permit to be self-issued by applicant online. [Comm. Fish 3/9/11]

Introduction: Since 1972, the city has required permits to prune street trees. The Citywide Tree Project proposal includes an exemption for pruning minor branches and sucker growth  $\frac{1}{4}$ " or less in size. There is interest in regulating street tree pruning to prevent harm, while enabling quicker service delivery and reducing process requirements. This amendment requests that property owners be allowed to self-issue a street tree pruning permit electronically. Property owners would be required to certify that they had read information on the City's website about proper pruning techniques, and acknowledge their obligation to conduct all street tree-related pruning activities "in accordance with proper arboricultural standards."

Pros:

1. Provides opportunity to provide information on proper pruning practices
2. Reduces City staff time spent conducting inspections prior to issuing pruning permits, rather than on enforcement.
3. Reduces average delay of 2 weeks for persons wishing to prune trees
4. Allows issuance of permits 24/7.
5. Makes it easier for property owners to do the right thing.

Cons:

1. Limits amount of oversight that City has prior to pruning.
2. Does not in itself prevent improper pruning techniques; would have to be paired with outreach and education efforts.
3. Non-electronic option would be needed for those without internet access.

Motion options:

- ☐ 1. Move to amend the Recommended Draft to allow applicant to self-issue an online permit for pruning street trees.
- ☐ 2. Move to not amend the Recommended Draft – pruning branches greater than  $\frac{1}{4}$ " would require permit from the City Forester.
- ☐ 3. Move to \_\_\_\_\_

**Mayor calls for a motion.**

**Moore-Love, Karla**

**From:** Jortner, Roberta (Planning)  
**Sent:** Wednesday, March 09, 2011 8:03 AM  
**To:** Moore-Love, Karla  
**Subject:** FW: Fritz Additional Amendments to Tree Code

**Importance:** High

**Attachments:** Attachment\_1\_Amendments\_Decision Guide\_Pros\_Cons\_.doc;  
 AddPropAmendTreeCode@Hearing.doc; Title33\_Ord\_revised\_(clean).doc; Title33\_Ord\_revised\_(Redline).doc; Title11\_Ord\_revised\_(Clean).doc; Title11\_Ord\_revised\_(Redline).doc

Hi Karla,  
 You should have this too!  
 See you later.  
 Roberta

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**From:** Jortner, Roberta (Planning)  
**Sent:** Wednesday, March 09, 2011 7:59 AM  
**To:** Beaumont, Kathryn; Auerbach, Harry; Anderson, Toni  
**Cc:** Bizeau, Tom; Anderson, Susan; Zehnder, Joe; Beckman, Stephanie; Ruiz, Amy  
**Subject:** FW: Fritz Additional Amendments to Tree Code  
**Importance:** High

Good morning.

Attached are some additional proposed amendments from Commissioner Fritz's office (**see Tom's email below**). She will introduce them today when the Mayor introduces the amendments package today (before public testimony). Note the amendments include code amendments and suggested amendments to the Title 11 and Title 33 ordinances (intended to delete specific references to budget numbers in the findings and directives). Tom's attached both clean and strikeout versions of the ordinance amendments. (We're fine with the ordinance changes)

We're hoping Council will accept the groupings proposed, so that the "Technical Amendments" can be approved with the rest of the Technical Amendments package "on consent" before diving into the Discussion Items. Commissioner Fritz's discussion items will be woven into the Discussion Items in the latest Council Discussion Guide (also attached).

If you have questions please give a ring.



Attachment\_1\_A  
 endments\_Decis

Roberta

**Roberta Jortner**  
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**From:** Bizeau, Tom  
**Sent:** Tuesday, March 08, 2011 7:09 PM  
**To:** Petrocine, Sara; Ruiz, Amy; Grumm, Matt; Kuhn, Hannah; Blackwood, Jim  
**Cc:** Jortner, Roberta (Planning); Beckman, Stephanie; Tracy, Morgan ( Planning); Rosen, Mike; McAllister, David; Esau, Rebecca; Kovatch, Ty; Ames, Betsy; Finn, Brendan; Jimenez, Warren  
**Subject:** Fritz Additional Amendments to Tree Code

See the attachments. In the first document "AddPropAmendTreeCode.." -- They are split into three groups. One, is for technical amendments to be approved on consent at the beginning of the hearing. If there are any that your offices want to be pulled they will be put into the Discussion items at the end of testimony. The 2nd table in this first document is for the discussion items already listed in the Discussion Guide that has been put together by BPS staff. These items are the clarifying amendments to items that are already on the discussion list. The 3rd table in this first attached document is related to implementation and may not need any discussion at all but is a heads-up to future implementation items.

All other 4 attachments are related to the Discussion changes for the Ordinances Title 11 and Title 33 with clean and redlined versions.

This is meant to help.

Direct questions to me.



AddPropAmendTreeCode@Hearing.c



Title33\_Ord\_revised\_(clean).do...



Title33\_Ord\_revised\_(Redline)....



Title11\_Ord\_revised\_(Clean).do...



Title11\_Ord\_revised\_(Redline)....

Thomas Bizeau  
Chief of Staff; Commissioner Amanda Fritz  
City of Portland, Oregon;  
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Phone: (503)-823-3990

# Citywide Tree Project

## City Council Amendments Decision Guide

### March 9, 2011

184524

#### DECISION STEPS

##### 1. Select a set of issues you wish to act on without further discussion.

- A. The Technical Amendments packets from February 2 and March 9, 2011 include non-substantive items primarily to clarify, simplify, or reorganize the proposed code. Substantive items in these packets are noted and addressed in the Discussion Items section of this guide.
- B. Indicate any items you wish to pull from the Technical Amendments packet to add to the list of items the Council will discuss and act on individually.
- C. Act on remaining Technical Amendments.

##### 2. Review and act on Discussion Items individually.

- A. The Discussion Items list includes substantive amendment concepts, including amendments introduced by Mayor Adams, Commissioner Fritz, and staff on February 2<sup>nd</sup>. Several additional amendments have been included which reflect inter-bureau discussions and consideration of public testimony between February 2<sup>nd</sup> and March 9<sup>th</sup>.
- B. Options are provided for Council consideration. Where bureaus reached consensus on staff-introduced amendments, these are noted with a ☒.
- C. Act on Discussion Items.

##### 3. Direct staff to develop specific language and return for a final vote. Based on Council action, staff will develop specific code language incorporating all relevant technical and substantive amendments for Council's review and approval.

#### TECHNICAL AMENDMENTS (YELLOW PACKET – ATTACHMENTS 2 AND 3) – APPROVE WITHOUT DISCUSSION

- 1. February 2, 2011 Title 11 and Title 33
- 2. March 9, 2011 Title 11 and Title 33

##### Motion options:

- ☒ 1. Move to amend the Recommended Draft per the technical amendments described in Attachments 2 and 3.
- ☐ 2. Pull issue #'s \_\_\_ from the Technical Amendments for discussion; approve remaining technical amendments.
- ☐ 3. Move to \_\_\_\_\_

#### DISCUSSION ITEMS

Discussion items are grouped in the following categories:

- 1. Commissions and Roles
- 2. Trees in Development Situations
- 3. Trees Absent Development
- 4. Ordinances

Accompanying each item are pros and cons which represent views expressed through public testimony, bureau staff, commissions and City Council.

## 1. Commissions and Roles

### 1.A. Urban Forestry Commission (Title 11, Trees)

- 1.A.1. Ex-Officio Membership to Urban Forestry Commission (UFC) – Eliminate proposal to add bureaus as ex officio members of the Urban Forestry Commission; eliminate existing provision establishing the Bureau of Transportation as an ex-officio member of the UFC.  
[staff 3/9/11]

Introduction: Current City code identifies the Bureau of Transportation as an ex officio member of the Urban Forestry Commission. The Tree Project Recommended Draft to City Council (December 2010) proposes adding BDS, BES and the Water Bureau as ex officio members.

Ex officio status includes authority to vote per Robert's Rules of Order and the bureaus, including Water and Transportation, as well as BDS, PPR, and BES, generally agree that bureaus and City staff should not be voting members of the Urban Forestry Commission.

#### Pros:

1. Eliminating bureaus as ex officio members allows the Urban Forestry Commission to function purely as an appointed citizen body, similar to the Planning and Sustainability Commission.
2. The bureaus can and encouraged to designate liaisons to coordinate with the Urban Forestry Commission and Urban Forestry Program staff.

#### Cons:

1. There is some concern that a less formalized affiliation with the Urban Forestry Commission will discourage coordination and collaboration on urban forestry issues and programs.

#### Motion options:

- ☒ 1. Move to amend the Recommended Draft to remove Bureau ex-officio members of the UFC
- ☐ 2. Move to add Bureau of Parks and Recreation or the City Forester to the list of existing and proposed bureau ex-officio members
- ☐ 3. Move to not amend the Recommended Draft – include PBOT, BES, BDS, Water staff as ex-officio members.
- ☐ 4. Move to \_\_\_\_\_

**Mayor calls for a motion.**

## 1.B. Commission oversight for Title 11, Trees

- 1.B.1. Require the Planning and Sustainability Commission (PSC) to hold a public hearing and make recommendations to City Council regarding amendments to development related requirements of Title 11. [staff 2/2/11]

Introduction: The current proposal assigns primary oversight of Title 11 oversight to the Urban Forestry Commission. The Planning and Sustainability Commission *may* hold hearings on amendments at its discretion.

This amendment would *require* the Planning and Sustainability Commission to also hold a hearing and make recommendations to Council when specific chapters of Title 11 are being amendment, namely rules that apply to development situations and enforcement.

### Pros:

1. The amendment would help maintain consistency among City development regulations
2. Would help ensure that development goals are considered when these portions of Title 11 are amended.

### Cons:

1. Would require coordination between PSC and UFC hearings processes to ensure efficiency and avoid confusing or frustrating the public.

### Motion options:

- ☒ 1. Move to amend the Recommended Draft to require the PSC to hold a public hearing and make recommendations to Council (in addition to the UFC) for amendments to Chapters 11.50, 11.60, and 11.70
- ☐ 2. Move to not amend the Recommended Draft – PSC may hold hearing at its discretion
- ☐ 3. Move to \_\_\_\_\_

***Mayor calls for a motion.***

## 2. Trees in Development Situations

### 2.A. Industrial, Employment, Commercial Lands Exemptions (Title 11, Trees)

- 2.A.1. Exempt industrial, employment and commercial zones that do not have existing landscaped area standards from the Title 11 Tree Preservation and Tree Density Requirements. [staff 2/2/11]

Introduction: This amendment was introduced on February 2<sup>nd</sup> – and would exempt I, E, and C zones with NO existing landscaped area requirements from Title 11 Tree Preservation and Tree Density standards, at least until land supply related issues raised by the LUBA remand on the River Plan are worked out.

The standards WOULD apply in zones that have existing landscaped area requirements and all multi-dwelling residential zones. Applicants could meet these standards on site or pay into the Tree Fund, at their discretion.

Staff recommends Council approve this amendment and direct staff to return for additional discussion at a later date when issues raised by the LUBA remand have been addressed.

#### Motion options:

- ☒ 1. Move to amend the Recommended Draft to exempt land within IH, IG1, EX, CX, CS, CM zones from Tree Preservation and Tree Density standards.
- ☒ 2. Direct staff to return at a future date for further discussion when LUBA remand issues are addressed.
- ☐ 3. Move to not amend the Recommended Draft – do not exempt specified zones.
- ☐ 4. Move to \_\_\_\_\_

***Mayor calls for a motion.***



**2.B. Tree Preservation Standard (Title 11, Trees)**

2.B.1. Preservation Percentage. Change the preservation standard from 35% of  $\geq 12$ " diameter trees to 33% of  $\geq 12$ " diameter trees on development sites [Mayor Adams 2/2/11]

Pros:

1. The amendment would simplify calculations to determine how many trees must be preserved to meet the standard
2. Intended to reduce situations resulting in "fractions of trees."

Cons:

1. Would reduce the number of trees required to be preserved in some instances.

Motion options:

- ☐ 1. Move to amend the Recommended Draft to reduce the preservation standard from 35% to 33%
- ☐ 2. Move to amend the Recommended Draft to reduce the preservation standard from 35% to one-third
- ☐ 3. Move to not amend the Recommended Draft – retain 35% standard.
- ☐ 4. Move to \_\_\_\_\_

***Mayor calls for a motion.***

## 2.B.2. Small Lot Exemption

184524

Introduction: The current proposal includes a 3000 s.f. small lot exemption for the Title 11 Tree Preservation Standard. Testimony has included requests to eliminate the exemption and conversely, to expand it to include lots up to 5000 s.f. The Council currently has before it 2 potential amendments to the current proposal. If the Council wishes to amend the current proposal staff recommends adopting one or the other of these, but not both.

**2.B.2.a. Tree Mitigation.** For development sites between 3,000 and 5,000 s.f.: Allow mitigation for one tree to be accomplished by planting on-site (instead of paying in lieu of preservation to the Tree Fund. [Mayor Adams 2/2/11]

Pros:

1. The amendment would increase flexibility and reduce developer cost w/out losing canopy

Cons:

2. More complicated than simply increasing exemption lot size threshold
3. Could result in over-planting sites

**OR**

**2.B.2.b. Lot Size Exemption.** Change proposed lot size exemption from  $\leq 3000$  s.f. to  $< 5,000$  s.f. [staff 3/9/11]

Pros:

1. The amendment would reduce regulation, developer costs, & BDS workload w/out significant loss in existing canopy.
2. Responds to testimony requesting additional flexibility for developing small infill lots.

Cons:

1. Some loss of existing tree canopy and future canopy (foregone mitigation payments)
2. Wouldn't respond to testimony requesting that lot size exemptions be eliminated.

Motion options:

- ☐ 1. Move to amend the Recommended Draft to allow one tree to be mitigated on site by planting two trees for lots greater than 3000 s.f. and less than 5,000 s.f.
- ☐ 2. Move to amend the Recommended Draft to increase the lot size exemption from "less than or equal to 3,000 s.f." to "less than 5,000 s.f."
- ☐ 3. Move to not amend the Recommended Draft – retain exemption for lots less than or equal to 3,000 s.f. with no special provisions for sites between 3,000 and 5,000 square feet.
- ☐ 4. Move to \_\_\_\_\_

**Mayor calls for a motion.**

2.B.3. Building Coverage Exemption. Change building coverage exemption threshold from 90% to 80% [Mayor Adams 2/2/11]

Introduction: This amendment recognizes that on sites with high building coverage it can be challenging to preserve trees and meet other site requirements (landscaping, access, parking, stormwater, etc.)

Pros:

1. The amendment would increase flexibility and reduces development costs

Cons:

1. More sites would qualify for the exemption, reducing trees preserved or planted via mitigation payments to the Tree Planting and Preservation Fund.

Motion options:

- ☐ 1. Move to amend the Recommended Draft to change tree preservation exemption for sites with high building coverage from at least 90% to at least 80%.
- ☐ 2. Move to not amend the Recommended Draft – retain exemption for sites with at least 90% building coverage
- ☐ 3. Move to \_\_\_\_\_

**Mayor calls for a motion.**

## 2.C. Tree Density Standard (Title 11, Trees)

2.C.1 Counting Street Tree planting on Small Lots. Credit newly planted street trees toward the on-site Tree Density standards for lots  $\leq 3,000$  s.f. [Mayor Adams 2/2/11]

Introduction: This amendment responds to testimony requesting that street trees be counted toward on-site Tree Density standards, particularly for small lots. The Planning Commission and Urban Forestry Commission explicitly directed street tree and site tree density standards to be addressed as separate standards.

Pros:

1. The amendment would increase flexibility for how developers/owners can meet tree planting requirements on small lots.

Cons:

1. Reduces amount of trees planted on-site or elsewhere (via payment to the Tree Planting and Preservation Fund) when development on small lots is taking place.
2. Raises equity questions as some sites do not have planting strips and cannot accommodate street trees.

Motion options:

- ☐ 1. Move to amend the Recommended Draft to credit newly planted street trees toward on-site Tree Density for lots less than or equal to 3,000 s.f.
- ☐ 2. Move to amend the Recommended Draft to credit existing healthy, non-nuisance species trees AND newly planted street trees toward on-site Tree Density for lots less than or equal to 3,000 s.f.
- ☐ 3. Move to not amend the Recommended Draft – retain proposed Tree Density standards and keep on site tree and street tree requirements separate.
- ☐ 4. Move to \_\_\_\_\_

***Mayor calls for a motion.***

## 2.D. Flexible Development Standard (Title 33)

- 2.D.1. Delete proposed provision allowing required outdoor area to encroach into the front yard setback for the purpose of preserving existing healthy trees  $\geq 12''$  diameter [Comm. Fritz 2/2/11]

Introduction: This amendment responds to concern that the allowance diverges from the intent of the required outdoor area standard to provide households with a minimum amount of private outdoor space, typically in the backyard.

Pros:

1. The amendment would prevent divergence from intent of the standard
2. Prevents potential reduction in total outdoor area on small lots

Cons:

1. Wouldn't provide flexible option to make it easier to preserve trees, particularly on small lots
2. Could result in eliminating existing trees on small lots

Motion options:

- ☐ 1. Move to amend the Recommended Draft to delete provision allowing the outdoor area to be partially located in the front setback when preserving trees within that area.
- ☐ 2. Move to not amend the Recommended Draft – allow the outdoor area to be partially located in the front setback when preserving trees within that area.
- ☐ 3. Move to \_\_\_\_\_

***Mayor calls for a motion.***

## 2.E.1. Reintroduce the significant tree table into the Land Division criteria. [Comm. Fritz 2/2/11]

Introduction: The “significant tree table” in the existing land division regulations provides a list of native tree species and the different sizes at which these trees become significant (recognizes that some native trees grow very slowly). Applicants can get extra credit for preserving trees on this list, but typically don’t choose to use that option. The current proposal would replace the significant tree table with qualitative criteria prioritizing large trees, native trees and groves. The amendment responds to concern that removing the tree table doesn’t recognize that native trees grow at different rates and that some smaller trees might be relatively mature. The purpose of the amendment is to retain the information and to continue to link it to the approval criteria.

**NOTE: Commissioner Fritz will be introducing an amendment to this item.**

Motion options:

- ☐ 1. Move to amend the Recommended Draft by reintroducing the significant native tree table in the Title 33 land division approval criteria.
- ☐ 2. Move to amend the Recommended Draft by adding a reference in the land division approval criteria and include information about native tree growth rates and sizes in the Portland Plant List – (see Title 33 amendments, issue #16, Attachment 3).
- ☐ 3. Move to not amend the Recommended Draft – rely on discretionary criteria that speak generally to native tree preservation and do not address native tree growth rates sizes
- ☐ 4. Move to \_\_\_\_\_

**Mayor introduces a motion.**

## 2.F. Environmental Resource Zones (Title 33)

- 2.F.1. Retain the existing 10" diameter development standard for removing trees in conjunction with development in utility corridors, resource enhancement projects, stormwater outfalls, and public recreational facilities in environmental zones instead of changing the threshold to 12" diameter. [Comm. Fritz 2/2/11]

Introduction: The current proposal shifts the 10" diameter tree size for these development standards to 12" diameter in efforts to reduce the number of tree size thresholds in the code. Removal of trees smaller than the standard is allowed with replacement. Removal of trees larger than the standard triggers environmental review.

Pros:

1. The amendment would retain more restrictive standard for reviewing tree removal in environmental overlay zones
2. Maintains the perception the environmental zones are protected at a higher level than other open spaces in the city.

Cons:

1. Maintain a tree size threshold that does not match other thresholds contemplated in the code.
2. Adds a layer of complexity when matched with other thresholds.

Motion options:

- ☐ 1. Move to amend the Recommended Draft by retaining the existing 10" diameter tree size at which an environmental review is triggered for utility corridors, resource enhancement projects, stormwater outfalls, and public recreational facilities.
- ☐ 2. Move to not amend the Recommended Draft – retain the proposed 12" diameter tree size at which an environmental review is triggered for utility corridors, resource enhancement projects, stormwater outfalls, and public recreational facilities.
- ☐ 3. Move to \_\_\_\_\_

***Mayor calls for a motion.***

**2.F.2. Adopt chapter 33.860, Comprehensive Natural Resource Plans** that allow master planning for sites containing one or more environmental resource overlay zones. [staff 2/2/11]

Introduction: This amendment would establish a new, more flexible tool for managing development and natural resources on large sites containing important natural resources.

Pros:

1. The amendment would promote long-range site planning and innovative resource management and enhancement strategies.
2. More efficient, cost-effective, and easier to update than legislative Natural Resource Management Plan.
3. Could provide incentive for up-front enhancements with "mitigation credit" for future projects.

Motion options:

- ☒ 1. Move to amend the Recommended Draft by adopting the Comprehensive Natural Resource Plan chapter to allow master planning of sites with environmental resource overlay zones.
- ☐ 2. Move to not amend the Recommended Draft – do not include provisions for creating Comprehensive Natural Resource Plans.
- ☐ 3. Move to \_\_\_\_\_

***Mayor calls for a motion.***



### 3. Trees Absent Development

184524

#### 3.A. Nuisance Species Trees (Title 11, Trees and Title 33, Chapter 33.430, Environmental Overlays)

##### 3.A.1. Tree Replacement. Delete proposed tree replacement requirement for City-listed Nuisance species trees, except for trees in environmental zones. [Comm. Fritz 2/2/11]

Introduction: Currently the City can require replacement of Nuisance (invasive) Species trees on private property except in Environmental Overlay Zones, and also requires replacement of Nuisance species street trees. The current proposal would require replacement of Nuisance species. The amendment would eliminate that requirement except in environmental zones

Pros:

1. The amendment will not create a disincentive to remove Nuisance species trees
2. Will avoid potential perception that requirement is in conflict w/City Invasive Species Management Strategy, i.e. removal of invasive species.

Cons:

1. Will not replace important watershed functions provided by replacement trees.
2. Will not advance "cut a tree, plant a tree" message
3. Continued disparity between requirements inside and outside environmental zones

Motion options:

- ☐ 1. Move to amend the Recommended Draft by eliminating replacement requirement for Nuisance species trees, except when located in environmental resource overlay zones.
- ☐ 2. Move to amend the Recommended Draft by eliminating replacement requirement for all Nuisance species trees.
- ☐ 3. Move to not amend the Recommended Draft – require nuisance species trees to be replaced by planting one new non-Nuisance (or Native in environmental zones) tree.
- ☐ 4. Move to \_\_\_\_\_

***Mayor calls for a motion.***

Introduction: On February 2<sup>nd</sup> Council directed the bureaus to review the private tree permit and consider options to simplify the proposal. Of particular concern was the use of multiple lot sizes to determine eligibility for the homeowner permit, and potential complexity associated with multiple tree sizes. The Bureaus evaluated choices against criteria: tree canopy, administrative and customer ease, consistency and fairness, and cost effectiveness. The bureaus, agreed to present several additional options and policy questions for Council consideration (next page)

**The questions before Council are:**

#### **1. Where the permit applies - add a minimum lot size exemption?**

Pros:

1. Would reduce workload while focusing the City's permitting investment on lots containing the bulk of the existing tree canopy in the city.
2. Partially responds to public concerns about regulating trees on private property.
3. Setting the minimum lot size exemption similar to the Title 11 Tree Preservation Standard would send a message that City wants to limit regulatory burden on development and owners of small infill lots.

Cons:

1. Lost opportunities to encourage tree retention and ensure that trees are replaced when removed; particularly a concern in target infill areas.
2. May be perceived as inequitable or inconsistent, e.g., "why are trees less important on smaller lots than larger lots?"

#### **2. What size trees should be regulated?**

##### **12" across the board**

Pros:

1. Consistent across all properties and w/Tree Preservation Standard
2. Addresses greater percentage of trees

Cons:

1. Significant increase in workload
2. Potential backlash from currently unregulated homeowners

##### **20" vs. 16" diameter size threshold for homeowner permit**

Pros:

1. Shifting the "homeowner permit" tree size threshold from 20" to 16" in diameter would ensure replacement of more trees on built single family lots less than 10,000 s.f.
2. Partially responds to testimony supporting adoption of smaller trees size thresholds.

Cons:

1. Difference between 12" and 16" diameter is not as intuitive as the distinction between 12" and 20", leaving some to ask, "why the distinction in the regulations?"

3.B.1. Tree Permit Thresholds. [Comm. Fritz 2/2/11] Reduce the tree permit size threshold on single family lots from 20 inches diameter to 12 inches for greater citywide consistency.

3.B.2 through 6. Tree Permit Thresholds. [staff 3/9/11] Change the proposed private tree removal permit to potentially include an exemption for lots less than 5,000 or 3,000 square feet (or no lot size exemption), with a larger tree size threshold (16 or 20 inches) for single family zoned lots.

3.B.7 Retain current proposal. [no amendment] Permits address trees on all lots. Single Family zoned lots (qualifying lot size threshold varies by zone) require permits to remove trees 20" diameter and larger. Other lots continue to require permits for trees 12" diameter and larger.

(Note: All options would retain the proposed 6" size threshold in natural resource overlay zones and specified plan districts)

Motion Options:

	<u>Lot size exemption</u>	<u>Tree size (diameter)</u>
<input type="checkbox"/> 1. [Comm Fritz]	None	12" for all lots
<input type="checkbox"/> 2. [Staff]	<5,000 s.f.	12" except 16" for single family zoned lots 5,000 - 10,000 s.f.
<input type="checkbox"/> 3. [Staff]	<5,000 s.f.	12" except 20" for single family zoned lots 5,000 - 10,000 s.f.
<input type="checkbox"/> 4. [Staff]	<3,000 s.f.	12" except 16" for single family zoned lots 3,000 - 10,000 s.f.
<input type="checkbox"/> 5. [Staff]	<3,000 s.f.	12" except 20" for single family zoned lots 3,000 - 10,000 s.f.
<input type="checkbox"/> 6. [Staff]	None	12" except 20" for single family zoned lots <10,000 s.f.
<input type="checkbox"/> 7. [No change]	None	12" except 20" for single family zoned lots (size varies by zone)

**Mayor calls for a motion.**

**3.C. Street and City Trees (Title 11, Trees)**

3.C.1. Temporary Attachments. Allow temporary attachments to street trees without a permit.

[Comm. Fritz 2/2/11]

**Pros:**

1. Clarifies code to allow temporary attachments without the need to obtain a permit.
2. Maintains City Forester review of certain permanent attachments and continues to emphasize the maintenance of the health of the tree as the overriding concern.

**Cons:**

1. Causes some confusion between what is permanent and temporary.

**Motion options:**

- ☐ 1. Move to amend the Recommended Draft by eliminating permit requirement for temporary attachments to street trees.
- ☐ 2. Move to not amend the Recommended Draft – temporary attachments would require permit from the City Forester.
- ☐ 3. Move to \_\_\_\_\_

***Mayor calls for a motion.***

### 3.C.2. Pruning Permits. Allow street tree pruning subject to an agreement in lieu of a permit.

[Comm. Fish 3/9/11]

Introduction: Since 1972, the city has required permits to prune street trees. The Citywide Tree Project proposal includes an exemption for pruning minor branches and sucker growth ¼" or less in size. There is interest in regulating street tree pruning to prevent harm, while enabling quicker service delivery and reducing process requirements. This amendment requests that property owners be allowed to self-issue a street tree pruning permit electronically. Property owners would be required to certify that they had read information on the City's website about proper pruning techniques, and acknowledge their obligation to conduct all street tree-related pruning activities "in accordance with proper arboricultural standards."

#### Pros:

1. Provides opportunity to provide information on proper pruning practices
2. Reduces City staff time spent conducting inspections prior to issuing pruning permits, rather than on enforcement.
3. Reduces average delay of 2 weeks for persons wishing to prune trees
4. Allows issuance of permits 24/7.
5. Makes it easier for property owners to do the right thing.

#### Cons:

1. Limits amount of oversight that City has prior to pruning.
2. Does not in itself prevent improper pruning techniques; would have to be paired with outreach and education efforts.
3. Non-electronic option would be needed for those without internet access.

#### Motion options:

- ☐ 1. Move to amend the Recommended Draft by eliminating permit requirement for pruning street trees.
- ☐ 2. Move to not amend the Recommended Draft – pruning branches greater than ¼" would require permit from the City Forester.
- ☐ 3. Move to \_\_\_\_\_

**Mayor calls for a motion.**

### 3.D. Programmatic Permit (Title 11, Trees)

184524

- 3.D.1. Allow removal of healthy trees larger than 6" in diameter with opportunity for public appeal to the Urban Forestry Appeals Board [staff 3/9/11]

Introduction: The Programmatic Permit as recommended by the UFC/PC is intended to facilitate and improve the efficiency and transparency of routine public agency tree-related activities. The City Forester could issue a Programmatic Permit to allow routine activities for up to 5 years, as long as the activities would result in a net benefit to the urban forest. As proposed the Programmatic Permit offers no opportunity for public appeal.

The UFC/PC proposal would allow removal of dead, dying, dangerous and Nuisance species trees, but would not allow removal of healthy non-Nuisance species trees larger than 6" diameter. The UFC/PC intended to limit tree removal given the five year duration of the permit, and because the permit process would not offer the same opportunity for public appeal as is provided for with individual tree permits. This limit on tree removal makes the permit less useful for certain types of public agency activities including potential tree removal required to meet federal vegetation management requirements at PDX or on federal levees.

The amendment would allow the City to approve the removal of healthy trees larger than 6" in diameter, and allow public appeal of the City's permit decisions to allow removal of the larger trees.

#### Pros:

1. Amending the Programmatic Permit will make it a more useful tool to more agencies
2. Greater efficiencies are obtained for land managers of large geographic areas.
3. More equitable between public agencies that manage Private Trees (regulated starting at 12" diameter) and those managing City or Street Trees (regulated starting at 3" diameter)
4. More equitable and accountable to the public than exempting PDX from the tree codes generally.
5. Instituting a public appeal opportunity increases accountability to the public, and ensures greater transparency in the development of the programmatic permit conditions.

#### Cons:

1. Potential for larger tree removal with less City oversight than is generally conducted for individual tree permits.

#### Motion options:

- ☒ 1. Move to amend the Recommended Draft by expanding the programmatic permit to allow removal of healthy trees  $\geq 6"$  diameter with opportunity for public appeal.
- ☐ 2. Move to not amend the Recommended Draft – retain blanket limit on removing healthy trees  $\geq 6"$  diameter
- ☐ 3. Move to \_\_\_\_\_

**Mayor calls for a motion.**

**4.A. Phasing and Budget Directives.** Delete findings and directives relating to the code effective dates and budget considerations from Title 33 and Title 11 ordinances. [Comm. Fritz 2/2/11]

Introduction: The draft ordinances set include findings and directives describing how and why the Citywide Tree Project will be phased, describes when the codes go into effect, and signals the need for additional resources to implement the recommendations. The amendment would delete these findings and directives.

***NOTE: Commissioner Fritz will be introducing an amendment to this item.***

Motion options:

- ☐ 1. Move to amend the Title 33 and Title 11 ordinances by deleting implementation phasing and budget details from ordinances.
- ☐ 2. Move to amend the Title 33 and Title 11 ordinances by removing specific dollar amounts from ordinance, rely on budget process and budget impact statement. Retain code effective phasing plan.
- ☐ 3. Move to not amend the Title 33 and Title 11 ordinances – retain specific ordinance language pertaining to budget implications, and code effective phasing plan.
- ☐ 4. Move to \_\_\_\_\_

**From:** Bizeau, Tom  
**Sent:** Wednesday, March 09, 2011 7:30 AM  
**To:** Moore-Love, Karla  
**Subject:** FW: Fritz Additional Amendments to Tree Code

**Attachments:** AddPropAmendTreeCode@Hearing.doc; Title33\_Ord\_revised\_(clean).doc; Title33\_Ord\_revised\_(Redline).doc; Title11\_Ord\_revised\_(Clean).doc; Title11\_Ord\_revised\_(Redline).doc

Karla,

I sent this out last night and thought that you should have a copy as well.

Tom

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**From:** Bizeau, Tom  
**Sent:** Tuesday, March 08, 2011 7:09 PM  
**To:** Petrocine, Sara; Ruiz, Amy; Grumm, Matt; Kuhn, Hannah; Blackwood, Jim  
**Cc:** Jortner, Roberta (Planning); Beckman, Stephanie; Tracy, Morgan ( Planning); Rosen, Mike; McAllister, David; Esau, Rebecca; Kovatch, Ty; Ames, Betsy; Finn, Brendan; Jimenez, Warren  
**Subject:** Fritz Additional Amendments to Tree Code

See the attachments. In the first document "AddPropAmendTreeCode.." -- They are split into three groups. One, is for technical amendments to be approved on consent at the beginning of the hearing. If there are any that your offices want to be pulled they will be put into the Discussion items at the end of testimony. The 2nd table in this first document is for the discussion items already listed in the Discussion Guide that has been put together by BPS staff. These items are the clarifying amendments to items that are already on the discussion list. The 3rd table in this first attached document is related to implementation and may not need any discussion at all but is a heads-up to future implementation items.

All other 4 attachments are related to the Discussion changes for the Ordinances Title 11 and Title 33 with clean and redlined versions.

This is meant to help.

Direct questions to me.



AddPropAmendT  
:Code@Hearing.c



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Thomas Bizeau  
Chief of Staff; Commissioner Amanda Fritz  
City of Portland, Oregon;  
tom.bizeau@portlandoregon.gov  
Phone: (503)-823-3990



Proposed **ADDITIONAL TECHNICAL AMENDMENTS TO TREE CODE** Titles 11 and Titles 33  
 From: Office of Commissioner Fritz

**TO BE ENTERED WITH OTHER TECHNICAL AMENDMENT PACKAGES:** Can be pulled for discussion.

Section	Issue	Proposed Amendment
11.40.010 Tree Permit Requirements	<b>Education:</b> Include statement that reinforces the notion that education is a key component of the permit system.	<b>11.40.010 Purpose</b> The purpose of this Chapter is to manage, conserve and enhance the urban forest when development activity is neither proposed nor occurring. The provisions of this chapter encourage preservation of high quality trees, large trees, and groves; regulate pruning and planting on City-owned and managed sites and streets to protect public safety and public infrastructure; and ensure replacement for trees that are removed. <u>The permitting procedures that are required to implement these provisions, are intended to not only enforce maintenance, removal and preservation requirements but also to educate property owners about the intrinsic urban benefits of trees as well as the principles of tree care.</u>
11.40.040 Tree Permit Requirements	<b>Other Activities:</b> Clarify and simplify the requirements for hanging on objects on trees.	<b>11.40.040 (3) Other Activities:</b> A permit is required to attach <b>permanent objects (e.g. lights, signs, or artwork)</b> to a tree or <b>its supports (e.g. guides, wires, stakes)</b> , or for any other type of activity the City Forester determines has the potential to harm a City or Street tree. In reviewing these requests, the City Forester may impose limitations on the method, location, or duration of such activities.
11.60.020 E Installation and establishment	<b>Planting requirements</b>	<b>Timing: (At end of existing wording) ..... It is encouraged that planting occur during the wet months or as per City Forester recommendations.</b>
11.20.020 A Also Decision Guide 1.A	<b>Membership of UFCommission:</b> Require women and minorities to be represented on the Commission	"Membership. The Urban Forestry Commission consists of eleven members who have demonstrated an interest in the protection and enhancement of the urban forest, appointed by the Mayor in consultation with the Commissioner of Parks and Recreation and confirmed by the City Council. <b><u>Women and multi-cultural groups shall be represented.</u></b> At least three members .....
11.20.030 A Also Decision Guide 1.A	<b>Membership of UFCommission:</b> Require women and minorities to be represented on the Commission	"Membership. The Urban Forestry Appeals Board consists of five members <b>representing all interest groups on</b> of the Urban Forestry Commission, selected by a majority of the Commission. Members will serve .....

Proposed ADDITIONAL  
DISCUSSION AMENDMENTS TO TREE CODE Titles 11 and Titles 33

Section	Issue	Proposed Amendment
11.40.040 A 2 & Table 40-2	<b>Pruning:</b> Revise to include higher threshold for cutting diameter and focus on Arborist standards; While pruning can be a relatively innocuous procedure, it can also be overdone or done in such a way as negatively impact tree growth.	The City Forester will grant <u>A</u> permit <b>is required</b> for pruning or root cutting of <b>lateral</b> branches or roots <del>1/4</del> <u>1</u> inch or larger. <del>if</del> <b>As part of the permit process the applicant must demonstrate</b> to the City Forester's satisfaction that the pruning or root cutting will be performed in accordance with proper arboricultural practices, and that it will not adversely impact the health or structural integrity of the tree. – <i>(It is hoped that this permit process will be electronically available for submission and approval)</i>
<b>33.630.200.A</b> <i>(renumbered from 33.630.200.C.1 in Dec 2010 draft, see Att. 3B-2) (p.153)</i>  Noted as Item 16 in Attachment 3B-1	<b>Land division approval criteria.</b> Add a reference to the criteria to information contained in the Portland Plant List about the size and growth rates of native trees. The Portland Plant List will also be amended to incorporate the information in the "Significant Tree Table" that is currently in 33.630, but that is proposed to be deleted. See Attachment 3B-3, for an example of how the Portland Plant List would be amended. The Plant List will be updated through a separate rulemaking process	To the extent practicable, trees proposed for preservation provide the greatest <u>benefits as identified in the purpose of this chapter. In general, healthy, native or non-nuisance species trees that are 20 or more inches in diameter and tree groves, are the highest priority for preservation. However, specific characteristics of the trees, site and surrounding area, should be considered and may call for different priorities, such as preserving native tree growth rates and priority tree sizes</u> <del>the size and growth rates of native species as described in the Portland Plant List,</del> buffering natural resources, preventing erosion or slope destabilization, and limiting impacts on adjacent sites; <i>(renumbered from 33.630.200.C.1 in Dec 2010 draft, see Attachment</i>  <i>(Revise Portland Plant List in Code Implementation Package to be approved by Council).</i>
<b>Phasing and Budget Directives.</b> Discussion Guide Item 4.A. Title 33 and Title 11 ordinances.	Delete findings and directives relating to the code effective dates and budget considerations from Title 33 and Title 11 ordinances.	See Attached Language Changes to both Ordinances – Strikeout and Clean copy versions.

### Administrative Implementation Issues (Possibly for Discussion)

Implementation Issue	Letters of Compliance	<u>A letter of completed planting should be required to be sent, similar to the required letter in e-zones documenting completion and survival of mitigation plantings.</u>
Implementation Issues	Computer Tracking	<u>BDS's new computer should be configured to track and flag required letters of planting compliance.</u>
Implementation Issue	Hot Line	<u>Staff the hotline at times from dawn to dusk outside of business hours, rather than 24/7, have phone message machine that provides answers to often asked questions.</u>

## ORDINANCE No.

Amend Title 33 Planning and Zoning to encourage integration of quality tree preservation and tree planting in early site design, land divisions, and certain land use reviews; improve consistency and effectiveness of tree regulations in specified overlay zones and plan districts, and update definitions. Amend the Ladd's Addition Conservation District Guidelines to clarify that planting trees on the Nuisance Plants List is prohibited on City property and City rights-of-way.

The City of Portland Ordains:

Section 1. The Council finds:

### General findings

1. Some of the amendments to Title 33 are cost-neutral and can be implemented with existing staff resources. However additional staffing will be needed to administer the amended provisions for land divisions and specified land use reviews. The estimated cost to implement the Title 33 amendments is presented in Exhibits C, Tree Canopy Benefits, Financial Impacts and Budget Proposal and D, Financial Impact Statement, and are expected to be covered on an ongoing basis through modest increases in land use review fees. However, because it will take some time for fee revenues to accrue, it is projected that the Bureau of Development Services will need initial one time general funding to begin implementing certain of the proposed amendments.
2. The project will be implemented in phases. The first phase will take place in FY 2011-12, and will involve implementation of a first set of Title 33 amendments (Exhibit A) and activities to prepare procedures, materials, systems, and users for implementing Title 11 and the second set of Title 33 amendments. The second phase will take place in FY 2012-13 and will involve hiring and training staff to administer and enforce Title 11 and the second set of Title 33 amendments and the single point of contact. These code changes will become effective as described, pending approval of necessary staffing and funding for administration. Amendments to the Ladd's Addition Conservation District Guidelines will also become effective in February 2013 or when Title 11, Trees becomes effective, whichever is later. Funding for the first two years is expected to be largely requested through one-time general fund allocations or alternate fund sources. Starting in FY 2013-2014, it is projected that the funding source will shift to development fee supported revenues. The phased implementation and projected budget requirements is outlined in Exhibit C, Tree Canopy Benefits, Financial Impacts and Budget Proposal and Exhibit D, Financial Impact Statement.

### NOW, THEREFORE, the Council directs:

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

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

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

Passed by the Council:

Commissioner: Mayor Sam Adams

Prepared by: Roberta Jortner

Date Prepared:           

**LaVonne Griffin-Valade**

Auditor of the City of Portland

By

Deputy

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

**NOW, THEREFORE, the Council directs:**

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

Comment [t1]: Why are we choosing 2 years out?

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

Passed by the Council:

Commissioner: Mayor Sam Adams

Prepared by: Roberta Jortner

Date Prepared:           

**LaVonne Griffin-Valade**

Auditor of the City of Portland

By

Deputy

## ORDINANCE No.

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)

The City of Portland Ordains:

Section 1. The Council finds:

### General findings

1. ....

The adoption of Title 11 and other amendments will be phased for implementation in order to provide for the additional staffing and funding as needed to successfully meet project goals and avoid adverse impacts on existing programs, and as indicated in Exhibits D, Tree Canopy Estimates, Financial Impacts and Budget Proposal section of the Recommended Report to City Council, and E. Financial Impact Statement. About two thirds of the costs are expected to be covered by increases in development and land use review fees, capital project funding. Other ongoing program costs are associated with the improved tree permit system and hiring a single point of contact to assist the public and help process permits. These functions would not be fee-supported and would require general fund dollars or other sources of funding. One-time costs for initial project preparation (training, development of procedures and informational materials, outreach, etc.), permit tracking system upgrades, vehicles for tree inspectors, and the community tree manual are also expected to require general fund dollars or funds from an alternative source(s).

2. The commissions approved a phased project implementation and funding approach, as proposed by the directors of the bureaus of Development Services, Parks and Recreation, Environmental Services, and Planning and Sustainability. Project implementation will take place over three fiscal years. In FY 2011 – 12, activities would focus on permit tracking system upgrades, staff training, development of informational materials, and public outreach to prepare for code implementation, and production of the community tree manual. An initial set of Title 33 code amendments will go into effect as outlined in a separate ordinance. These activities are expected to be funded through a one-time allocation from the General Fund. Title 11, amendments to other titles, and remaining Title 33 amendments, fee increases and ongoing general funding will go into effect mid-year FY 2012-13. One-time general funding will also be needed for BDS during this “transition year” to allow for adequate accrual of fee revenues. In FY 2013-14, the program would be funded through fees, CIP dollars and ongoing general fund allocation. One-time general funding is anticipated to terminate at that time. This phased-in approach is intended to provide time for City bureaus to gear up and to educate Portlanders about the regulatory updates, and for the local economy and City budget to stabilize sufficiently before implementing the updated regulations.
3. The Citywide Tree Project is expressly listed as a component of Portland’s strategy to



comply with Metro's Title 13, Nature in Neighborhoods Program. Completion of the Citywide Tree Project is also cited as an upcoming accomplishment in the City's 2009-2010 annual National Pollutant Discharge Elimination System (NPDES) and Stormwater Program compliance reports to the Oregon Department of Environmental Quality.

NOW, THEREFORE, the Council directs:

- a. Adopt the *Citywide Tree Policy and Regulatory Improvement Project – Planning Commission and Urban Forestry Commission Recommended Draft Report to City Council, December 2010*.
- b. Establish Title 11, Trees, in accordance with Exhibit A.
- c. Amend Titles 3, Administration; 8, Health and Sanitation; 14C, Public Order and Police; 16, Vehicles and Traffic; 17, Public Improvements; 20, Parks and Recreation; 24, Building Regulations; 29, Property Maintenance Regulations; and 31, Fire Regulations in accordance with Exhibit B.
- d. Adopt the commentary of Exhibits A and B as legislative intent and additional findings.
- e. Adopt the recommendations of Exhibit C, Customer Service Improvements section of the Recommended Report to City Council.
- f. The bureaus of Parks and Recreation and Development Services to will report to City Council during in the FY 2011-12, 2012-13, and 2013-14 budget processes, on plans to fund the project, including administration of Title 11 and Title 33 amendments and improvements outlined in Exhibit D, including potential increases in development and land use review fees, and allocations from the general fund.

## Section 2.

1. The Council declares that Directives a, e, and f of this ordinance shall become effective 30 days from adoption
2. To provide time to the City to prepare to administer Title 11, Trees and other elements of this proposal, the Council declares that Directives b, c, and d shall become effective on February 1, 2013, pending Council approval of staffing and funding for implementation.

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

Passed by the Council:

Commissioner Mayor Sam Adams

Prepared by: Roberta Jortner

Date Prepared:

**LaVonne Griffin-Valade**

Auditor of the City of Portland

By

Deputy

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### General findings

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3. The Citywide Tree Project is expressly listed as a component of Portland’s strategy to

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comply with Metro's Title 13, Nature in Neighborhoods Program. Completion of the Citywide Tree Project is also cited as an upcoming accomplishment in the City's 2009-2010 annual National Pollutant Discharge Elimination System (NPDES) and Stormwater Program compliance reports to the Oregon Department of Environmental Quality.

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NOW, THEREFORE, the Council directs:

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- d. Adopt the commentary of Exhibits A and B as legislative intent and additional findings.
- e. Adopt the recommendations of Exhibit C, Customer Service Improvements section of the Recommended Report to City Council.
- f. The bureaus of Parks and Recreation and Development Services to will report to City Council during in the FY 2011-12, 2012-13, and 2013-14 budget processes, on plans to fund the project, including administration of Title 11 and Title 33 amendments and improvements outlined in Exhibit D, including potential increases in development and land use review fees, and allocations from the general fund.

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## Section 2.

1. The Council declares that Directives a, c, and f of this ordinance shall become effective 30 days from adoption
2. To provide time to the City to prepare to administer Title 11, Trees and other elements of this proposal, the Council declares that Directives b, c, and d shall become effective on February 1, 2013, pending Council approval of staffing and funding for implementation.

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

Passed by the Council:

Commissioner Mayor Sam Adams

Prepared by: Roberta Jortner

Date Prepared:

**LaVonne Griffin-Valade**

Auditor of the City of Portland

By

Deputy



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

## MEMORANDUM TO CITY COUNCIL

March 4, 2011

TO: Mayor Sam Adams  
Commissioner Nick Fish  
Commissioner Amanda Fritz  
Commissioner Randy Leonard  
Commissioner Dan Saltzman

FROM: Susan Anderson, Director

CC: Zari Santner, Director, Portland Parks and Recreation  
Paul Scarlett, Director, Bureau of Development Services  
Dean Marriott, Director, Bureau of Environmental Services  
David Schaff, Director, Water Bureau  
Sue Keil, Director, Bureau of Transportation

SUBJECT: Citywide Tree Policy Review and Regulatory Improvement Project (Citywide Tree Project)

### Introduction

On March 9, 2011 the City Council will reconvene to hear public testimony and provide direction on potential amendments to the Citywide Tree Project proposal. Amendments are presented in Attachments 1, 2, and 3.

At the February 2, 2011 Citywide Tree Project public hearing, City Council directed the Bureau of Planning and Sustainability (BPS) to work with the Bureaus of Development Services (BDS), Parks and Recreation (PPR), Environmental Services (BES), and other bureaus as needed to address concerns raised by BDS and in public testimony. Council directed the bureaus to reach agreement where possible, and to bring unresolved issues, with associated pros and cons, back to Council for a decision.

The following steps have been taken since the February 2<sup>nd</sup> hearing:

1. BDS, PPR, BES submitted key issues, options, and pros and cons, to BPS for compilation and consolidation. BPS added a few items to address key issues raised in public testimony. Issues included: commission oversight for Title 11, Urban Forestry Commission composition, tree development standards and exemptions, tree pruning and removal permits, nuisance tree related requirements, use of Tree Fund monies, and enforcement.
2. On February 16<sup>th</sup> BPS facilitated a half-day work session with BDS, PPR, and BES managers. Sara Petrocine (Commissioner Leonard's office), Tom Bizeau (Commissioner Fritz's office), and Hannah Kuhn (Commissioner Fish's office) also attended the work session.



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1900 SW 4th Avenue, Suite 7100, Portland, OR 97201 | phone: 503-823-7700 | fax: 503-823-7800 | tty: 503-823-6868

The bureaus discussed the issues and options, evaluating them against relevant data (see Attachment 4) and these criteria:

- Tree canopy (quantity, quality, distribution)
- Consistency and fairness
- Complexity
- Administrative ease/customer ease
- Cost-effectiveness
- Political acceptability

The bureaus reached consensus on a number of issues and provided feedback on some amendments introduced on February 2<sup>nd</sup>. Where opinions differed, we focused on narrowing the choices for consideration by the bureau directors and Council. A report documenting the results of the work session is provided in Attachment 5.

3. On February 25, BDS, PPR, BES and BPS directors, managers, and the project team met. We discussed remaining issues, focusing on options to streamline the Title 11 development standards and tree permit proposal, while retaining tree canopy benefits and meeting other criteria. The directors also discussed options for addressing project implementation and phasing in the adopting ordinances. Although the participants had different opinions on the options, there was agreement to bring several additional amendments to City Council for consideration. These new potential amendments and their respective pros and cons are summarized in Attachment 6, along with several items for which no amendments are proposed.

### Recommendations

1. Introduce amendments presented in Attachment 1, 2 and 3 as action items for purposes of this public hearing.
2. Invite public testimony on the amendments presented in Attachments 1, 2, and 3.
3. Discuss and act on amendments as outlined in Attachment 1 "in concept".  
(Note: Attachment 1 incorporates amendments introduced on February 2 and March 9, 2011, including substantive discussion items and technical amendments listed in Attachments 2 and 3.)
4. Direct staff to draft additional code language to reflect Council direction and return to Council for final action.

### Attachments

1. Citywide Tree Project City Council Amendment Decision Guide, March 9, 2011
2. Technical Amendments introduced February 2, 2011
3. Technical Amendments introduced March 9, 2011
4. Summary of Lot Size, Tree Size, Canopy, and Development Activity Distribution, February 25, 2011
5. Notes from February 16, 2011 Inter-bureau Work Session
6. New Staff Amendments with Pros and Cons – March 9, 2011



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*Printed on 100% post-consumer waste recycled paper.*

# Citywide Tree Project

## City Council Amendments Decision Guide

### March 9, 2011

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#### DECISION STEPS

##### 1. Select a set of issues you wish to act on without further discussion.

- A. The Technical Amendments packets from February 2 and March 9, 2011 include non-substantive items primarily to clarify, simplify, or reorganize the proposed code. Substantive items in these packets are noted and addressed in the Discussion Items section of this guide.
- B. Indicate any items you wish to pull from the Technical Amendments packet to add to the list of items the Council will discuss and act on individually.
- C. Act on remaining Technical Amendments.

##### 2. Review and act on Discussion Items individually.

- A. The Discussion Items list includes substantive amendment concepts, including amendments introduced by Mayor Adams, Commissioner Fritz, and staff on February 2<sup>nd</sup>. Several additional amendments have been included which reflect inter-bureau discussions and consideration of public testimony between February 2<sup>nd</sup> and March 9<sup>th</sup>.
- B. Options are provided for Council consideration. Where bureaus reached consensus on staff-introduced amendments, these are noted with a ☒.
- C. Act on Discussion Items.

##### 3. Direct staff to develop specific language and return for a final vote. Based on Council action, staff will develop specific code language incorporating all relevant technical and substantive amendments for Council's review and approval.

---

#### TECHNICAL AMENDMENTS (YELLOW PACKET – ATTACHMENTS 2 AND 3) – APPROVE WITHOUT DISCUSSION

- 1. February 2, 2011 Title 11 and Title 33
- 2. March 9, 2011 Title 11 and Title 33

##### Motion options:

- ☒ 1. Move to amend the Recommended Draft per the technical amendments described in Attachments 2 and 3.
- ☐ 2. Pull issue #'s \_\_\_ from the Technical Amendments for discussion; approve remaining technical amendments.
- ☐ 3. Move to \_\_\_\_\_

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#### DISCUSSION ITEMS

Discussion items are grouped in the following categories:

- 1. Commissions and Roles
- 2. Trees in Development Situations
- 3. Trees Absent Development
- 4. Ordinances



## **1. Commissions and Roles**

### **1.A. Urban Forestry Commission (Title 11, Trees)**

- 1.A.1. Ex-Officio Membership to Urban Forestry Commission (UFC) – Eliminate proposal to add bureaus as ex officio members of the Urban Forestry Commission; eliminate existing provision establishing the Bureau of Transportation as an ex-officio member of the UFC. [staff 3/9/11]

#### Motion options:

- ☒ 1. Move to amend the Recommended Draft to remove Bureau ex-officio members of the UFC
- ☐ 2. Move to add Bureau of Parks and Recreation or the City Forester to the list of existing and proposed bureau ex-officio members
- ☐ 3. Move to not amend the Recommended Draft – include PBOT, BES, BDS, Water staff as ex-officio members.
- ☐ 4. Move to \_\_\_\_\_

### **1.B. Commission oversight for Title 11, Trees**

- 1.B.1. Require the Planning and Sustainability Commission (PSC) to hold a public hearing and make recommendations to City Council regarding amendments to development related requirements of Title 11. [staff 2/2/11]

#### Motion options:

- ☒ 1. Move to amend the Recommended Draft to require the PSC to hold a public hearing and make recommendations to Council (in addition to the UFC) for amendments to Chapters 11.50, 11.60, and 11.70
- ☐ 2. Move to not amend the Recommended Draft – PSC may hold hearing at its discretion
- ☐ 3. Move to \_\_\_\_\_

## **2. Trees in Development Situations**

### **2.A. Industrial, Employment, Commercial Lands Exemptions (Title 11, Trees)**

- 2.A.1. Exempt industrial, employment and commercial zones that do not have existing landscaped area standards from the Title 11 Tree Preservation and Tree Density Requirements. [staff 2/2/11]

#### Motion options:

- ☒ 1. Move to amend the Recommended Draft to exempt land within IH, IG1, EX, CX, CS, CM zones from Tree Preservation and Tree Density standards.
- ☒ 2. Direct staff to return at a future date for further discussion when LUBA remand issues are addressed.
- ☐ 3. Move to not amend the Recommended Draft – do not exempt specified zones.
- ☐ 4. Move to \_\_\_\_\_

### **2.B. Tree Preservation Standard (Title 11, Trees)**

- 2.B.1. Preservation Percentage. Change the preservation standard from 35% of  $\geq 12''$  diameter trees to 33% of  $\geq 12''$  diameter trees on development sites [Mayor Adams 2/2/11]

#### Motion options:

- ☐ 1. Move to amend the Recommended Draft to reduce the preservation standard from 35% to 33%
- ☐ 2. Move to not amend the Recommended Draft – retain 35% standard.
- ☐ 3. Move to \_\_\_\_\_

**2.B.2. Small Lot Exemption**

2.B.2.a. Tree Mitigation. For development sites between 3,000 and 5,000 s.f.: Allow mitigation for one tree to be accomplished by planting on-site (instead of paying in lieu of preservation to the Tree Fund. [Mayor Adams 2/2/11],

OR

2.B.2.b. Lot Size Exemption. Change proposed lot size exemption from  $\leq 3000$  s.f. to  $< 5,000$  s.f. [staff 3/9/11]

Motion options:

- ☐ 1. Move to amend the Recommended Draft to allow one tree to be mitigated on site by planting two trees for lots greater than 3000 s.f. and less than 5,000 s.f.
- ☐ 2. Move to amend the Recommended Draft to increase the lot size exemption from "less than or equal to 3,000 s.f." to "less than 5,000 s.f."
- ☐ 3. Move to not amend the Recommended Draft – retain exemption for lots less than or equal to 3,000 s.f. with no special provisions for sites between 3,000 and 5,000 square feet.
- ☐ 4. Move to \_\_\_\_\_

2.B.3. Building Coverage Exemption. Change building coverage exemption threshold from 90% to 80% [Mayor Adams 2/2/11]

Motion options:

- ☐ 1. Move to amend the Recommended Draft to change tree preservation exemption for sites with high building coverage from at least 90% to at least 80%
- ☐ 2. Move to not amend the Recommended Draft – retain exemption for sites with at least 90% building coverage
- ☐ 3. Move to \_\_\_\_\_

**2.C. Tree Density Standard (Title 11, Trees)**

2.C.1 Counting Street Tree planting on Small Lots. Credit newly planted street trees toward the on-site Tree Density standards for lots  $\leq 3,000$  s.f. [Mayor Adams 2/2/11]

Motion options:

- ☐ 1. Move to amend the Recommended Draft to credit newly planted street trees toward on-site Tree Density for lots less than or equal to 3,000 s.f.
- ☐ 2. Move to amend the Recommended Draft to credit existing healthy, non-nuisance species trees AND newly planted street trees toward on-site Tree Density for lots less than or equal to 3,000 s.f.
- ☐ 3. Move to not amend the Recommended Draft – retain proposed Tree Density standards and keep on site tree and street tree requirements separate.
- ☐ 4. Move to \_\_\_\_\_

**2.D. Flexible Development Standard (Title 33)**

2.D.1. Delete proposed provision allowing required outdoor area to encroach into the front yard setback for the purpose of preserving existing healthy trees  $\geq 12"$  diameter [Comm. Fritz 2/2/11]

Motion options:

- ☐ 1. Move to amend the Recommended Draft to delete provision allowing the outdoor area to be partially located in the front setback when preserving trees within that area.
- ☐ 2. Move to not amend the Recommended Draft – allow the outdoor area to be partially located in the front setback when preserving trees within that area.
- ☐ 3. Move to \_\_\_\_\_

**2.E. Land Divisions (Title 33)**

2.E.1. Reintroduce the significant tree table into the Land Division criteria. [Comm. Fritz 2/2/11]

Motion options:

- ☐ 1. Move to amend the Recommended Draft by reintroducing the significant native tree table in the Title 33 land division approval criteria.
- ☐ 2. Move to amend the Recommended Draft by adding a reference in the land division approval criteria and include information about native tree growth rates and sizes in the Portland Plant List – (see Title 33 amendments, issue #16, Attachment 3).
- ☐ 3. Move to not amend the Recommended Draft – rely on discretionary criteria that speak generally to native tree preservation and do not address native tree growth rates sizes
- ☐ 4. Move to \_\_\_\_\_

**2.F. Environmental Resource Zones (Title 33)**

2.F.1. Retain the existing 10" diameter development standard for removing trees in conjunction with development in utility corridors, resource enhancement projects, stormwater outfalls, and public recreational facilities in environmental zones instead of changing the threshold to 12" diameter.

[Comm. Fritz 2/2/11]

(Note: Smaller trees are replaced per standards, larger tree removal triggers environmental review.)

Motion options:

- ☐ 1. Move to amend the Recommended Draft by retaining the existing 10" diameter tree size at which an environmental review is triggered for utility corridors, resource enhancement projects, stormwater outfalls, and public recreational facilities.
- ☐ 2. Move to not amend the Recommended Draft – retain the proposed 12" diameter tree size at which an environmental review is triggered for utility corridors, resource enhancement projects, stormwater outfalls, and public recreational facilities.
- ☐ 3. Move to \_\_\_\_\_

2.F.2. Adopt chapter 33.860, Comprehensive Natural Resource Plans that allow master planning for sites containing one or more environmental resource overlay zones. [staff 2/2/11]

Motion options:

- ☒ 1. Move to amend the Recommended Draft by adopting the Comprehensive Natural Resource Plan chapter to allow master planning of sites with environmental resource overlay zones.
- ☐ 2. Move to not amend the Recommended Draft – do not include provisions for creating Comprehensive Natural Resource Plans.
- ☐ 3. Move to \_\_\_\_\_

**3. Trees Absent Development****3.A. Nuisance Species Trees (Title 11, Trees) and Title 33, Chapter 33.430, Environmental Overlay Zones**

3.A.1. Tree Replacement. Delete proposed tree replacement requirement for City-listed Nuisance species trees, except for trees in environmental zones. [Comm. Fritz 2/2/11]

Motion options:

- ☐ 1. Move to amend the Recommended Draft by eliminating replacement requirement for Nuisance species trees, except when located in environmental resource overlay zones.
- ☐ 2. Move to amend the Recommended Draft by eliminating replacement requirement for all Nuisance species trees.
- ☐ 3. Move to not amend the Recommended Draft – require nuisance species trees to be replaced by planting one new non-Nuisance (or Native in environmental zones) tree.
- ☐ 4. Move to \_\_\_\_\_

**3.B. Private Tree Removal Permit (Title 11, Trees)**

3.B.1. Tree Permit Thresholds. **[Comm. Fritz 2/2/11]** Reduce the tree permit size threshold on single family lots from 20 inches diameter to 12 inches for greater citywide consistency.

3.B.2 through 6. Tree Permit Thresholds. [staff 3/9/11] Change the proposed private tree removal permit to potentially include an exemption for lots less than 5,000 or 3,000 square feet (or no lot size exemption), with a larger tree size threshold (16 or 20 inches) for single family zoned lots.

3.B.7 Retain current proposal. [no amendment] Permits address trees on all lots. Single Family zoned lots (qualifying lot size threshold varies by zone) require permits to remove trees 20" diameter and larger. Other lots continue to require permits for trees 12" diameter and larger.

(note: All options would retain the proposed 6" size threshold in natural resource overlay zones and specified plan districts)

Motion Options:

	<u>Lot size exemption</u>	<u>Tree size (diameter)</u>
<input type="checkbox"/> 1. [Comm Fritz]	None	12" for all lots
<input type="checkbox"/> 2. [Staff]	<5,000 s.f.	12" except 16" for single family zoned lots 5,000 - 10,000 s.f.
<input type="checkbox"/> 3. [Staff]	<5,000 s.f.	12" except 20" for single family zoned lots 5,000 - 10,000 s.f.
<input type="checkbox"/> 4. [Staff]	<3,000 s.f.	12" except 16" for single family zoned lots 3,000 - 10,000 s.f.
<input type="checkbox"/> 5. [Staff]	<3,000 s.f.	12" except 20" for single family zoned lots 3,000 - 10,000 s.f.
<input type="checkbox"/> 6. [Staff]	None	12" except 20" for single family zoned lots <10,000 s.f.
<input type="checkbox"/> 7. [No change]	None	12" except 20" for single family zoned lots (size varies by zone)

**3.C. Street and City Trees (Title 11, Trees)**

3.C.1. Temporary Attachments. Allow temporary attachments to street trees without a permit.  
**[Comm. Fritz 2/2/11]**

Motion options:

- ☐ 1. Move to amend the Recommended Draft by eliminating permit requirement for temporary attachments to street trees.
- ☐ 2. Move to not amend the Recommended Draft – temporary attachments would require permit from the City Forester.
- ☐ 3. Move to \_\_\_\_\_

**3.D. Programmatic Permit (Title 11, Trees)**

3.D.1. Allow removal of healthy trees larger than 6" in diameter with opportunity for public appeal to the Urban Forestry Appeals Board [staff 3/9/11]

Motion options:

- ☒ 1. Move to amend the Recommended Draft by expanding the programmatic permit to allow removal of healthy trees  $\geq 6"$  diameter with opportunity for public appeal.
- ☐ 2. Move to not amend the Recommended Draft – retain blanket limit on removing healthy trees  $\geq 6"$  diameter
- ☐ 3. Move to \_\_\_\_\_

#### **4. Ordinances**

**4.A. Phasing and Budget Directives.** Delete findings and directives relating to the code effective dates and budget considerations from Title 33 and Title 11 ordinances. **[Comm. Fritz 2/2/11]**

**Motion options:**

- ☐ 1. Move to amend the Title 33 and Title 11 ordinances by deleting implementation phasing and budget details from ordinances.
- ☐ 2. Move to amend the Title 33 and Title 11 ordinances by removing specific dollar amounts from ordinance, rely on budget process and budget impact statement. Retain code effective phasing plan.
- ☐ 3. Move to not amend the Title 33 and Title 11 ordinances – retain specific ordinance language pertaining to budget implications, and code effective phasing plan.
- ☐ 4. Move to \_\_\_\_\_

**4.B. Approve other ordinance refinements -- *forthcoming***

Attachment 2A-1

Title 11 Amendments Introduced February 2, 2011

ATTACHMENT 2

Issue No.	Code Ref. (Page No.)	Description	Staff Response												
		Notes "Page No." refers to the page number in the Title 11 portion of Volume 3 of the Dec. 2010 Recommended Draft	Revisions to the Recommended Draft that add language are shown with double underline. Previously proposed language that is being deleted is shown with <del>strike through</del> .												
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> shall hold a public hearing for any proposed amendments to Chapter 11.50 Trees in Development Situations, Chapter 11.60 Technical Specifications, and Chapter 11.70 Enforcement.</p> <p><b>Moved to list of discussion related amendments (See Discussion Item 1.B.1)</b></p>												
2	11.30.020 Tbl 30-1 (p.43)	<p><b>Public Notice and Appeal for Tree Permits.</b></p> <p>Replace Table 30-1 with appropriate procedural table. Permit threshold information is unchanged in Tables 40-2, 40-3, and 40-4.</p> <p><i>(correction - no substantive change)</i></p>	<p>Agree.</p> <p><b>11.30.020 B. Types of Permits</b></p> <p>Table 30-1 summarizes the <del>activities that are subject</del> <u>public notice and appeal procedures</u> applicable to a Type A or Type B permit.</p> <p>[Replace the proposed Table 30-1 with the following:]</p> <p>Table 30-1  <b>Applicability of Public Notice and Appeal Procedures</b></p> <table border="1"> <thead> <tr> <th>Permit Type</th><th>Public Notice Required</th><th>Applicant May Appeal</th><th>Public May Appeal</th></tr> </thead> <tbody> <tr> <td><b>A</b></td><td>No.</td><td>Yes</td><td>No.</td></tr> <tr> <td><b>B</b></td><td> <p>Yes - for requests to remove healthy non-nuisance trees:</p> <ul style="list-style-type: none"> <li>• <math>\geq 20''</math> diameter; or</li> <li>• More than four trees <math>\geq 12''</math> diam. per site or frontage per year;</li> <li>• Excluding any trees subject to a Type A permit</li> </ul> <p>No - for other Type B requests</p> </td><td>Yes</td><td> <p>Yes - for requests to remove healthy non-nuisance trees:</p> <ul style="list-style-type: none"> <li>• <math>\geq 20''</math> diameter; <u>or</u></li> <li>• More than four trees <math>\geq 12''</math> diam. per site or frontage per year;</li> <li>• Excluding any trees subject to a Type A permit</li> </ul> <p>No - for other Type B requests</p> </td></tr> </tbody> </table>	Permit Type	Public Notice Required	Applicant May Appeal	Public May Appeal	<b>A</b>	No.	Yes	No.	<b>B</b>	<p>Yes - for requests to remove healthy non-nuisance trees:</p> <ul style="list-style-type: none"> <li>• <math>\geq 20''</math> diameter; or</li> <li>• More than four trees <math>\geq 12''</math> diam. per site or frontage per year;</li> <li>• Excluding any trees subject to a Type A permit</li> </ul> <p>No - for other Type B requests</p>	Yes	<p>Yes - for requests to remove healthy non-nuisance trees:</p> <ul style="list-style-type: none"> <li>• <math>\geq 20''</math> diameter; <u>or</u></li> <li>• More than four trees <math>\geq 12''</math> diam. per site or frontage per year;</li> <li>• Excluding any trees subject to a Type A permit</li> </ul> <p>No - for other Type B requests</p>
Permit Type	Public Notice Required	Applicant May Appeal	Public May Appeal												
<b>A</b>	No.	Yes	No.												
<b>B</b>	<p>Yes - for requests to remove healthy non-nuisance trees:</p> <ul style="list-style-type: none"> <li>• <math>\geq 20''</math> diameter; or</li> <li>• More than four trees <math>\geq 12''</math> diam. per site or frontage per year;</li> <li>• Excluding any trees subject to a Type A permit</li> </ul> <p>No - for other Type B requests</p>	Yes	<p>Yes - for requests to remove healthy non-nuisance trees:</p> <ul style="list-style-type: none"> <li>• <math>\geq 20''</math> diameter; <u>or</u></li> <li>• More than four trees <math>\geq 12''</math> diam. per site or frontage per year;</li> <li>• Excluding any trees subject to a Type A permit</li> </ul> <p>No - for other Type B requests</p>												

Issue No.	Code Ref. (Page No.)	Description Notes: Page No. refers to the page number in the Title 11 portion of Volume 3 of the Dec. 2010 Recommended Draft	Staff Response Revisions to the Recommended Draft that add language are shown with double underline. Previously proposed language that is being deleted is shown with strike-through.
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. Appeals shall be:</u>
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) <b>Note: this amendment would be replaced by Issue #38 and #51 in Attachment 3A, Introduced by BPS March 9, 2011</b>	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 2A-2.
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) <b>Note: this amendment would be replaced by Issue #39 in Attachment 3A, Introduced by BPS March 9, 2011</b>	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. However, a tree permit is required and the tree replacement requirements of this chapter shall be met.</u>
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> Dead trees. <u>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.</u> <b>b.</b> Dying trees. <u>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. The City Forester may apply a condition of approval to the permit to require specific disposal methods for infected wood.</u>
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.  (no substantive change)	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.  (no substantive change)	Agree. See proposed amendments and new organization of code sections in ATTACHMENT 2A-3.
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. (clarification - no substantive change)	Agree. See proposed amendments to Section 11.50.020 in ATTACHMENT 2A-3.
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.  (no substantive change)	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 2A-2. See proposed amendments to Section 11.50.040 in ATTACHMENT 2A-3
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.  (substantive refinement to address LUBA remand) <b>Note: this amendment is modified by Issue #42 in Attachment 3A Introduced by BPS March 9, 2011 – to delete unintentional RX zone exemption.</b>	Agree. See proposed additional exemptions in ATTACHMENT 2A-3  <b>Moved to list of discussion related amendments (See Discussion Item 2.A.1)</b>
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.  (no substantive change)	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 2A-3.
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. (no substantive change)	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 2A-3.



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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 2A-3.  <b>Moved to list of discussion related amendments (See Discussion Item 2.A.1)</b>						
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 2A-3.						
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 2A-3.						
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 2A-3.						
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:  <b>Table 50-2 Tree Credits and Minimum Area Requirements 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><tr><td></td><td></td><td></td></tr></table>	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> <del>Tree Removal-cutting permit.</del> 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. <del>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.</del> <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> <u>Changes to Approved Tree Plans and Emergency Situations.</u>						

Issue No.	Code Ref. (Page No.)	Description <small>Notes: "Page No." refers to the page number in the Title 11 portion of Volume 3 of the Dec. 2010 Recommended Draft</small>	Staff Response <small>Revisions to the Recommended Draft that add language are shown with double underline. Previously proposed language that is being deleted is shown with strike-through.</small>
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.  (substantive refinement)	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. (no substantive change)	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. (no substantive change)	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. (no substantive change)	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"  (no substantive change)	Agree. Add the following definition to the code:  <b>11.80.020 B. "County Urban Pocket Areas"</b> <u>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 to 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. 7. Remove reference to Portland International Airport Plan District 11.40.050 A.1.a (5); 11.50.030 C.2.c.; and 11.80.020 B.19.g. (this plan district is not in effect)	Agree.

#### LIST OF SUPPORTING ATTACHMENTS

<b>2A-2</b>	Single Dwelling Developed Site
<b>2A-3</b>	Tree Preservation and Density Requirements

## Attachment 2A-2

### 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.

Title 11 Amendments introduced February 2, 2011  
March 4, 2011

## Revisions to Chapter 11.40 for "Single Dwelling Developed Sites", and Chapter 11.80 related definition

#### 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	165,528 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:

Zone	<u>R2.5</u>	<u>R5</u>	<u>R7</u>	<u>R10</u>	<u>R20</u>	<u>RF</u>	<u>Non-single dwelling</u>
Site size	<u>4,750 sf</u>	<u>2,500 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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## Attachment 2A-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, or 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.

Title 11 Amendments introduced February 2, 2011  
March 4, 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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Attachment 2A-3 Page 1

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## Attachment 2A-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 2A-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 section "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).

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

**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.

**11.50.060 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;

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

**e.f.** 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 2A-3

### Commentary

Substantive Revision: Exemptions from Tree Density standards for sites or portions of sites located in the IH, IG1, EX, CX, CS, or 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 industrial, employment and commercial~~ 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, or 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.

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

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	<del>35</del> <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 planting 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 2A-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.

Title 11 Amendments introduced February 2, 2011  
March 4, 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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Attachment 2A-3 Page 6

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No amendments on this page.

Proposed Amendments to Tree Preservation and Density Requirements of Title 11

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 2B-1

## Title 33 Amendments Introduced February 2, 2011

March 4, 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 <u>single underline</u> and <del>struckthrough</del> . Revisions to the Recommended Draft that add or delete language are shown with <u>double underline</u> or <del>struckthrough</del> . Language previously proposed to be added that is being deleted is shown with <u>underline</u> / <del>struckthrough</del> .
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>	Revise as shown below:  <b>33.120.255.B.1 Pedestrian Standards – Connections</b> (Multi-dwelling zones) a. Connection between streets and entrances. (1) Sites with one street frontage. <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 <u>straight line</u> 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> <b>33.130.240.B.1 Pedestrian Standards – Connections</b> (Commercial zones) a. Connection between streets and entrances. (1) Sites with one street frontage. <ul style="list-style-type: none"> <li>• <u>Generally</u>. There must be a <u>straight line</u> connection between one main entrance of each building on the site and the adjacent street. The <u>straight line</u> connection may not be more than 20 feet longer or 120 percent of the straight line distance, whichever is less.</li> <li>• <u>Household Living</u>. Sites where all of the floor area is in Household Living uses are only required to provide a <u>straight line</u> 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> (2) Sites with more than one street frontage. <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 <u>straight line</u> connection <u>meeting the standard of B.1.a(1)</u> to one main entrance on the site;</li> </ul> <b>33.140.240 Pedestrian Standards – Connections</b> (Employment and Industrial zones) a. Connection between streets and entrances. (1) Sites with one street frontage. <ul style="list-style-type: none"> <li>• <u>Generally</u>. There must be a <u>straight line</u> connection between one main entrance of each building on the site and the adjacent street. The <u>straight line</u> connection may not be more than 20 feet longer or 120 percent of the straight line distance, whichever is less.</li> <li>• <u>Household Living</u>. Sites where all of the floor area is in Household Living uses are only required to provide a <u>straight line</u> 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> (2) Sites with more than one street frontage. Where the site has more than one street frontage, the following must be met: <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 <u>straight line</u> connection <u>meeting the standard of B.1.a(1)</u> to one main entrance on the site;</li> </ul>

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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> C. 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>  <i>Note: The same revision is proposed for Rocky Butte and Johnson Creek Plan District chapters.</i>	Revise as shown below:  <b>33.430.150 Standards for Utility Lines</b> <b>E.</b> Tree removal and replacement standards are as follows: <u>5. Where a utility line is approximately parallel with the stream channel at least half of the replacement trees must be planted between the utility line and the stream channel, except where a utility easement precludes tree planting.</u>  <b>33.465.155 Standards for Utility Lines</b> <b>F</b> Tree removal and replacement standards are as follows: <u>4. Where a utility line is approximately parallel with the stream channel at least half of the replacement trees must be planted between the utility line and the stream channel, 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) The tree must be removed due to installation, repair, or maintenance of <del>is within a water, sewer, or stormwater services or other utility easement.</del> For new installation of services, tree removal allowed under this provision is limited to a single 10 foot wide utility corridor on each <del>lot site</del> .																		
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> <u>4. The tree must be removed due to installation, repair, or maintenance of water, sewer, or stormwater services. For new installation of services, tree removal allowed under this provision is limited to a single 10 foot wide utility corridor per <del>lot site</del>.</u>  <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 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><u>Size of tree to be removed (inches in diameter)</u></th><th><u>Option A (no. of trees to be planted)</u></th><th><u>Option B (combination of trees and shrubs)</u></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			<u>Size of tree to be removed (inches in diameter)</u>	<u>Option A (no. of trees to be planted)</u>	<u>Option B (combination of trees and shrubs)</u>	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	
Table 537-1 Tree Replacement in Johnson Creek Basin Plan District																					
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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 4.</del> The tree must be removed for installation, repair or maintenance of <del>is within a</del> water, sewer, or stormwater services or other utility easement. <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>  <del>6.</del> <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 570-1 with two trees. 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: <u>33.630.600 Standard for Trees in Existing Rights of Way</u>  <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. Dcsired benefits of trees include: [No change]</u>  <b>33.630.600 Standard for Trees in Existing Rights-of-way</b> <u>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.</u> <u>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.</u>  <b>33.654.120 Design of Rights-of-Way</b> <u>H. Standard for Street Trees. For new existing and proposed public streets, the City Forester, in consultation with the City Engineer, has preliminarily approved the proposal street tree planting plan and found it acceptable for the retention of existing street trees and providing adequate areas for future street tree planting. For private streets, the Bureau of Development Services has preliminarily approved the street tree planting plan.</u>

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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><u>The location, size and species of all trees greater than 6 inches and larger in diameter, measured 5 feet above the ground, in areas to be disturbed and within 25 feet of areas to be disturbed. 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>
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 2B-2, New Chapter 33.860, Comprehensive Natural Resource Plans.  <b>Moved to list of discussion related amendments (See Discussion Item 2.F.2)</b>

#### LIST OF SUPPORTING ATTACHMENTS

<b>2B-2</b>	New Chapter 33.860, Comprehensive Natural Resource Plans
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## ATTACHMENT 2B-2

### 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.

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

### 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.

This is a new chapter. For ease of readability, the proposed text is not underlined.



## ATTACHMENT 2B-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 I 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 I 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 2B-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 2B-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 2B-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.

ATTACHMENT 3A, Title 11 Amendments Introduced March 9, 2011

ATTACHMENT 3

Issue No.	Code Ref. (Page No.)	Description Notes "Page No." refers to the page number in the Title 11 portion of Volume 3 of the Dec. 2010 Recommended Draft	Staff Response Revisions to the Recommended Draft that add language are shown with double underlining. Previously proposed language that is being deleted is shown with strikethrough.
29	11.05.010 B. (p. 3)	<b>Additional Tree Benefits.</b> List of tree benefits in purpose statement omits "provide oxygen" and "buffer noise"	Agree. Oxygen is an important benefit of trees. While noise buffering and perceptual noise buffering qualities of trees are generally associated with large stands of trees as opposed to individual trees, this benefit nevertheless exists, and should be listed. Revise as follows:  <b>11.05.010 B.</b> The chapters within this title address trees in both development and non-development situations and seek to enhance the quality of the urban forest and optimize the benefits that trees provide. Desired tree benefits include:  1. <u>Providing oxygen, and capturing</u> air pollutants and carbon dioxide; 5. Providing visual screening and buffering from wind, <del>and storms, and noise;</del>
30	11.10.010 (p.11)	<b>Reword for clarity.</b> Replace "not in conflict" with "in compliance"	Agree that language should be in the positive vs. the negative, but since such actions may be options (e.g., not be specifically required to comply with the title), revise first sentence of second paragraph as follows:  <b>11.10.010 Code Administration and Duties Performed</b> The City Forester and BDS Director are authorized to adopt, amend and repeal administrative rules, <del>not in conflict</del> <u>consistent</u> with the provisions of this Title, pertaining to matters within the authority or responsibility of the City Forester or BDS Director under the provisions of this Title.
31	11.10.010 A.4.a. (p.13)	<b>Clarify budget request process.</b> It is not clear with the proposed language who the City Forester would submit the budget request to.	Agree. Revise as follows:  <b>11.10.010 A.4.</b> Managing the Urban Forestry Program by: a. Preparing and submitting the annual budget request for the operation of the Parks and Recreation Forestry Division <u>to the Director of the Bureau of Parks and Recreation;</u>
32	11.10.040 F. (p.19)	<b>Clarify the procedures for emergency amendments to Title 11.</b> The last sentence seems to imply that a public meeting by council is not required for passage of an emergency ordinance which contradicts the City Charter (Section 2-120).	Agree. Removing the last sentence in this provision and instead referring to the charter provisions, will eliminate conflicting interpretation. Revise as follows:  <b>11.10.040 F.</b> Declaring an emergency. City Council may declare an emergency <u>in accordance with the City Charter</u> and amend this Title and associated Administrative Rules without following the process set out in this section. <del>Public hearings, consultations with Bureaus or Commissions, and notification are not required in an emergency under this Subsection.</del>
33	11.15.040 (p.29)	<b>Fund Reporting Requirements.</b> The Urban Forestry Fund report should include an accounting of collections in addition to expenditures, similar to the Tree Planting and Preservation Fund.	Agree. This was an inadvertent omission. Revise as follows:  <b>11.15.040 Annual Report</b> B. The Urban Forestry Fund. The report will include an accounting of <u>revenues collected and</u> expenditures.
34	11.20.020 D. (p.33)	<b>Urban Forestry Commission (UFC) Meeting Schedule.</b> To provide for some reasonable flexibility in the Urban Forestry Commission's annual schedule, revise mandate that they meet at least 10 times a year as opposed to every month. With the Urban Forestry Appeals Board in place to address appeals as needed, the need for the full UFC to meet every month is reduced. Ten times per year provides ample opportunities to convene, and the Commission may still elect to meet more often.	Agree. Revise as follows:  <b>11.20.020 D. Meetings.</b> The Commission will meet at least <del>monthly</del> <u>ten times per year</u> and may meet more often.

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35	11.20.020 E.3. (p.33)	<b>Add Commissioner In Charge for UFC Budget Recommendation Advice</b> The Urban Forestry Commission should also be advising the Commissioner-in-Charge of the Bureau of Parks and Recreation on issues related to the Forestry Division budget.	Agree. This was an inadvertent omission. Revise as follows:  <b>11.20.020. E. Duties</b> 3. Advising the City Forester, <u>the Director and Commissioner-in-Charge</u> of the Bureau of Parks and Recreation, and Citizen's Budget Advisory Committee on the preparation and contents of the annual Forestry Division budget request.																
36	11.30.040 B.1. (p.47)	<b>Clarify Link Between Procedures Chapter (11.30) and Type A Permit Evaluation Factors (11.40)</b> The City Forester's decision making process for Type A permits, described in Chapter 11.30, should make reference to the applicable consideration factors of Chapter 11.40.	Agree. Revise as follows:  <b>11.30.040 Procedure for Type A Permits.</b> <b>B. 1.</b> The City Forester's decision shall be based on an evaluation of the facts and applicable standards and review factors <u>in Chapter 11.40.</u>																
37	11.30.050 B.1. (p.51)	<b>Clarify Link Between Procedures Chapter (11.30) and Type B Permit Evaluation Factors (11.40)</b> The City Forester's decision making process for Type B permits, described in Chapter 11.30, should make reference to the applicable consideration factors of Chapter 11.40.	Agree. Revise as follows:  <b>11.30.050 Procedure for Type B Permits.</b> <b>B. 1.</b> The City Forester's decision shall be based on an evaluation of the facts and applicable standards and review factors <u>in Chapter 11.40.</u>																
38	11.40.020 (p.59)	<b>Reorganize and Simplify Section 11.40.020 B., Relating to Private Tree Permits.</b> It is difficult to follow the list of areas where the 6" tree size applies in specified overlay zones and plan districts. Replacing the list with a table will make it easier to refer at-a-glance. Also, this section should include a statement that the regulations only apply to areas within the municipal boundaries of the City of Portland, and not the County Urban Pocket Areas. While this is stated in Chapter 11.05, it is repeated here for easier reference.  Note: This proposed language replaces the amendment language proposed for Section 11.40.020.B. in Attachment 2A-2 of the Title 11 February 2, 2011 Amendment Packet submitted by the Bureau of Planning and Sustainability to the City Council.	Agree. Revise as follows:  <b>11.40.020 Where These Regulations Apply.</b> The regulations of this chapter apply to <u>trees within the City of Portland city limits-the following situations</u> -when no activity requiring a development permit or land use review is proposed or occurring on the site <u>as follows</u> :  <b>B. Private Trees.</b>  1. Generally, Trees at least 12 <u>or more</u> inches in diameter on sites and tracts <del>not included in Paragraphs B.2 or B.3</del> are regulated by this chapter, except as specified in B.2 through B.3.  2. <u>Trees 20 or more inches in diameter on Single Dwelling Developed Sites are regulated by this chapter. However, 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 may be subject to other requirements.</u>  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. <b>a.</b> <del>The site is already developed with a single dwelling;</del> <b>b.</b> <del>None of the trees that will be affected by the proposed activity are:</del> (1) <del>Located in an overlay or plan district listed in Paragraph B.3;</del> (2) <del>Heritage Trees; or</del> (3) <del>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</del> <b>c.</b> <del>The site is not larger than the sizes listed in Table 40-1.</del> <b>Table 40-1 Maximum Site Size for Subsection 11.40.020 B.2.</b> <table><tr><th>Zone</th><th>R2.5</th><th>R5</th><th>R7</th><th>R10</th><th>R20</th><th>RF</th><th>Other</th></tr><tr><td>Site size</td><td>4,749 sf</td><td>9,499 sf</td><td>13,299 sf</td><td>18,999 sf</td><td>37,999 sf</td><td>165,527 sf</td><td>2,999 sf</td></tr></table>	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
Zone	R2.5	R5	R7	R10	R20	RF	Other												
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			<p>3. <u>Specified overlay zones and plan districts. Trees 6 or more inches in diameter in overlay zones and plan districts are regulated as noted in Table 40-1.</u></p> <table><caption>Table 40-1</caption><tr><th>Specific Area</th><th>Overlay Symbol</th><th>Trees regulated at 6 or more inches in diameter</th></tr><tr><td><u>Environmental conservation and protection overlay zones</u></td><td><u>"c" "p"</u></td><td><u>All</u></td></tr><tr><td><u>Greenway overlay zones</u></td><td><u>"n" "q"</u></td><td><u>All</u></td></tr><tr><td></td><td><u>"g" "i" "r"</u></td><td><u>Within and riverward of greenway setback</u></td></tr><tr><td><u>Scenic Corridor</u></td><td><u>"s"</u></td><td><u>Within the minimum street setback or the first 20 feet from the street lot line when there is no street setback.</u></td></tr><tr><td><u>Pleasant Valley Natural Resources overlay zones</u></td><td><u>"v"</u></td><td><u>All</u></td></tr><tr><td><u>Johnson Creek Basin Plan District</u></td><td></td><td><u>All within the Floodplain and South Subdistrict. Within 20 feet of lot lines abutting the Springwater Corridor.</u></td></tr><tr><td><u>Rocky Butte Plan District</u></td><td></td><td><u>All</u></td></tr><tr><td><u>South Auditorium Plan District</u></td><td></td><td><u>All</u></td></tr></table> <p>Specific overlay zones and plan districts. Trees at least 6 inches in diameter in the following overlay zones and plan districts are regulated by this chapter:</p> <p>a. Environmental conservation "c" or protection "p" overlay zones;</p> <p>b. River environmental "e" overlay zone;</p> <p>c. Greenway natural "n", or water quality "q" overlay zones, or within or riverward of the greenway setback in, general "g", industrial "i", or recreation "r" overlay zones;</p> <p>d. Scenic corridor "s" overlay zone within the minimum street setback, or within the first 20 feet from the street lot line when there is no minimum street setback;</p> <p>e. Pleasant Valley Natural Resources "v" overlay zone, when located within the City limits;</p> <p>f. Rocky Butte plan district;</p> <p>g. Johnson Creek Basin plan district: only in the Floodplain and South Subdistricts, or otherwise located within 20 feet of lot lines abutting the Springwater Corridor; and</p> <p>h. South Auditorium plan district.</p>	Specific Area	Overlay Symbol	Trees regulated at 6 or more inches in diameter	<u>Environmental conservation and protection overlay zones</u>	<u>"c" "p"</u>	<u>All</u>	<u>Greenway overlay zones</u>	<u>"n" "q"</u>	<u>All</u>		<u>"g" "i" "r"</u>	<u>Within and riverward of greenway setback</u>	<u>Scenic Corridor</u>	<u>"s"</u>	<u>Within the minimum street setback or the first 20 feet from the street lot line when there is no street setback.</u>	<u>Pleasant Valley Natural Resources overlay zones</u>	<u>"v"</u>	<u>All</u>	<u>Johnson Creek Basin Plan District</u>		<u>All within the Floodplain and South Subdistrict. Within 20 feet of lot lines abutting the Springwater Corridor.</u>	<u>Rocky Butte Plan District</u>		<u>All</u>	<u>South Auditorium Plan District</u>		<u>All</u>
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39	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.  Note: This proposed language replaces the previous amendment language proposed for Issue #5 of the Title 11 February 2, 2011 Amendment Packet submitted by the Bureau of Planning and Sustainability to the City Council..	Agree. Revise as follows:  <b>11.40.020 Where These Regulations Apply</b> <b>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, <del>including hazardous material cleanup orders</del> , are not subject to the public notice and appeal procedures of Chapter 11.30 and approval standards and review factors of this chapter. However, a tree permit is required and the tree replacement requirements of this chapter shall be met.  <del><b>E.</b> Hazardous Material Cleanup Orders. hazardous material cleanup orders are not subject to the permit procedures of this Title; however, a person removing a regulated Tree pursuant to a Hazardous Material Cleanup Order must comply with the tree replacement requirements of this chapter.</del>  [Re-letter "E." to "F."]						
40	11.40.060 B. (p. 81)	<b>Payment into the Tree Preservation and Planting Fund.</b> Replace the term "allow" with the term "require" payment into the fund when tree planting cannot occur.	Agree. Revise as follows:  <b>11.40.060 Tree Replacement Requirements</b> <b>B.</b> Payment into Tree Preservation and Planting Fund. When the City Forester determines that there is insufficient or unsuitable area to accommodate some or all of the replacement trees within the street planting area or site, the City Forester may <u>require</u> <del>allow</del> payment into the Tree Preservation and Planting Fund instead of requiring replacement trees. Payment is based on the adopted fee schedule.						
41	11.45.030 (p.87)	<b>Programmatic Permit Review Factors.</b> Reference to the need to adhere to proper arboricultural practices as defined in the Title should be an additional permit limitation. Revise sections to clarify and consolidate permit limitations.	Agree. Revise as follows:  <b>11.45.030 Procedures.</b> <b>D.</b> Permit <del>limitations</del> <u>duration</u> . <b>1.</b> <u>Time Limits.</u> The City Forester may approve a Programmatic Permit for a period of up to 5 years. An annual report from the applicant to the City Forester on activity conducted under the permit is required. <b>2.</b> <u>Tree Size Limits.</u> <del>The programmatic permit will not allow the removal of healthy non- nuisance species trees 6 or more inches in diameter. The City Forester may further limit allowed tree removal in order to meet the review factors in Section 11.45.040.</del> <b>3.</b> <u>Tree Work Limits.</u> <del>All work conducted under a programmatic permit must be conducted in accordance with proper arboricultural practices. Failure to adhere to this requirement shall be grounds to revoke a programmatic permit</del>  <b>11.45.040 Review Factors</b> <b>B.</b> <del>The programmatic permit will not allow the removal of healthy non- nuisance species trees 6 or more inches in diameter. The City Forester may further limit allowed tree removal in order to meet Subsection A., above.</del>  [re-letter "C." to "B."]						
42	11.50.060 A.1. (p.99)	<b>Clarify Table 50-1 for Development Impact Area.</b> While the provisions describing the Development Impact Area Option (11.50.040) specify that only Option B may be used to determine required tree density and that the percentage be applied only to the area of the development impact area and not the entire site, Table 50-1 does not make this clear. This may result in confusion when applying the requirement. Note: The required percentage for Institutional development types would be corrected from "35 percent" to "25 percent" per prior amendment. See Issue #28, of the Title 11 February 2, 2011 Amendment Packet submitted by the Bureau of Planning and Sustainability to the City Council.	Agree. Revise as follows:  <b>11.50.060 Tree Density Standards.</b> <b>A.1.</b> The required tree area is based on the size of the site and the type and size of proposed and existing development. <u>Except for sites using the Development Impact Area,</u> <del>The applicant may choose Option A or Option B for calculating required tree area.</del>  <table><caption>Table 50-1 Determining Required Tree Area</caption><thead><tr><th>Development Type</th><th>Option A</th><th>Option B</th></tr></thead><tbody><tr><td></td><td></td><td></td></tr></tbody></table>	Development Type	Option A	Option B			
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43	11.60.020 D.1. (p.113)	<b>Tree Species Diversity Requirement.</b> Clarify the applicability of the species diversity requirement. It is not clear whether street trees are included with the site trees for this purpose.	Agree. The requirement should be applied to all planted trees, but the Forester may need to have the ability to grant an exception for the street tree requirements. Revise as follows:  <b>11.60.020. D. Species requirements</b> <b>1.</b> Species diversity. <del>On a single site,</del> if there are fewer than 8 required trees, they may all be the same species. If there are between 8 and 24 required trees, no more than 40 percent can be of one species. If there are more than 24 required trees, no more than 24 percent can be of one species. This standard applies only to the trees being planted, not to existing trees.  <u>For Street Trees,</u> <del>The City Forester may make an exception to this requirement for Street Trees</del> in order to fulfill or complement an adopted street or landscape plan.																		
44	11.60.060 (p.123)	<b>Tree Permits for City Ordered Actions.</b> When the City has required a tree to be pruned or removed in order to meet tree maintenance requirements relating to public health and safety, the City Forester must coordinate with City Engineer. The Forester still has a role in evaluating the extent of required work, and may prescribe alternatives that don't necessitate tree removal. However, these situations should not be subject to public notice and possible appeal. Additionally, provisions to allow fee waivers when the City Forester has ordered that the work be done should be included.	Agree. The provision should specify that a Type A permit is required in these cases, to encourage timely compliance. Revise as follows:  <b>11.60.060 A. General</b> <b>1.</b> Permits required. Any person pruning, removing, or conducting any other work on any Street Tree or City Tree and any person removing any regulated Private Tree in order to comply with the requirements of this Section, shall first obtain a <u>Type A</u> tree permit in accordance with the provisions of Chapter 11. <del>3040. The application fee may be waived when the City Forester has directed the work to be done.</del>																		

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45	11.70.020 B. (p.131)	<b>Typo.</b> Section references are incorrect.  Note: The term "County urban pockets" would be revised to "County Urban Pocket Areas" per prior amendment. See Issue #27, of the Title 11 February 2, 2011 Amendment Packet submitted by the Bureau of Planning and Sustainability to the City Council.	Agree. Revise section references. The term "County urban pockets" will be replaced with "County Urban Pocket Areas" through a separate amendment.  <b>11.70.020 Where These Regulations Apply</b> <b>B.</b> County urban pockets. Trees in the "County urban pockets" are subject to all regulations of this Chapter except Subsections 11.70.050-11.70.090 A. through C. and E. through G. (some Subsections of Prohibited Actions); 11.70.060-11.70.080 B. through E. (some Subsections of Inspections and Evidence); and 11.70.080-11.70.090 C. (a Subsection of Correcting Violations of This Title). The County urban pockets are areas outside the City of Portland where the Portland Zoning Code and other Portland regulations are administered. The County urban pockets are shown on the Zoning Map.
46	11.70.040	<b>Engineer's Authority to Enforce Violations.</b> As currently written, the City Engineer's authority to enforce violations affecting public health or safety is not explicitly granted in Title 11. For work in the right of way, emergency tree removal is addressed in Chapters 11.40 and 11.50 allowing the City Engineer to respond to the emergency situation. However, when trees on private property are creating the hazard, the City Engineer does not have specific authority to direct the hazard be abated, and would need to rely on the City Forester to pursue abatement action, resulting in undue delay.  Also, reference to Chapter "3.30" only applies to the BDS Director, and is unnecessary.  Note: The term City Engineer is proposed to be amended with the term "Responsible Engineer" in a separate amendment in this Amendment Packet, see Issue #48, below.	Agree. While the City Engineer is not the primary enforcement authority for Title 11, the ability to summarily abate clear and present hazards to public infrastructure or the travelling public should be granted for the City Engineer. The term "City Engineer" will be replaced with "Responsible Engineer" through a separate amendment.  <b>11.70.040 Enforcement Authority</b> <del>As stated in Title 3.30, the</del> The City Forester and BDS Director are hereby authorized to enforce this Title utilizing Title 3 adopted remedies and any of the remedies prescribed in this Title. Enforcement responsibilities are summarized in Table 70-1. When violations occur that involve trees in overlay zones and plan district areas, the City Forester and BDS Director will consult and coordinate their enforcement action to the degree possible in order to avoid the issuance of multiple or conflicting orders. <del>When violations of the tree maintenance specifications of Section 11.60.060 affect public infrastructure or jeopardize the travelling public, the City Engineer is authorized to separately invoke summary abatement to correct the violation.</del> In cases where multiple violations of City code exist on a property, the City Forester <del>and</del> BDS Director, <del>and City Engineer</del> are authorized, but not required, to delegate enforcement authority of this Title to another Bureau to facilitate a coordinated remedy and single agency responsible for obtaining compliance.
47	11.70.070 D. (p.149)	<b>Time Limits for Enforcement.</b> All compliance cases should establish time limits for resolving the violation. As written, it is discretionary whether a time limit will be set by the City Forester or BDS Director.	Agree. Revise as follows:  <b>11.70.070 Notice and Order.</b> <b>D.</b> Time limits. The BDS Director or City Forester <del>shall</del> may set time limits in which the violations of this Title are to be corrected. Failure to comply with the time limits may be considered a separate violation of this Title.
48	11.80.020 B.8. (p.163)	<b>Replace City Engineer Terminology.</b> The Bureau of Transportation is updating references to City Engineer in other places throughout Title 17. One such change is replacing the term "City Engineer" with "Responsible Engineer". For consistency, Title 11 should use a similar term.	Agree. Revise definition and all references in Code to "Responsible Engineer" as follows:  <b>11.80.020 Definitions and Measurements</b> <b>B. 8.</b> <del>"Responsible City Engineer"</del> For the Bureau of Transportation this <del>shall be</del> is the City Engineer, for the Bureau of Environmental Services this <del>shall be</del> is the Chief Engineer of the Bureau of Environmental Services, and for the Portland Water Bureau this <del>shall be</del> is the Chief Engineer of the Portland Water Bureau. Each <del>Responsible City Engineer</del> may delegate their authority and duties to another employee in the same bureau. The duties are as prescribed in Section 11.10.010.  Replace references in sections: 11.10.010, 11.10.010 C., 11.40.020 C.2., 11.40.040.A.1.a, 11.50.060 B., 11.60.060 F.2., 11.60.060 G.1., 11.60.060 G.2., 11.70.040, 11.70.090 B.4. and 11.80.020 B.8.

Issue No.	Code Ref. (Page No.)	Description	Staff Response																
		Notes "Page No." refers to the page number in the Title 11 portion of Volume 3 of the Dec. 2010 Recommended Draft	Revisions to the Recommended Draft that add language are shown with double underline. Previously proposed language that is being deleted is shown with <del>struck through</del> .																
49	11.80.020 B.13. (p.165)	<b>Typo.</b> Remove hanging "and." from definition of Development Impact Area.	Agree. Revise as follows:  <b>11.80.020 Definitions and Measurements</b> <b>B. 13.</b> "Development Impact Area" is the area on a site affected by proposed site improvements, including buildings, structures, parking and loading areas, landscaping, and paved or graveled areas, <del>and</del> . The development impact area also refers to areas devoted to storage of materials, or construction activities such as grading, filling, trenching, or other excavation necessary to install utilities or access.																
50	11.80.020 B.26. (Att. 2A-2)	<b>Define Single Dwelling Developed Site.</b> The Title 11 February 2, 2011 Amendment Packet submitted by the Bureau of Planning and Sustainability to the City Council included a proposed definition of "Single Dwelling Developed Site". See Attachment 2A-2 of that packet. Attachment 2A-2 also included proposed amendments to Section 11.40.020 B. This proposed language in combination with the proposed amendment language in Issue #38 above, effectively replaces Attachment 2A-2, and divides these two amended sections into separate amendments in this packet.  <i>Note:</i> This particular provision is also being raised as a substantive amendment. If the City Council opts to change to a single site size exemption, that amendment would replace this amendment.	Agree. Insert a new definition as follows:  <b>11.80.020 Definitions and Measurements</b> <b>B. 26.</b> <u>"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> <table><tr><th><u>Zone</u></th><th><u>R2.5</u></th><th><u>R5</u></th><th><u>R7</u></th><th><u>R10</u></th><th><u>R20</u></th><th><u>RF</u></th><th><u>Non-single dwelling</u></th></tr><tr><th><u>Site size</u></th><td><u>4,750 sf</u></td><td><u>9,500 sf</u></td><td><u>13,300 sf</u></td><td><u>19,000 sf</u></td><td><u>38,000 sf</u></td><td><u>165,528 sf</u></td><td><u>3,000 sf</u></td></tr></table>	<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>
<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>												

# ATTACHMENT 3B-1, Title 33 Amendments Introduced March 9, 2011

Item No.	Code Ref. (Page No.)	Description	Staff Recommendation
11	Multiple code sections (p.3)	<p><b>Effective date of Title 33 amendments.</b> Add language to indicate that the second set of Title 33 amendments will become effective at the same time that Title 11 goes into effect. This will ensure that Title 33 amendments that rely on Title 11 being in place to do precede the effective date of Title 11.</p> <p>33.430.080.C.8 is also added to the list of early amendments at the request of the Fire Bureau. See Item #12 below for discussion.</p>	<p>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 <b>underline/strikethrough</b>.</p> <p><b>This page precedes the Title 33 code amendments and lists the effective date for the amendments. This section is not code.</b> Revise the listed effective dates as follows:</p> <p style="text-align: center;"><b>Effective Dates for Title 33 Amendments</b></p> <p>The following list of Title 33 code sections identifies amendments that will become effective on July 1, 2011. This set of amendments was selected for near-term implementation because they do not require additional funding to be implemented and they can stand alone without other parts of the proposal. The remaining amendments to Title 33 will become effective <u>on the same date that Title 11 goes into effect, currently scheduled for February 1, 2013.</u></p> <p><b>Base Zones</b> [No change]</p> <p><b>Development Standards</b> [No change]</p> <p><b>Overlay Zones</b>  <u>33.430.080.C.8. Environmental Zone Exemptions, pruning coniferous trees (as noted in code section)</u>  33.480.040.B Scenic Corridors (except B.2.h. Tree removal without development is deferred until <u>Title 11 goes into effect, currently scheduled for February 1, 2013</u>)</p> <p><b>Plan Districts</b>  33.537, Johnson Creek PD (except 33.537.125.D, Tree removal without development is deferred until <u>Title 11 goes into effect, currently scheduled for February 1, 2013</u>).  33.570, Rocky Butte (except 33.570.040.D, Tree removal without development is deferred until <u>Title 11 goes into effect, currently scheduled for February 1, 2013</u>).  33.580.130 South Auditorium, Preservation of Existing Trees (except 33.580.130.C, Tree removal without development is deferred until <u>Title 11 goes into effect, currently scheduled for February 1, 2013</u>).</p> <p><b>Land Divisions</b> [No change]</p> <p><b>Administration and Enforcement</b>  33.730.140, Requests for Changes to Conditions of Approval  33.853 Tree Review (except 33.853.020.B.2.b. Changing tree preservation requirements following land use approval - exception for dead, dying and dangerous trees - is deferred until <u>Title 11 goes into effect, currently scheduled for February 1, 2013</u>)</p> <p><b>33.910 Definitions</b> [No change]  <b>33.930 Measurements</b> [No change]</p>

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 <u>single underline</u> and <del>strike through</del> . Revisions to the Recommended Draft that add or delete language are shown with <u>double underline</u> or <del>strike through</del> . Language previously proposed to be added that is being deleted is shown with <u>underline</u> <del>strike through</del> .
12	33.430.080.C.8/9 (p.59)	<b>Pruning exemption in e-zones.</b> Add an amendment that will be effective July 1, 2011 that removes the restriction on pruning evergreen trees in Wildfire Hazard areas above 6' from the ground. This same allowance will be incorporated into the pruning permit exemptions in Title 11 when it goes into effect.	Revise the code section as follows to allow for early implementation of the allowed pruning in Wildfire Hazard areas:  <b>33.430.080.C. Items Exempt From These Regulations</b>  <b>Effective July 1, 2011:</b> 9. Pruning coniferous trees that are within 30 feet of a structure <del>to remove branches up to 6 feet above the ground</del> , when the structure is within the wildfire hazard zone as shown on the City's Wildfire Hazard Zone Map;  <b>Effective February 1, 2013 (or same date as Title 11):</b> <del>9-8. Pruning trees in accordance with Title 11 permit requirements. coniferous trees that are within 30 feet of a structure to remove branches up to 6 feet above the ground, when the structure is within the wildfire hazard zone as shown on the City's Wildfire Hazard Zone Map;</del>
13	33.430.140 (p.67)	<b>E-zone tree replacement requirements.</b> Add allowance for applicants to pay a revegetation fee in lieu of planting on site for removal of trees in transition areas and removal of non-native trees. This would ensure that these new tree replacement standards would not trigger a land use review unless the applicant chose to that option, as is intended.	Add new language as follows:  <b>33.430.140.J General Development Standards - Tree removal and replacement standards</b>  <u>4. For replacement of non-native trees and trees in transition areas, applicants may pay a revegetation fee as described in Table 430-2 in lieu of planting on the site. The fee is based on the number of trees required under Table 430-3, Option A.</u>
14	33.630 (p.141-163)  33.730.D.1.d (2), 3 <sup>rd</sup> bullet (p.187)	<b>Renumbering in the land division tree preservation chapter.</b> Renumber to provide a more logical flow that is closer to the organization of the existing chapter.	Renumber sections, and related subsections, as shown below and in Attachment 3B-2:  Sections: 33.630.010 Purpose 33.630.020 Where These Regulations Apply <del>33.630.030 Exempt From These Regulations</del> <u>33.630.030 Exempt From These Regulations</u> <del>33.630.100 Tree Preservation Standards</del> <u>33.630.100 Tree Preservation Standards</u> 33.630.200 Tree Preservation <u>Approval Criteria</u> Requirements for Trees Located on the Site Methods 33.630.300 Mitigation Option 33.630.400 Modifications That Will Better Meet Tree Preservation Requirements 33.630.500 Tree Preservation Credit <u>33.630.600 Standard for Trees in Existing Rights of Way</u> <u>33.630.700 Recording Tree Preservation Plans and Related Conditions</u> <del>33.630.600</del> <u>33.630.700</u> Relationship To Other Tree Regulations  <i>See Attachment 3B-2 for remainder of renumbering changes.</i>

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 <u>single underline</u> and <del>striethrough</del> . Revisions to the Recommended Draft that add or delete language are shown with <u>double underline</u> or <del>striethrough</del> . Language previously proposed to be added that is being deleted is shown with <u>underline</u> / <del>striethrough</del> .
15	33.630.020.B (renumbered from 33.630.200.A.2 in Dec 2010 draft- see Att. 3B-2) (p.145)	<b>Land division sites in C, E and I zones.</b> The intent of this provision is to allow built-out land division sites to defer the review of tree preservation until any future redevelopment of the site. At that time, the site would be subject to Title 11 tree preservation standards applied in the building permit process. However, based on the proposed Title 11 amendments introduced February 2, 2011, sites in certain C, E, and I zones will be exempt from the Title 11 standards. This amendment will exclude sites in those zones that will be exempt from the Title 11 tree preservation requirements from using this provision, thereby ensuring that tree preservation is addressed during the land division review, as is currently required.	<b>33.630.020 Where These Regulations Apply</b>  <u>B. Sites in C, E, and I zones where all of the proposed lots are currently developed with commercial, employment, or industrial development. Such sites may defer tree preservation review to the time of any future development or redevelopment of the site. Sites that use this option are subject to the standards of Title 11, Trees at the time of development.</u>  <u>1. Exception. Sites in the IH, IG1, EX, CX, CS, and CM zones are not eligible to use this provision.</u>  (renumbered from 33.630.200.A.2 in Dec 2010 draft, see Attachment 3B-2)
16	33.630.200.A (renumbered from 33.630.200.C.1 in Dec 2010 draft, see Att. 3B-2) (p.153)	<b>Land division approval criteria.</b> Add a reference to the criteria to information contained in the Portland Plant List about the size and growth rates of native trees. The Portland Plant List will also be amended to incorporate the information in the "Significant Tree Table" that is currently in 33.630, but that is proposed to be deleted. See Attachment 3B-3, for an example of how the Portland Plant List would be amended. The Plant List will be updated through a separate rulemaking process.	<b>33.630.200 Land Division - Tree Preservation Approval Criteria</b>  <u>A. To the extent practicable, trees proposed for preservation provide the greatest benefits as identified in the purpose of this chapter. In general, healthy, native or non-nuisance species trees that are 20 or more inches in diameter and tree groves are the highest priority for preservation. However, specific characteristics of the trees, site and surrounding area may call for different priorities, such as preserving the size and growth rates of native species as described in the Portland Plant List, buffering natural resources, preventing erosion or slope destabilization and limiting impacts on adjacent sites.</u>  (renumbered from 33.630.200.C.1 in Dec 2010 draft, see Attachment 3B-2)  <b>Moved to list of discussion related amendments (See Discussion Item 2.E.1)</b>

LIST OF SUPPORTING ATTACHMENTS	
<b>3B-2</b>	Renumbering changes in 33.630
<b>3B-3</b>	Example of Portland Plant List Amendments

**ATTACHMENT 3B-2****Title 33 Amendments Introduced March 9, 2011****RENUMBER 33.630, TREE PRESERVATION**

## Sections:

- 33.630.010 Purpose
- 33.630.020 Where These Regulations Apply
- ~~33.630.030 Exempt From These Regulations~~
- 33.630.030 Exempt From These Regulations
- ~~33.630.100 Tree Preservation Standards~~
- 33.630.100 Tree Preservation Standards
- ~~33.630.200 Tree Preservation Approval Criteria Requirements for Trees Located on the Site Methods~~
- ~~33.630.300 Mitigation Option~~
- 33.630.400 Modifications That Will Better Meet Tree Preservation Requirements
- 33.630.500 Tree Preservation Credit
- ~~33.630.600 Standard for Trees in Existing Rights of Way~~
- 33.630.700 Recording Tree Preservation Plans and Related Conditions
- ~~33.630.600~~33.630.700 Relationship To Other Tree Regulations

**33.630.020 Where These Regulations Apply**

~~Unless exempted by Section 33.630.030, this chapter applies to all land divisions in all zones where: proposals outside of the Central City plan district.~~

**33.630.100200 Tree Preservation Standards Requirements for Trees Located on the Site****A. Where these regulations apply.**

A.1. Generally. The regulations of this section apply to all proposals for land divisions on sites outside of the Central City plan district that have at least one tree that is at least 6 inches in diameter, except where all trees on the site are exempt under A.4 33.630.030. Where a tree trunk is partially on the land division site, it is considered part of the site.

B2. [see changes in Attachment D-1, Item 5]

C3. Proposals to divide sites that are partially within an environmental overlay zone or the Pleasant Valley Natural Resources overlay zone and include a concurrent environmental review or Pleasant Valley Resource review are not subject to the tree preservation standards of Section 33.630.100200.B. However, the tree preservation approval criteria in 33.630.200-C apply to these proposals.

**33.630.030 Exempt From These Regulations**

4. Trees exempt from these regulations. The following trees are exempt from the tree preservation requirements of this section chapter:

(Renumber a-f to A-F)

### **33.630.100-B. Minimum Tree Preservation Standards.**

A4. The applicant must show how existing trees will be preserved. The options listed below represent minimum tree preservation standards. Additional tree preservation may be required to meet the approval criteria of Subsection 33.630.200.C. The total tree diameter on the site is the total diameter of all trees completely or partially on the site, minus the diameter of trees that are listed in Paragraph Section 33.630.030200.A.4, Trees exempt from these regulations. The applicant must choose one of the following options:

[Re-number 1.a-f to A.1-6 and B.2-4 to 33.630.100.B-D]

### **33.630.200 C. Tree Preservation Approval Criteria.**

(Renumber C.1-4 to 33.630.200.A-D)

D4. Mitigation. Where the minimum tree preservation standards of 33.630.100200.B can not be fully met, as determined by evaluating the above criteria, or when there is a concurrent Environmental Review and the minimum tree preservation standards do not apply, mitigation must be provided as needed to replace the functions of trees removed from the site. Options for mitigation may include preservation of smaller diameter or native trees, permanent preservation of trees within a tree preservation or environmental resource tract, tree planting, payment into the City's Tree Planting and Preservation Fund, or other options that are consistent with the purpose of this chapter.

### **33.630.400 Modifications That Will Better Meet Tree Preservation Requirements**

**A. Site-related development standards.** The review body may consider adjustments modifications to site-related development standards as part of the land division review. These modifications are done as part of the land division process and do not require an adjustment. Adjustments to use-related development standards (such as FAR, or number of units) are subject to the adjustment process of Chapter 33.805, Adjustments. Modification to a regulation that contains the word "prohibited," or a regulation that is a qualifying situation or threshold is prohibited.

~~In order to~~ To approve the modification, the review body must find that the modification will result in the application proposal better meeting the requirements criteria of Subsection 33.630.100200.C100, and will, on balance, be consistent with the purpose of the regulation being modified.

### **B. Minimum density.**

2.b. The review body will approve the reduction in minimum density if the following are met:

- (1) The reduction in minimum density will result in the proposal better meeting the criteria of Section 33.630.200.C; and

### **33.630.700-600 Recording Tree Preservation Plans and Related Conditions**

### **33.630.600 800 700 Relationship To Other Tree Regulations**



**33.730.060 Application Requirements****D.1.d(2) Required information for land divisions**

Surveyed information: [3<sup>rd</sup> bullet]

- All trees completely or partially on the site that are at least 6 or more inches in diameter. Trees more than 25 feet inside a tract within which all trees will be preserved do not have to be surveyed. ~~Trees on a Land Division sites that propose where the proposal is to preserve tree canopy under use Option 5 or 6 of the Tree Preservation Standard in 33.630.200.B.1.e or f 100.A.5 100.A.5 or 6 Option 5, the trees~~ do not have to be surveyed;

### ATTACHMENT 3B-3 EXAMPLE PORTLAND PLANT LIST AMENDMENT

The following is an example of how the Portland Plant List could be amended to address tree growth rates as provided in the Significant Tree table formerly contained in 33.360. Since the Portland Plant List is an administrative rule, the amendment would be done prior to the code going into effect through a separate administrative rulemaking process.

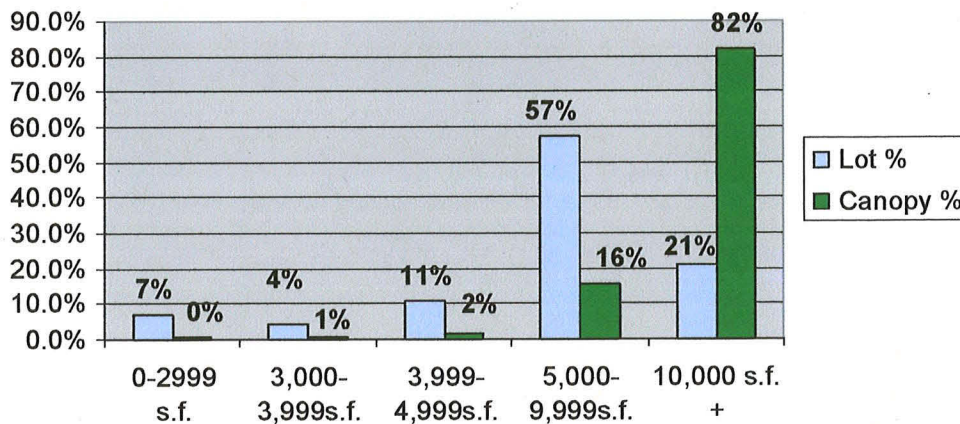
#### Portland Plant List, Section 3 Native Plants in Detail

Add new subsection:

#### 3.5, Native Trees Growth Rates and Priority Tree Sizes

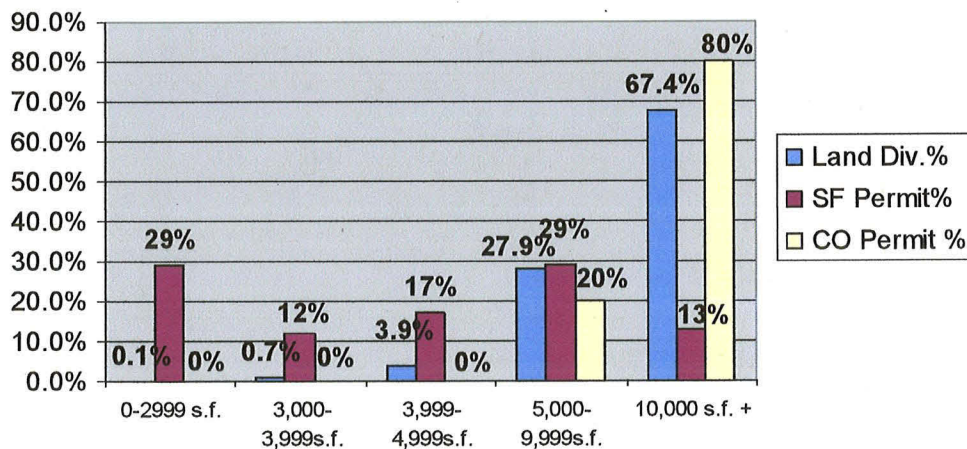
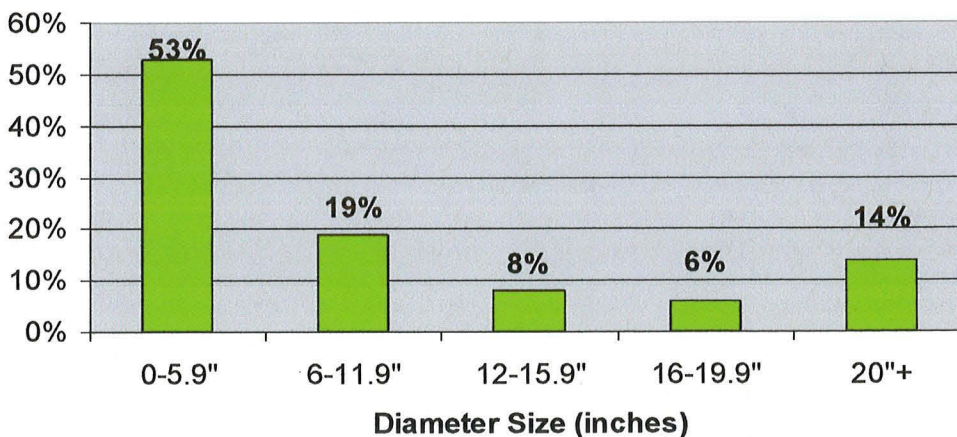
Portland's native trees grow at varying rates and reach different sizes at maturity. For example, some native trees, such as the Pacific yew or Garry oak, might be considerably smaller but older than larger trees such as a Douglas fir. These differences should be taken into consideration when developing priorities for the care, management, preservation and protection of native trees. When trees reach sizes outlined in the table below, they should be prioritized for retention where practical on development and land division sites. Smaller native trees may also be prioritized for preservation and protection, particularly when part of a grove or when they are healthy and appropriately situated. This does not substitute for evaluating specific site conditions, approval criteria or other code requirements that may affect priorities.

Priority Native Tree Sizes		
Common Name	Scientific Name	Diameter
Big-leaf Maple	<i>Acer macrophyllum</i>	18 inches
Bitter Cherry	<i>Prunus emarginata</i>	10 inches
Black Cottonwood	<i>Populus balsamifera</i> ssp. <i>trichocarpa</i>	18 inches
Black Hawthorn	<i>Crataegus douglasii</i> var. <i>douglasii</i>	8 inches
Black Hawthorn	<i>Crataegus suksdorfii</i>	8 inches
Cascara	<i>Rhamnus purshiana</i>	6 inches
Douglas Fir	<i>Pseudotsuga menziesii</i>	18 inches
Garry Oak	<i>Quercus garryana</i>	4 inches
Grand Fir	<i>Abies grandis</i>	10 inches
Madrone	<i>Arbutus menziesii</i>	4 inches
Oregon Ash	<i>Fraxinus latifolia</i>	10 inches
Pacific Yew	<i>Taxus brevifolia</i>	2 inches
Ponderosa Pine	<i>Pinus ponderosa</i>	8 inches
Red Alder	<i>Alnus rubra</i>	18 inches
Scouler Willow	<i>Salix scouleriana</i>	6 inches
Western Flowering Dogwood	<i>Cornus nuttallii</i>	6 inches
Western Hemlock	<i>Tsuga heterophylla</i>	10 inches
Western Red Cedar	<i>Thuja plicata</i>	10 inches

**ATTACHMENT 4****Lot Size and Canopy Distribution**

Exempting lots <3,000' exempts 7% of the total lots and <1% of the canopy in the city

Exempting lots <5,000' exempts 22% of the total lots and 3% of the canopy in the city.

**Development Distribution****Tree Size Distribution  
(based on public tree data)**

Addressing trees  $\geq 20''$  addresses 14% of the canopy.

Addressing trees  $\geq 16''$  addresses 20% of the canopy.

Addressing trees  $\geq 12''$  addresses 28% of the canopy.

Addressing trees  $\geq 6''$  addresses 47% of the canopy.

# CITYWIDE TREE PROJECT – BUREAU ISSUE ASSESSMENT FOR CITY COUNCIL

## Notes from 2/16/11 – Interbureau Worksession

PPR – Dave McAllister, Kathleen Murrin; BDS–Rebecca Esau, Douglas Hardy, Kimberly Tallant; BES, Mike Rosen, Jennifer Karps, Comm. Leonard's office: Sara Petrocine; Comm. Fritz's office: Tom Bizeau; Comm. Fish's office: Hannah Kuhn, BPS: Susan Anderson (facilitator), Joe Zehnder, Roberta Jortner, Morgan Tracy, Stephanie Beckman

Issues					Bureau Discussion/Notes
	Consensus		Seek Further Direction from Bureau Directors	Information for Mayor/Comm.	<b>Criteria:</b> Canopy quantity, quality, & distribution; complexity, administrative and customer ease; consistency, fairness; cost-effectiveness; political acceptability <b>Voting:</b> 3= strongly support, 2= can live with it, 1= question, 0= do not support
Briefing item					
	Exemptions for industrial, employment, commercial zones w/out existing minimum landscape area requirements Interim in response to LUBA remand of North Reach River Plan				<b>Amendment introduced by BPS on 2/2/11:</b> Interim exemption for IH, IG1, EX, CX, CS, CM zones, until issues raised by the remand (impacts on industrial land) are sufficiently addressed. Add ordinance language seeking directing staff to return in a set period of time (1 year) and report to Council on the status of these issues and updated recommendations as appropriate <i>BDS: 3, BES: 2, PPR:3, BPS 3</i>
Commission roles					
1.	Commission oversight for Title 11 Trees				
1a.	Should Council draft be amended? (UFC has primary Title 11 oversight; PSC must hold a hearing and recommend to City Council for chapters 11.50 – 11.80)				<b>Amendment introduced by BPS on 2/2/11</b> PSC required holding a hearing and recommending to City Council on amendments to Chapters 11.50 through 11.80; retaining advisory role and option to hold hearing on other portions of Title 11. <i>Discussion: It is important that there be coordination between the UFC and PSC for any amendments to Title 11.</i>
1b.	Should the PSC have primary oversight for Title 11?				<i>BDS: 2 – provided PSC retains advisory roll and ability to hold a hearing and make recommendations for other non-development related provisions. Important to ensure regulatory consistency between development and non development situations. BES: 3, PPR: 2. BPS 3.</i>



## CITYWIDE TREE PROJECT – BUREAU ISSUE ASSESSMENT FOR CITY COUNCIL

### Notes from 2/16/11 – Interbureau Worksession

PPR – Dave McAllister, Kathleen Murrin; BDS–Rebecca Esau, Douglas Hardy, Kimberly Tallant; BES, Mike Rosen, Jennifer Karps, Comm. Leonard's office: Sara Petrocine; Comm. Fritz's office: Tom Bizeau; Comm. Fish's office: Hannah Kuhn, BPS: Susan Anderson (facilitator), Joe Zehnder, Roberta Jortner, Morgan Tracy, Stephanie Beckman

Issues					Bureau Discussion/Notes
	Consensus		Seek Further Direction from Bureau Directors	Information for Mayor/Comm.	<b>Criteria:</b> Canopy quantity, quality, & distribution; complexity, administrative and customer ease; consistency, fairness; cost-effectiveness; political acceptability <b>Voting:</b> 3= strongly support, 2= can live with it, 1= question, 0= do not support
2.	<b>Urban Forestry Commission Composition</b>				
2a.	<p>Proposal includes PBOT/BES/BDS/Water as ex officio. Should proposal be amended to add the City Forester as an ex officio member of the UFC? OR,</p> <p>Should bureaus designate liaisons to monitor UFC activities and participate on an ad hoc basis, rather than serving as ex officio members?</p>				<p><b>Refer to Bureau Directors.</b>            Potential Amendment: Either add City Forester as ex-officio or remove all bureaus/staff ex-officios.</p> <p>Discussion: If City Forester is added, what about ONI, BPS, etc.? BES feels it facilitates coordination to sit at the table, but also raised concerns that bureaus could be conflict and that these issues need to be worked out before addressing issues at UFC.</p> <p>NOTE - PBOT has existing ex-officio role. Cannot remove without consulting PBOT. Susan will follow up with Sue Keil before director meeting on 2/25.            BDS: 3 either way. BES: 2 with adding Forester, 0 with being removed            PPR: 3 either way. BPS: 2 with adding forester (concerned about need to include multiple other bureaus ONI, etc) 2 with no ex officio</p>

Trees and Development					
3.	<b>Flexible Development Standards</b>				
3a.	<p>Should the proposal be amended to delete the allowance for required outdoor area to be located partially in the front setback to preserve a large healthy tree? (Would not reduce the required outdoor area)</p>				<p><b>Amendment introduced by Commissioner Fritz on 2/2/11:</b>            Remove allowance to locate outdoor area in front setback; not consistent w/original intent            BDS: 2 – not a make it or break issue            BES: 0 – we need to rethink urban form and opportunities to integrate trees where possible, front yard can serve as active play space if properly designed            PPR: 2 – additional flexibility is helpful incentive to builders            BPS: 2 – added flexibility is good, recognizes some enjoy front yard as active play/gathering area; some concern that the allowance could erode importance of hard-fought outdoor area requirement</p>

<b>4.</b>	<b>Tree Preservation Standards</b>	
<b>4a.</b>	Should standard be reduced from 35% to 33%?	<b>Amendment introduced by Mayor Adams on 2/2/11:</b> Change tree preservation standard from 35 to 33% BDS: 3 BES: 2 – some margin of additional tree loss, but is a reasonable change PPR: 3 BPS: 3
<b>4b.</b>	Should the small lot and/or building coverage exemption be deleted?	<b>Refer to Bureau Directors</b> <b>Potential Amendment:</b> Exempt all lots <u>less than</u> 5,000 square feet from tree preservation standards. (responds to builders, simplifies SFR exemption rules)
<b>4c.</b>	Should small lot exemption threshold remain at 3000 s.f.?	
<b>4d.</b>	Should threshold be raised to 5000 s.f.? (If approved should replace Mayor's proposed amendment allowing planting for first mitigation tree on lots 3000 – 5000 s.f.) Alternatively, 4000 s.f.?	
		<b>Outstanding questions:</b> Retain 12" size threshold as proposed? Increase to 16"? Increase to 20"?  Larger regulated tree size: - reduced workload - more potential loss of canopy - may be more difficult/costly to protect only large trees but would reduce the number of trees preserved and protected, and associated cost  Note: If tree size is increased for the Tree Preservation Standard and carried over to the tree permit system (absent development) this would be perceived as a large rollback of <i>existing</i> City tree rules for lots currently regulated, however, the system would also extend to new properties. <b>See item #10</b>
<b>4e.</b>	Should proposal be amended to reduce building coverage threshold from 90% to 80%?	<b>Amendment introduced by Mayor Adams on 2/2/11:</b> Allow sites with at least 80% building coverage to be exempt from tree preservation standards. BDS:2 BES 0 - concerned about losing opportunities to encourage integration of trees in site design and loss of tree canopy from reduced preservation or mitigation. PPR: 2 BPS: 2 – it is preferable to exempt development with slightly lower building coverage than sites with more paving. May wish to reconsider in light of proposed 5,000 s.f. lot exemption (that applies to all zones)



<b>5.</b>	<b>Tree Density Standards</b>	
<b>5a.</b>	Should on-site and street tree densities addressed separately in all cases as proposed?	<p><b>Refer to Bureau Directors</b>  <b>Potential Amendment:</b>  Allow street trees planted <b>or preserved</b> to count toward tree density for sites less than 5,000 square feet. This lot size comports with (but is not related to) the potential &lt;5,000 square foot lot size exemption from the Tree Preservation standard.</p> <p>BDS: 3 – no need to further reduce tree density (5c) with this change.  BES: 0 – ok with 3,000 s.f. but not 5,000 s.f. – generally results in fewer trees planted on sites. Need lot data to evaluate impact.  PPR: 0 – ok with 3,000 but not 5,000, generally results in fewer trees planted on sites, less canopy lift.  BPS: 2 – acceptable if less than 5000 (vs. &lt; 5000 s.f.)</p>
<b>5b.</b>	Should the proposal be amended to allow street trees to count toward tree density on lots ≤3000 s.f.? (Mayor's proposed amendment); <5000 s.f.? other s.f.? all lots?	
<b>5c.</b>	Should tree density levels be reduced or otherwise modified?	
<b>5d.</b>	Should per tree planting area requirement be deleted?	
<b>6.</b>	<b>Significant Tree Table</b>	
<b>6a.</b>	Should Significant Tree Table be deleted as proposed?	<p><b>Amendment introduced by Commissioner Fritz on 2/2/11:</b>  <b>Bureaus suggest following approach:</b>  Reinstate significant tree list in the Portland Plant List to inform application of land division qualitative criteria; highlights importance of different native trees at different sizes (i.e., 20" diameter fir compared a 20" diameter yew). Include a reference to PPL in the land division criteria.</p> <p>BDS: 3 – An agreeable compromise that adds guidance but doesn't add complexity.  BES: 2 – Would prefer inclusion in code criteria – clearer, more explicit. PPR: 2 – No real preference. Portland Plant List is appropriate location and also useful for more general reference.  BPS: 2 – Inclusion in code criteria would keep information in one place, but PPL can be amended more easily to reflect new information.</p>
<b>6b.</b>	Should Significant Tree Table be added to Portland Plant List and referred to in the land division section outlining qualitative tree preservation criteria?	
<b>6c.</b>	Should Significant Tree Table be reinstated in the land division section outlining qualitative tree preservation criteria?	

6d.	Should Significant Tree Table be reinstated in the land division chapter w/extra credit toward quantitative standards?	<b>Bureaus recommend against the following approach:</b> BDS: 0, BES: 0, PPR: 0, BPS: 0 – preference is with amendment listed above.
<b>Trees in Non-Development Situations</b>		
7.	<b>Nuisance Trees</b>	
7a.	Planting - Should the Council draft be approved as proposed or amended to include an exemption to plant Norway maples in Ladd's Addition?	No Amendment Proposed for exempting Ladd's Addition.  BDS: 0, BES: 0, PPR: 0, BPS: 0
7b.	Replacement - Should the Council draft be amended to eliminate replacement requirement for Nuisance species trees except in environmental zones	<b>Amendment introduced by Commissioner Fritz on 2/2/11:</b> Delete replacement requirement for removal of nuisance species trees on private properties, outside e-zones.
7c.	Replacement - Should the Council draft be amended to eliminate replacement requirement for all Nuisance species trees	BDS: 2 – some complexity with 7.b. e-zone vs. non e-zone rules/message. BES: 0 – replanting is not a major disincentive; cost of removal is the disincentive. Nuisance trees provide significant canopy benefit which should be replaced, account for roughly 10-15% of total tree population – major loss if not replaced. PPR: 0 – loss of canopy lift, complication in message "cut a tree, plant a tree" BPS: 0 – proposal is streamlined and important to promote urban forest replenishment; If deleting replacement requirement, would prefer consistent approach (7c) vs. 7.g
8.	<b>Street tree pruning permit</b>	
8a.	Should the Council draft be approved as proposed w/exemptions for pruning branches $\leq \frac{1}{4}$ "	<b>Potential Amendment:</b> Delete Type A permit requirement in favor of adopting standards that specify pruning be conducted in accordance with "proper arboricultural practices" (could be self administered permit or registration to ensure info on standard practices is provided).
8b.	Should Council draft be amended to exempt pruning of branches $\leq 1$ " or other size?	BDS: 3 ; BES: 2 – permit process is an opportunity to provide pruning education to those wanting to prune trees. Not all who prune get permits, true, we still need to find ways to connect with those people. There is a difference between arguing over how hacked a tree is versus enforcing against those who did not get a permit and hacked a tree.
8c.	Should pruning permit be eliminated or converted to a "self issued" permit (or registration?) with requirement to adhere to proper practices added?	PPR: 3 – although would alternatively support Type A permit with larger exempt limb size. BPS: 3 – although would alternatively support Type A permit with larger exempt limb size.



<b>10.</b>	<b>Private tree removal permit/Tree Size</b>	
10a.	Should Council draft be approved as proposed ( $\geq 6"$ diameter e-zones; $\geq 12"$ d. currently regulated lots, $\geq 20"$ d for currently exempt SF lots – using lot sizes instead of “dividable”)?	<p><b>Refer to Bureau Directors (see also, Item 4):</b>  <b>Current draft proposal:</b>            No lot exemptions, permits required to remove            1) 6" diameter in e-zone/plan districts            2) 12" diameter in general            3) 20" diameter on single family lots w/limited development potential (based on zone and lot size).            4) Appeals for removals of any healthy tree <math>&gt; 20"</math> or <math>&gt; 4</math> healthy trees <math>\geq 12"</math></p> <p>Key BDS and Parks concerned about complexity/equity:</p> <ul style="list-style-type: none"> <li>- multiple tree sizes</li> <li>- use of lot size table to determine homeowner permit eligibility</li> </ul> <p><u>Potential amendment to reduce # of tree size and eliminate lot size table:</u></p> <ol style="list-style-type: none"> <li>1) Single lot size exemption - exempt all lots <math>&lt; 5,000</math> s.f. (matches potential exemption from tree preservation development standard - see item #4)</li> <li>2) Retain 6" in e-zone/plan districts</li> <li>3) <b>One tree size</b> - 12" or 16" for all others (20" felt to be a non-starter given sensitivity to rollback of current City policy/rules)</li> <li>4) Continue limiting public appeals to large trees and multiple trees</li> </ol> <p><b>Questions/Decisions:</b>            1) Exempt 5,000 lots? 5000 SF lots? (review lot and canopy data)            2) Retain 12" general size threshold as proposed?            3) Increase to 16" – w/ increase tree preservation development standard threshold? – need to consider public testimony calling for lower tree sizes            No vote was taken but BDS expressed support for 16" and BES for 12" BPS expressed concern about rollback of current 12" permit requirements AND concern re: going to 12" for homeowners; feels additional tier at 20" is appropriate and supported by neighborhood advocates; is intuitive; helps manage costs. PPR supports single lot exemption; feels it's important to have opportunity to connect w/Portlanders and review tree removal requests; supports retaining appeals for larger trees (not all permits)</p>
10b.	Should Council draft be amended to require removal permits for $> 6"$ or 8" d. trees citywide?	
10c.	Should Council draft be amended to require removal permits for $\geq 12"$ d trees citywide	
10d.	Should Council draft be amended to require removal permits for $\geq 16"$ d trees citywide	
10e.	Should Council draft be amended to require removal permits for $\geq 20"$ d trees citywide	

10f.	Should the Council draft be amended to retain the environmental zone standards for 10" d. trees (e.g., in utility corridors)?	<p><b>Amendment introduced by Commissioner Fritz on 2/2/11:</b> Reverse the proposed change to increase the tree size at which an environmental review is required in e-zones from 12" to the original 10".</p> <p>BDS: 0, BES: 0, PPR: 0, BPS: 0 – the proposed small increment of change for the sake of reducing the number of tree size thresholds is not significant. Also, these trees (between 10 and 12") will continue to be addressed and be required to be replaced, just without the need for an environmental review.</p> <p>NOTE: if the directors opt to change the tree preservation standard tree size threshold and corresponding non-development tree permit size threshold to 16" or 20", the bureaus do not advocate for a similar change for the e-zone standards. (2" is an acceptable margin, but not 6 or 10 inches).</p>
10g.	Should Council draft be amended to include a single lot size exemption for SF lots (link to tree preservation exemption)?	See Item 10 a.-e. Potential amendment includes exemption of lots <5,000 square feet.
10h.	Should Council draft be amended to retain exemption for SF lots based on lot sizes instead of "dividable" term?	See Item 10 a.-e. Potential amendment includes exemption of lots <5,000 square feet which replaces current "dividable" lot exemption/ and proposed homeowner permit for currently exempt lots.

<b>Enforcement</b>		
11.	<b>Strengthening Penalties</b> (Comm. Leonard concern)	
a.	Should Council draft retain flexibility and discretion in assigning penalties as proposed?	<p><b>No Amendment Proposed</b> Both BDS and PPR recommended retaining the flexibility afforded in the proposed code. Priorities or directives for imposing fines or other penalties are better established as administrative rule or elsewhere, and not codified.</p> <p>Directors should follow up on this issue w/ Urban Forestry and BDS to ensure consistency, coordination and collaboration in how violations (non-development to development, i.e. site pre-clearing) are addressed.</p>
b.	Should Council draft be amended to codify monetary penalties?	
c.	Should Council draft be amended to remove option to modify or waive fines?	
<b>Tree Fund</b>		
12.	<b>Rules for fund expenditures</b>	
a.	Should fund revenues be expended w/in same watershed where development took place as proposed?	<p><b>No amendments proposed:</b> Retain current proposal to expend Tree Fund dollars to plant based on watershed. Develop goals and criteria to plant near where removal occurred, same neighborhood, target tree deficient areas, etc. But do not codify given challenges on finding tree planting opportunities. Often City needs to plant where opportunities arise. Retain ability to purchase conservation easements as determined by fund administrator. BDS: 3, BES: 3, PPR: 3, PPS: 3</p>
b.	Should Council draft be amended to limit fund expenditures to neighborhood where development takes place?	
c.	Should fund revenues be allowed to go to purchase conservation easements as proposed or limited to planting only?	



13.	<b>Port request – exempt area w/in future PDX Plan District from T11 and T33 tree rules; develop plan district specific tree preservation/mitigation requirements.</b>	
13a.	Should Council draft be approved w/Tree Density exemption for areas subject to PDX landscape standards as proposed?	Not Discussed – BPS will follow up by meeting with the Port and City Forester to discuss alternatives and propose an amendment if necessary
13b.	Should Council draft be amended to exempt areas subject to PDX landscape standards from Title 11 Tree Preservation standards?	
13c.	Should Programmatic Permit proposal be amended to allow removal of healthy, non-Nuisance species trees $\geq 6$ " diameter, subject to public notice/appeal?	
13c.	Should Council draft be amended to exempt areas subject to PDX landscape standards from Title 11 permit requirements	
13e.	Should Council draft be amended to exempt entire PDX plan district from one or more of these requirements?	
<b>Other Issues</b>		
14.	<b>Landscape Standards</b> – Several testifiers expressed concern about current landscape standards, including parking lot standards and impact of current standards on capped contaminated sites.	<b>No amendment proposed</b> Contaminated site cleanup already addressed in tree permit chapter. Other landscaping requirement issues beyond the scope and timeline of this project.
15.	<b>Trees and Solar</b> – Several testifiers suggested there should be special allowances for new development w/solar energy systems, and for tree removal/replacement to provide for solar access	<b>No amendment proposed</b> Council draft provides sufficient flexibility to avoid conflicts in most instances – BPS recommends that the issue be monitored through tree permitting and development permits.
16.	<b>Tree rules in overlay zones and plan districts</b> – BDS has raised new concerns and suggested allowances for tree removal in overlay zones and plan districts.	<b>No amendment proposed</b> Some minor changes for Rocky Butte and Johnson Creek are already included in BPS amendment package; these amendments improve consistency and simplify replacement requirements. Additional tree removal allowances being requested now have not been researched, evaluated or discussed internally or w/stakeholders or addressed in public forums. Issues beyond the timeline of this project.
17.	<b>Proceed w/Council adoption (vs. delay/more analysis)</b>	<b>Refer to Bureau Directors</b> Will confirm approach at Bureau Director meeting

Updated 3/6/11

**New Staff Amendments with Pros and Cons**

The following three amendments were discussed on February 25, 2011 by directors of the Bureaus of Development Services, Parks and Recreation, Environmental Services, and Planning and Sustainability. The fourth amendment is presented for Council consideration by the Bureau of Planning and Sustainability. These amendments are also presented in the City Council Decision Guide (Attachment 1); and correspond to shaded numbers shown below.

This document concludes with a list of items the bureaus discussed on February 16, 2011, and for which no amendments are proposed (see Attachment 5).

**1. Ex-Officio Membership to Urban Forestry Commission – Eliminate current and proposed code provisions designating bureaus as ex officio members of the Urban Forestry Commission. (Corresponds to Item 1.A. in Council Decision Guide – Attachment 1)**

Introduction: Current City code identifies the Bureau of Transportation as an ex officio member of the Urban Forestry Commission. The Tree Project Recommended Draft to City Council (December 2010) proposes adding BDS, BES and the Water Bureau as ex officio members.

Analysis: Ex officio status includes authority to vote per Robert's Rules of Order and the bureaus, including Water and Transportation, as well as BDS, PPR, and BES, generally agree that bureaus and City staff should not be voting members of the Urban Forestry Commission.

Pros: Eliminating bureaus as ex officio members allows the Urban Forestry Commission to function purely as an appointed citizen body, similar to the Planning and Sustainability Commission. The bureaus are encouraged to designate liaisons to coordinate with the Urban Forestry Commission and Urban Forestry Program staff.

Cons: There is some concern that a less formalized affiliation with the Urban Forestry Commission will discourage coordination and collaboration on urban forestry issues and programs.

**2. Title 11 Tree Preservation Standard - small lot exemption – Expand the exemption for small lots from less than or equal to 3,000 s.f. lots to less than 5,000 s.f. (Corresponds to Item 2.B.2.b. in Council Decision Guide – Attachment 1)**

Introduction: The Recommended Draft to City Council (December 2010) exempts lots  $\leq 3,000$  s.f. from the proposed Title 11 Tree Preservation Development Standard. The Planning and Urban Forestry commissions added this exemption to address developer concerns about the feasibility and cost of preserving trees on small infill sites. Testimony to City Council includes requests from the Homebuilders Association and the Bureau of Development Services to increase the exemption to include lots up to (but not including) 5,000 square feet.

Analysis: The bureaus reviewed the distribution of different-sized lots and existing tree canopy in the city (see Attachment 5). Lots  $< 5,000$  s.f. comprise 21% of the lots in the city and contain 3% of the tree canopy in the city (outside environmental resource zones). Lots  $< 3,000$  s.f. comprise 11% of the lots in the city and contain 1% of that tree canopy.

Pros:

1. Raising the exemption threshold to lots  $< 5,000$  s.f. would reduce the level of regulation, developer costs, and BDS workload without risking significant losses in tree canopy. (Note: Tree Density Standards still apply to lots of any size.)
2. Responds to testimony requesting additional flexibility for developing small infill lots.

Cons:

1. Raising the exemption threshold will result in some loss of existing tree canopy and opportunities to generate additional canopy through mitigation plantings.
2. Doesn't respond to testimony requesting that lot size exemptions be eliminated.

### 3. Private Tree Removal Permit (Corresponds to Item 3.B.2. in Council Decision Guide – Attachment 1)

Introduction: The Recommended Draft to City Council (December 2010) proposes requiring a permit for removal of trees on private property on all lots in the City. The permit would be required to remove trees 12" and larger in diameter (consistent with current City regulations), with two exceptions as follows:

- a. For the pool of currently exempt single family zoned lots developed with a single family dwelling, and that are too small to be further divided, simple permits would be required to remove a tree 20" or more diameter. The proposed code includes a table of different lot sizes that vary by zone to determine whether a property is eligible for the streamlined homeowner permit.
- b. For trees in natural resource overlay zones the proposed tree size threshold is 6" in diameter which is consistent with the size threshold for trees regulated by the Zoning Code.

The bureaus expressed several concerns about the current private tree permit proposal, including:

1. complexity associated with the lot size table
2. complexity associated with multiple tree sizes
3. level of regulation and increased workload
4. loss of canopy associated with the 20" tree size threshold for homeowners
5. potentially discouraging people from planting trees

Analysis: The bureaus spent considerable time and effort to address and balance the issues and concerns. We discussed a number of options, including introducing a minimum lot size exemption and shifting to a single tree size threshold of 12", 16" or 20" in diameter.

Ultimately, the bureaus agreed to forward for Council consideration a permit system that would be simpler to administer, but that retains the Type A and Type B permit types and tiered tree sizes. The permit would retain the 12" diameter standard lot size threshold (which corresponds to the Tree Preservation Standard in development situations). It would also retain a higher tree size threshold and simple permit process for typical homeowner lots. This simplified process involves no review, no appeals, and requires one tree be planted for each tree removed.

The bureaus also agreed it would be less complicated to determine eligibility for the simple homeowner permit using a single lot size of <10,000 s.f. instead of the multiple lot size table. The amendment would require "homeowner permits" for tree removal on any built single-family zoned lot <10,000 s.f.

The bureaus did not reach full consensus on whether to add a minimum lot size exemption or a preferred lot size for that exemption. The bureaus also did not agree on a specific tree size threshold for the homeowner permit. The options are presented below along with associated pros and cons.

- a. Adding a minimum lot size exemption from private tree removal permit: The minimum lot size exemption could be <3000 s.f. or <5000 s.f. to correspond to the Tree Preservation Standard exemption for development discussed above.

Pros:

1. A new lot size exemption would help manage workload while focusing the City's permitting investment on lots containing the bulk of the existing tree canopy in the city.
2. Partially response to testimony expressing concern about regulating trees on private property.
3. Setting the minimum lot size exemption similar to the Title 11 Tree Preservation sends a consistent message that City wants to limit regulatory burden on development and owners of small infill lots.

Cons:

1. Adding a minimum lot size exemption would reduce opportunities to encourage tree retention and ensure that trees are replaced when removed; particularly a concern in target infill areas.
  2. May be perceived as inequitable or inconsistent, e.g., "why are trees less important on smaller lots than larger lots?"
- b. Tree size threshold for the homeowner permit: The current proposal would set a tree size threshold of 20" in diameter for the simple homeowner permit. It was suggested that this threshold be reduced to 16", particularly if a minimum lot size exemption is adopted.

Pros:

1. Shifting the "homeowner permit" tree size threshold from 20" to 16" in diameter would ensure replacement of more trees on built single family lots less than 10,000 s.f.
2. Partially responds to testimony supporting adoption of smaller trees size thresholds.

Cons:

1. Difference between 12" and 16" diameter is not as intuitive as the distinction between 12" and 20", leaving some to ask, "why the distinction in the regulations?"

### 3. Programmatic Permit (Corresponds to Item 3.D. in Council Decision Guide – Attachment 1)

Introduction: The Programmatic Permit as recommended by the UFC/PC is intended to facilitate and improve the efficiency and transparency of routine public agency tree-related activities. The Programmatic Permit would allow routine activities for up to 5 years, as long as the activities would result in a net benefit to the urban forest. The UFC/PC proposal would allow removal of dead, dying, dangerous and Nuisance species trees, but would not allow removal of healthy non-Nuisance species trees larger than 6" diameter. The UFC/PC intended to limit tree removal given the five year duration of the permit, and because the permit process would not offer the same opportunity for public appeal as is provided for with individual tree permits.

The Port of Portland submitted a request for an exemption from the tree-related requirements of Title 33 and Title 11, stating that the proposed Programmatic Permit would not accommodate the vegetation management activities they are required to conduct on or near PDX. Activities may involve substantial pruning and periodic removal or thinning of trees to meet critical airspace height limits, as well as tree spacing and crown management to comply with their FAA-required Wildlife Hazard Management Plan. Through the Airport futures project the City is proposing specific landscape requirements within PDX and in specified surrounding areas to meet these obligations.

Analysis:

The Port manages more than 3,000 acres and 5,000 trees (excluding trees in environmental overlay zones). The Port must comply with specific federal vegetation management requirements in addition to day to day operational requirements.

Primarily, the Port is interested in addressing their vegetation management needs and federal requirements programmatically, rather than through multiple individual tree permits that are each subject to public appeal. Rather than exempting PDX from the City's tree codes, the Bureau of Planning and Sustainability and the City Forester propose that the Programmatic Permit proposal be amended to allow removal of trees larger than 6" in diameter and that an opportunity for the public to

appeal be added for these applications. The City Forester would retain the ability to prescribe the conditions under which trees are allowed to be removed, when consultation is required prior to removal, and limit the maximum size of tree allowed to be removed through the programmatic permit review.

Pros:

1. Amending the Programmatic Permit will make it a more useful tool to more agencies
2. Greater efficiencies are obtained for land managers of large geographic areas.
3. More equitable between public agencies that manage Private Trees (regulated starting at 12" diameter) and those managing City or Street Trees (regulated starting at 3" diameter)
4. More equitable and accountable to the public than exempting PDX from the tree codes generally.
5. Instituting a public appeal opportunity increases accountability to the public, and ensures greater transparency in the development of the programmatic permit conditions.

Cons:

1. Potential for larger tree removal with less City oversight than is generally conducted for individual tree permits.

**5. Items for which the bureaus recommend no amendment to the current proposal**

A number of other issues were also discussed at the February 16<sup>th</sup> interbureau meeting for which the bureaus collectively agreed that no additional amendments would be proposed. Additional information pertaining to these issues and the bureaus positions is contained in Attachment 4.

1. Constrain expenditure of tree funds to watershed or neighborhood.
2. Limit use of Tree Fund to tree planting only (not conservation easements, education)
3. Revise landscape requirements in Title 33 to address parking lot standards and impact of current standards on capped contaminated sites
4. Special allowances for new development w/solar energy systems, and for tree removal/replacement to provide for solar access
5. Exception to allow planting of Norway maples in Ladd's Addition