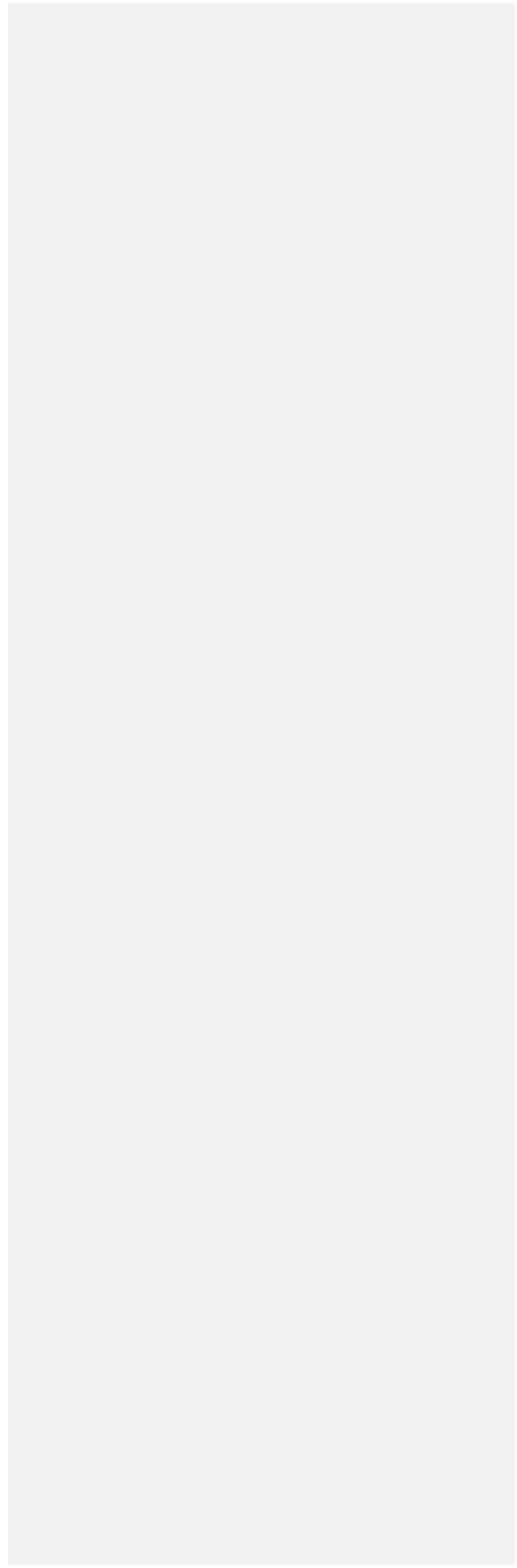


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(Title 11 added by Ordinance No. 184522; Amended by Ordinance Nos. 185448, 185654 and 186053, effective January 1, 2015.)



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**CHAPTER 11.05 - LEGAL FRAMEWORK
AND RELATIONSHIPS**

Sections:

- 11.05.010 Purpose.
- 11.05.020 Official Name.
- 11.05.030 Authority.
- 11.05.040 Where This Title Applies.
- 11.05.050 Other City, Regional, State and Federal Regulations.
- 11.05.100 Severability.
- 11.05.110 Liability.

11.05.010 Purpose.

A. The Tree Code is one of the implementation measures of the Urban Forest Plan. Together with education and other initiatives, these regulations protect the health, safety, and general welfare of the citizens of Portland and are consistent with other plans and policies of the City. In so doing, the appearance of the City is enhanced and important ecological, cultural, and economic resources are protected for the benefit of the City's residents and visitors.

B. **Trees are a fundamental component of the City's green infrastructure.** 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. Providing oxygen and capturing air pollutants and carbon dioxide;
2. Maintaining slope stability and preventing erosion;
3. Filtering stormwater and reducing stormwater runoff;
4. Reducing energy demand and urban heat island through shading of buildings and impervious areas;
5. Providing visual screening and buffering from wind, storms and noise;
6. Sustaining habitat for birds and other wildlife;
7. Providing a source of food for wildlife and people;
8. Maintaining property values and the beauty, character and natural heritage of the City; and
9. Meeting the multi-purposed objectives of the Urban Forest Plan, including reaching and sustaining canopy targets for various urban land environments.

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11.05.020 Official Name.

The official name of this Title is "Title 11 Trees" and it may be referred to as "Title 11" or the "Tree Code".

11.05.030 Authority.

The regulations of this Title are adopted under the City's police power to regulate to protect the public health, safety and welfare.

Pursuant to Section 2-104 of the City Charter, the City Council confers its non-legislative functions as described herein to the City Forester and Director of the Bureau of Development Services to administer and enforce this Title.

11.05.040 Where This Title Applies.

- A.** In City of Portland. This Title applies to all trees within the City of Portland.
- B.** County Urban Pocket Areas. Trees in the "County Urban Pocket Areas" are subject to only some of the regulations of this Title. The County Urban Pocket Areas are areas outside the City of Portland where the Portland Zoning Code and other Portland regulations are administered.
 - 1.** Trees in the County Urban Pocket Areas are subject to the regulations of:
 - a.** Chapter 11.05 Legal Frameworks and Relationships
 - b.** Chapter 11.10 Administration of this Title
 - c.** Chapter 11.15 Funds and Contributions
 - d.** Chapter 11.80 Definitions and Measurements
 - 2.** Trees in the County Urban Pocket Areas are exempt from the regulations of:
 - a.** Chapter 11.20 Urban Forestry Program
 - b.** Chapter 11.30 Tree Permit Procedures
 - c.** Chapter 11.40 Tree Permit Requirements (No Associated Development)
 - d.** Chapter 11.45 Programmatic Tree Permits
 - 3.** Trees in the County Urban Pocket Areas are subject to some of the regulations of the following chapters. Each of these chapters specifies which sections apply to the County Urban Pocket Areas:
 - a.** Chapter 11.50 Trees in Development Situations

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- b. Chapter 11.60 Technical Specifications
 - c. Chapter 11.70 Enforcement
 - C. State or Federal jurisdiction. Trees within public rights-of-way that are managed by the State of Oregon are exempt from the regulations of this Title. Trees located on lands or within utility corridor easements that are owned by State or Federal agencies are also exempt from the regulations in this Title. However, these trees may be subject to other City regulations or Intergovernmental Agreements. Furthermore, the City retains summary abatement authority for nuisances posing an immediate threat to public safety.
 - D. Trees in containers. Trees placed in above-ground containers are exempt from the requirements of this Title.

11.05.050 Other City, Regional, State and Federal Regulations.

- A. Relationship to Title 33 Planning and Zoning.
 - 1. Generally. The regulations of Title 33 shall be met in addition to the regulations of this Title, unless otherwise specified in a condition of land use approval;
 - 2. Conditions of approval. Conditions of approval attached to a land use review shall be met unless they have expired as specified in Title 33 Planning and Zoning.
- B. Relationship to other City, Regional, State and Federal regulations.
 - 1. Compliance required. In addition to the requirements of ~~the~~ this Title and Title 33 Planning and Zoning, tree removal and planting actions shall comply with all other City, regional, state, and federal regulations, including the Clean Water Act, Endangered Species Act, and Migratory Bird Treaty Act. Compliance with Title 11 does not in any way imply, either directly or indirectly, compliance with any other law. Where the provisions of this Title conflict with those set forth in other regulations under the City Code or ordinance, the more restrictive requirement will prevail. When both provisions are equally restrictive, the most recently adopted requirement will prevail, except in matters affecting public safety.
 - 2. References to other regulations. References in the tree code to other City, regional, state, or federal regulations do not constitute a complete list of such regulations. These references do not imply any responsibility by the City for enforcement of regional, state or federal regulations.
 - 3. Current versions and citations. All references to other City, regional, state or federal regulations in the Tree Code refer to the most current version and

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citation for those regulations, unless specifically indicated otherwise. Where the referenced regulations have been repealed, requirements to comply with those regulations are no longer in effect. Where the citation for the referenced regulation has been renumbered, the regulation continues to apply.

4. City guidelines and policy documents. City, Street, or Private Trees may be subject to policy, design, or other guidance documents adopted in compliance with City Code. In these cases, the City Forester shall adhere to these documents insofar as they do not conflict with the requirements of this Title. In cases of such conflict, the City Forester may require an alternative that is consistent with this Title and that reasonably satisfies the overall objectives of the policy or guidance document.

11.05.100 Severability.

If any provision of this Title, or its application to any person or circumstance, is held to be unconstitutional, unlawful or invalid as applied, the remainder of this Title, shall not be affected, and shall continue, insofar as possible, in full force and effect. In the case where a provision is held to be unconstitutional, unlawful or invalid as applied, its application to other persons or in other circumstances, shall not be affected, and shall continue, insofar as possible, in full force and effect. To that end, the provisions of this Title are declared to be severable.

11.05.110 Liability.

(Amended by Ordinance No. 188647, effective November 17, 2017.)

- A. Nothing in this Title will be deemed to impose any liability upon any member of City Council or the City or any of its officers or employees.
- B. Every property owner shall be liable to persons injured or otherwise damaged by reason of the property owner's failure to keep the private property, sidewalks, planting strips and trees fronting or upon such private property in a safe condition so as not to be hazardous to public travel.
- C. Furthermore, every property owner shall be liable to the City of Portland for all expenses, including attorney fees, incurred by the City in defense of or paid by the City in settlement or satisfaction of any claim, demand, action or suit brought by reason of that property owner's failure to satisfy the obligations imposed by this Title.

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**CHAPTER 11.10 - ADMINISTRATION OF
THIS TITLE**

Sections:

- 11.10.010 Code Administration and Duties Performed.
- 11.10.020 Determining What Regulations Apply.
- 11.10.030 General Rules for Reading and Applying the Code Language.
- 11.10.040 Amendments to this Title.
- 11.10.050 Interagency and Intergovernmental Agreements.
- 11.10.060 Performance Guarantees.
- 11.10.070 Fees.

11.10.010 Code Administration and Duties Performed.

This Title is primarily implemented by two City officials; the City Forester and the Director of the Bureau of Development Services (BDS Director). The Responsible Engineer has a role as described below in the resolution of infrastructure conflicts within the public streets and city-owned easements. The roles for the Urban Forestry Commission and Appeals Board include major urban forest policy direction and hearing appeals of tree removal permits, as described in Chapter 11.20. The Code Hearings Officer adjudicates enforcement cases.

The City Forester and BDS Director are authorized to adopt, amend and repeal administrative rules, consistent 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. No such rule shall be effective or binding on any person until it is filed for inclusion in the City Auditor's Portland Policy Documents repository in accordance with the provisions of Chapter 1.07 of this Code. If any person feels aggrieved by any such administrative rule, the person may appeal to the Council for its amendment or repeal by filing with the City Auditor a petition which shall be presented to the Council at its next regular meeting, unless the petitioner requests a later hearing. Until and unless amended or repealed by the Council, any administrative rule made under this Section shall be in full force and effect.

- A. City Forester. The City Forester shall be an arborist. The City Forester is responsible for:
 - 1. Administering the tree permit program for City, Street, and Private Trees per Chapter 11.40 and Programmatic Permits per Chapter 11.45;
 - 2. Reviewing development permits for compliance with City and Street Tree preservation and protection and Street Tree planting requirements per Chapter 11.50;
 - 3. Processing violations of this Title as stated in Chapter 11.70;
 - 4. Managing the Urban Forestry Program by:

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- a. Preparing and submitting the annual budget request for the operation of the Parks and Recreation Forestry Division to the Director of the Bureau of Parks and Recreation; and
 - b. Providing tree maintenance or supervisory services including cutting, pruning, spraying, planting and tree removal on city managed property required by or performed by the Bureau of Parks and Recreation subject to the annual budget. Bureaus may also employ normal procedures to have such services provided by private contractors; and
5. Preserving and enhancing the urban forest by:
- a. Developing and periodically updating specifications for planting, pruning, removing and maintaining trees in accordance with proper arboricultural practices;
 - b. Developing lists of recommended trees for streets as well as recommended trees for other specific objectives;
 - c. Coordinating with the UFC and City bureaus, the development, monitoring, and reporting on implementation of the Urban Forest Plan described in Chapter 11.20; and
 - d. Providing staff services and carrying out the other responsibilities applicable to the UFC including:
 - (1) Preparing a monthly report on the Urban Forestry Program's activities for the Urban Forestry Commission's (UFC) review;
 - (2) Reviewing and identifying for the UFC budget proposals, programs, and projects that could substantially affect trees or the urban forest; and
 - (3) Analyzing potential activities for consideration in the development of the UFC's annual work plan and retreat.
- B. BDS Director. In addition to duties specified in other City Titles, the BDS Director is responsible for:
- 1. Reviewing development permits for compliance with **Private Tree on site tree** preservation, protection and planting requirements per Chapter 11.50;
 - 2. Processing violations of this Title as stated in Chapter 11.70; and

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3. Processing violations affecting trees when the violation is of a requirement of this Title and Title 33, Planning and Zoning. In such cases, the BDS Director may also consult with the City Forester.

C. Responsible Engineer. The Responsible Engineer in consultation with the City Forester is responsible for:

1. Reviewing tentative planting proposals in public streets for the purpose of protecting existing utilities and sewer and water lines;
2. Applying standards for planting, care, and protection of trees through development projects, including public works, and capital improvements;
3. Planting, care, and management of trees in center medians and greenstreet facilities; and
4. Identifying for the City Forester city programs and capital projects or significant budget proposals that would substantially affect trees or the urban forest and that warrant UFC involvement or review.

D. Urban Forestry Commission (UFC). The roles and functions of the Urban Forestry Commission are specified in Chapter 11.20.

E. Urban Forestry Appeals Board. The roles and composition of the Appeals Board are specified in Chapter 11.20.

F. Code Hearings Officer. The City's Code Hearings Officer is responsible for hearing abatement cases and providing review of enforcement cases related to this Title, following the procedures in Title 22, Hearings Officer.

11.10.020 Determining What Regulations Apply.
(Amended by Ordinance No. 188816, effective March 16, 2018.)

- A.** Determine whether the proposed activity will require a development permit.
1. If the proposal will require a development permit, the regulations of Chapter 11.50 may apply to the proposal. Chapter 11.50 will identify when its requirements apply. If those requirements do not apply, then the requirements of Chapter 11.40 will apply. Chapter 11.50 will also direct readers to other regulations relevant to the proposal. Tree preservation and tree removal proposed as part of a development permit must be reviewed and approved as part of the development permit, regardless whether the regulations of Chapter 11.50 apply or if the proposal is exempt from the regulations. Approved activities may not commence until issuance of the development permit.

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2. If the proposal will not require a development permit, the regulations of Chapters 11.30 and 11.40 apply to the proposal. Chapter 11.40 will also direct readers to other regulations relevant to the proposal.
3. The regulations of those chapters are specific to City, Street, and Private Trees as defined in Chapter 11.80, Definitions and Measurements.

B. For regulations pertaining to Heritage Trees, refer to Chapter 11.20.

11.10.030 General Rules For Reading and Applying the Code Language.

A. Reading and applying the code. When a conflict arises as a result of a particular tree situation spanning multiple chapters, the more specific provisions take precedence. When the conflict cannot be resolved by the more specific provision, the requirement that results in retaining the existing tree will prevail, except in cases where the public safety is jeopardized.

B. Terms.

1. Defining words. Words used in this Title have their dictionary meaning unless they are defined in Chapter 11.80, Definitions and Measurements. Words listed in the Definitions chapter have the specific meaning stated, unless the context clearly indicates another meaning.
2. Tenses and usage.
 - a. Words used in the singular include the plural. The reverse is also true.
 - b. Words used in the present tense include the future tense. The reverse is also true.
 - c. The words "shall," "will," and "may not" are mandatory.
 - d. "May" is permissive.
 - e. "Prohibited" means that a particular activity is in violation of this Title.
 - f. When used with numbers, "At least x," "Up to x," "Not more than x" and "a maximum of x" all include x.
3. Conjunctions. Unless the context clearly indicates otherwise, the following conjunctions have the following meanings:
 - a. "And" indicates that all connected items or provisions apply;

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- b.** "Either...or" indicates that the connected items or provisions apply singly, but not in combination.
- 4.** Lists. Lists of items that state "including the following," "such as" or similar language are not limited to just those items. The lists are intended to provide examples, but not to be exhaustive of all possibilities.

11.10.040 Amendments to this Title.

A. General.

- 1.** Substantive amendments to this Title or amendments necessary to ensure conformance with other City Titles may be prepared by any bureau but will be coordinated by the Bureau charged with those responsibilities in the Title in consultation with the Bureaus of Planning and Sustainability, Parks and Recreation, Development Services, Environmental Services, Transportation and Water.
- 2.** Technical corrections and matters of simple clarification may be prepared and approved by the Auditor or City Attorney.

B. Urban Forestry Commission (UFC). The UFC shall hold at least one public hearing for proposed amendments to this Title before making a recommendation on such an amendment. A hearing is not required for technical corrections or amendments needed to ensure conformance with other City Titles.

C. Planning and Sustainability Commission (PSC). The PSC may provide input on the proposed amendments to the UFC. The PSC shall hold a public hearing for any proposed substantive amendments to Chapter 11.50 Trees In Development Situations, Chapter 11.60 Technical Specifications, or Chapter 11.70 Enforcement. A hearing is not required for technical corrections or amendments needed to ensure conformance with other City Titles.

D. Notification Requirements.

- 1.** UFC or PSC Hearing. Notice of any public hearing held by the UFC or PSC to consider a proposed substantive amendment to this Title shall be mailed to Metro, the Oregon Department of Transportation, all recognized organizations, affected bureaus and interested persons who have requested such notice. Notice shall also be published in a recognized newspaper and mailed at least 30 days prior to the hearing.
- 2.** The Urban Forestry Commission shall additionally be notified of any amendment needed to ensure conformance with other City titles or technical corrections a minimum of 14 days prior to a final decision.

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3. City Council Hearing. Notice of the hearing shall be mailed to those who testified at the UFC hearing, either in person or in writing, or those who requested such notice. If hearings were not held by the UFC or PSC, notice shall be mailed to all affected bureaus and persons who have requested such notice. Notice shall be published in a recognized newspaper and mailed at least 14 days prior to the hearing.
 4. The notifications required by this Section shall be the responsibility of the Bureau coordinating the amendment or technical correction.
- E. City Council. The City Council shall hold at least one public hearing on all amendments that are not considered technical. City Council makes the final decision on amendments, after considering the recommendations of the UFC and PSC and after hearing testimony from the public.
- F. Declaring an emergency. City Council may declare an emergency in accordance with the City Charter and amend this Title and associated Administrative Rules without following the process set out in this Section.

11.10.050 Intergency and Intergovernmental Agreements.

The City Forester or BDS Director in the course of their duties in implementing this Title may enter into agreements with other bureaus or public agencies. These interagency and intergovernmental agreements may allow the BDS Director or City Forester to delegate powers granted within this Title to or provide services to other bureaus or public agencies, subject to the requirements outlined in the agreement. Such agreements may not grant or delegate powers or authority not already assigned to the City Forester or BDS Director. Neither the BDS Director nor the City Forester may enter into any agreement under this Section that requires expenditure of City funds, unless such funds have been appropriated by the Council through the budget process.

11.10.060 Performance Guarantees.

- A. Applicability. The City Forester or BDS Director may require performance guarantees when an owner, applicant, or responsible person defers a planting requirement, as an assurance for performance path root protection methods, or when a violation has occurred and there is uncertainty regarding the extent of a particular tree injury.
- B. Types of guarantees. Guarantees may be in the form of a performance bond payable to the City in cash, by certified check, time certificate of deposit, irrevocable letter of credit, or other form acceptable to the City. Indemnity agreements may be used by other governmental agencies. Guarantees shall be accompanied by a contract. The form of the guarantee and contract shall be approved by the City Attorney. The City Forester and BDS Director are each authorized to accept and sign the contract for the City, and to accept the guarantee.

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- C.** Amount of guarantee. The amount of the performance guarantee shall be equal to at least 110 percent of the estimated cost of performance as described below. The owner, applicant or responsible party shall provide written estimates by three contractors with their names and addresses. The estimates shall include as separate items all materials, labor, and other costs of the required action.
- 1.** Planting deferral. When tree planting is deferred, the cost of performance is equivalent to the payment in lieu for any trees to be planted and maintained for a 2 year period.
 - 2.** Alternate root protection method assurance. If assurances are required for alternate root protection methods, the cost of performance is the estimated cost for removing the tree, plus an equivalent payment in lieu for planting to meet the tree standards in Chapter 11.50 Trees in Development Situations.
 - 3.** Violation remedy. Should an injury result to a protected tree, and where the City Forester determines that the tree may still be viable, the property owner or responsible party may submit a performance guarantee in lieu of providing for an arborist treatment regimen or removing the tree in accordance with the provisions in Chapter 11.70. If assurances are allowed in these cases, the cost of performance is the estimated cost for removing the tree, plus an equivalent payment in lieu for replacing the tree based on mitigating at an inch for inch equivalent.
- D.** Completion. An inspection and approval of the action or improvement covered by the performance guarantee is required before the performance guarantee is returned. The inspection will be conducted by the appropriate City bureau that holds the guarantee. If the action or improvement is not completed satisfactorily within the stated time limits, the City may have the necessary action or improvement completed and seek reimbursement for the work from the performance guarantee. Any remaining funds will be returned to the owner, applicant, or responsible party.

11.10.070 Fees.

(Amended by Ordinance No. 189514, effective June 21, 2019.)

- A.** Generally. The City Council may establish and amend by ordinance permit, inspection, review, enforcement, in-lieu of planting or preservation, appeal and other fees as necessary to sustain the development permit, tree permit, and other Development Service or Urban Forestry programs. All fees, charges, civil penalties, and fines established by authority of this Title will be listed in the Portland Policy Documents.
- B.** Fees in lieu of planting or preserving trees. Where allowed by other provisions of this Title, a fee may be paid into the Tree Planting and Preservation Fund in lieu of planting or preserving trees. The fee per tree is the entire cost of establishing a new

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tree in accordance with standards described by the City Forester. The cost includes materials and labor necessary to plant the tree, and to maintain it for 5 years. The fee will be reviewed annually and, if necessary, adjusted to reflect current costs. See Section 11.15.010 for more information on the Tree Planting and Preservation Fund.

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**CHAPTER 11.15 - FUNDS AND
CONTRIBUTIONS**

Sections:

- 11.15.010 Tree Planting and Preservation Fund.
- 11.15.020 Urban Forestry Fund.
- 11.15.030 Charitable Contributions.
- 11.15.040 Annual Report.

11.15.010 Tree Planting and Preservation Fund.

(Amended by Ordinance No. 189514, effective June 21, 2019.)

- A.** Purpose. The purpose of the Tree Planting and Preservation Fund is to facilitate tree planting, to ensure mitigation or tree replacement when tree preservation or tree density standards are not met on a particular site, and to advance the City's goals for the urban forest and intend to achieve equitable distribution of tree-related benefits across the City.
- B.** Expenditures. Money in the Tree Planting and Preservation Fund may be used only as follows:
 - 1.** To plant trees on public or private property, including streets. Planting trees includes the cost of materials and labor necessary to install and establish a tree for a 5 year period;
 - 2.** To purchase conservation easements for the perpetual retention of trees and tree canopy. Such conservation easements shall allow the City to replace trees that are removed when they die or become dangerous; and
 - 3.** To acquire land to permanently protect existing trees or groves.
- C.** Contributions. Contributions to the Tree Planting and Preservation Fund may occur through a number of means, including:
 - 1.** Payment made in lieu of tree replacement as part of a tree permit issued as stated in Chapter 11.40;
 - 2.** Payment made in lieu of preservation or planting where site or street characteristics or construction requirements make it infeasible to meet the requirements of Chapter 11.50;
 - 3.** Payment of restoration fees for enforcement actions for Private Trees; and
 - 4.** Voluntary contributions.
- D.** Administration of the Tree Planting and Preservation Fund. The Tree Planting and Preservation Fund is administered by the City Forester, maintained in a dedicated

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separate account, and is independent of the general fund. Any balance in the Tree Planting and Preservation Fund will be carried forward into subsequent fiscal years.

11.15.020 Urban Forestry Fund.

- A.** Purpose. The purpose of the Urban Forestry Fund is to replace Street or City Trees illegally removed or damaged, to enhance the urban forest through the planting of new Street or City Trees, and to increase public awareness of trees, tree care, and values of the urban forest.
- B.** Expenditures. Money in the Urban Forestry Fund may be used as follows:
 - 1. To replace, establish, and maintain Street or City Trees illegally removed or damaged;
 - 2. To plant, establish and maintain Street or City Trees where, in the judgment of the Forester, they will enhance the values of the Urban Forest;
 - 3. To provide education, outreach and technical assistance to the community; and
 - 4. Other Forestry-related actions or programs, as determined by the City Forester.
- C.** Contributions. Contributions to the Urban Forestry Fund may occur through a number of means as established by the City Forester, including:
 - 1. Payment of restoration fees, civil penalties, or civil remedies resulting from City or Street Tree enforcement actions; and
 - 2. Voluntary contributions
- D.** Administration of Urban Forestry Fund. The Urban Forestry Fund is administered by the City Forester, maintained in a dedicated separate account, and is independent of the general fund. Any balance in the Urban Forestry Fund will be carried forward into subsequent fiscal years.

11.15.030 Charitable Contributions.

The City Forester may accept, on behalf of the City, gifts and contributions which are specifically designated for the purpose of planting or maintaining trees within the City. Gifts may include: nursery stock and planting supplies, vehicles, tools, pro bono consultation, education and outreach services, and real property for the purposes of open space and tree planting or preservation. Contributions may also be made to the Tree Planting and Preservation Fund or Urban Forestry Fund as described in this Chapter. Nothing in this Section obligates the City Forester to accept such gifts when the City Forester determines it is not in the best interests of the City to do so.

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11.15.040 Annual Report.

(Amended by Ordinance No. 189514, effective June 21, 2019.) The City Forester will provide an annual report to the Urban Forestry Commission and City Council at the end of each fiscal year. The report will include any charitable contributions received, as well as fund revenues collected and spent and the end balance in each fund. The report should also include recommendations for future expenditures of the funds and means to optimize those expenditures in the upcoming fiscal year.

- A. Tree Planting and Preservation Fund. The report will include a general inventory of the funds collected and number and types of trees planted or area protected through preservation easements or acquisition.
- B. The Urban Forestry Fund. The report will include an accounting of revenues collected and expenditures.

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**CHAPTER 11.20 - URBAN FORESTRY
PROGRAM**

Sections:

- 11.20.010 Purpose.
- 11.20.020 The Urban Forestry Commission.
- 11.20.030 The Urban Forestry Appeals Board.
- 11.20.040 Technical Assistance.
- 11.20.050 The Urban Forest Plan.
- 11.20.060 Heritage Trees.

11.20.010 Purpose.

The field of urban forestry has as its objective the cultivation and management of trees and related plants for their present and potential contribution to the physiological, sociological and economic well being of urban society. Inherent in this function is a comprehensive program designed to establish policies, goals and objectives, and implementing actions, and to educate the urban populace on the role of trees and related plants in the urban environment. In its broadest sense, urban forestry is one essential component of a multi-managerial urban system that includes neighborhoods and watersheds within the City, wildlife habitats, outdoor recreation opportunities, landscape design, green infrastructure, air filtering and greenhouse gas capture, recycling of municipal vegetative wastes and tree care in general.

11.20.020 The Urban Forestry Commission.

(Amended by Ordinance No. 188647, effective November 17, 2017.)

- A.** 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. Women and multi-cultural groups shall be represented. At least three members shall have experience and expertise in arboriculture, landscape architecture or urban forestry. One member shall be on the board of a non-profit organization that has a demonstrated direct interest in the urban forest, who is not a City employee. The remaining seven members, insofar as possible, shall represent diverse geographic areas, interests, and expertise of the community.
- B.** Terms. Members will serve ~~without compensation for~~ terms of 4 years and may be reappointed for one additional consecutive term. After serving two consecutive terms, at least 1 year shall elapse before a member may again be reappointed to the Commission. Notwithstanding the limitations of this Section, a member of the Commission will continue to serve until the member's replacement is appointed.
- C.** Rules of order. The Urban Forestry Commission will elect its own chair and adopt such rules of procedure as it deems necessary to the conduct of its duties. Unless otherwise stated in the rule, all rules are effective upon adoption by the Commission

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and shall be filed in the office of the City Forester and in the Portland Policy Documents repository described in Chapter 1.07.

- D.** Meetings. The Commission will meet at least ten times per year and may meet more often.
- E.** Duties. The Commission is responsible for carrying out the following duties:
 - 1.** Providing assistance in the development, periodic reviews, and updates to the Urban Forest Plan, and submitting said plan updates to the City Council for approval.
 - 2.** Reviewing and providing input on plans, policies, and projects developed pursuant to other City Code provisions which contain elements or which affect matters related to urban forestry and other matters to ensure that the policies of the Urban Forest Plan are fully considered.
 - 3.** Advising the City Forester, the Director and Commissioner-in-Charge 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.
 - 4.** Considering and making recommendations to the City Council pertaining to:
 - a.** Proposed amendments to this Title;
 - b.** Heritage Tree nominations; and
 - c.** Other City bureau budget proposals that may substantially affect programs relating to trees and the urban forest.
 - 5.** Preparation of an annual report which specifically addresses the relations with and concerns of the various City bureaus and other matters brought forward by the City Forester. The report will include an evaluation of the opportunities and barriers to effective management of the urban forest, and assessment of progress of these issues identified in prior annual reports.

11.20.030 The Urban Forestry Appeals Board.

- A.** Membership. The Urban Forestry Appeals Board consists of five members representing diverse interests of the Urban Forestry Commission, selected by a majority of the Commission. Members will serve ~~without compensation~~ for terms not to exceed their membership in the general Commission and may be reappointed.
- B.** Rules of order. The Urban Forestry Appeals Board may elect its own chair and propose rules of procedure as it deems necessary to the conduct of its duties. The

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Commission will consider and adopt such rules upon majority vote. All rules become effective upon adoption by the Commission and shall be filed in the Portland Policy Documents repository described in Chapter 1.07.

- C. Meetings. The Appeals Board will meet as required to respond and to hear appeals within the time allotted to appeals as described in this Title. Appeal hearings are open to the public.
- D. Duties. The Appeals Board is responsible for reviewing and deciding appeals of tree permit decisions as authorized in this Title.

11.20.040 Technical Assistance.

When requested by the Urban Forestry Commission and Commissioner of Parks and Recreation, the City may retain the services of a professional review panel of not more than three members, either foresters, arboriculturists, landscape architects or some combination thereof to advise the Commission on the efficiency of proposed actions and planting schemes. At least one member of this panel should be very familiar with Portland. The City Forester will present a list of qualified professionals to the Urban Forestry Commission for its review and selection. A member of the professional review panel may not serve if the member has a conflict of interest.

11.20.050 The Urban Forest Plan.

- A. Purpose. The Urban Forest Plan (the Plan) establishes a comprehensive framework of goals, policies, and actions to guide City management activities and decisions over the short and long term. The plan will be implemented through the individual and collective works of the City Forester and other City bureaus, agencies, citizens, organizations and other groups.
- B. Roles. The City Forester, in consultation with the Urban Forestry Commission and City bureaus, is responsible for coordinating the development, update, and implementation of the Urban Forest Plan. Working groups made up of representatives of those bureaus and groups who contribute to the management of the City's urban forest will be formed to develop citywide action plans to implement the Plan, and to monitor and report on progress of those actions.
- C. Updates. The Plan will periodically, and at least every 10 years, be reviewed and updated to respond to changes in the condition of the urban forest, changes in city policy or changes to applicable regulatory mandates.

11.20.060 Heritage Trees.

(Amended by Ordinance No. 188278, effective April 14, 2017.)

- A. Generally. Heritage Trees are trees that because of their age, size, type, historical association or horticultural value, are of special importance to the City.

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- B.** Nuisance **Species** trees. Trees may not be designated as Heritage Trees if, on the date they would be designated, the tree species is on the Nuisance Plant List.
- C.** Private trees. Trees on private property may not be designated as Heritage Trees without the consent of the property owner; however, the consent of a property owner will bind all successors, heirs, and assigns. When a Private Tree is designated as a Heritage Tree, the owner **or City Forester** shall record the designation on the property deed, noting on such deed that the tree is subject to the regulations of this Title.
- D.** Designation. The Urban Forestry Commission (UFC) makes a recommendation to City Council as to whether a tree should be designated as a Heritage Tree. A recommendation to designate a tree shall be supported by at least six members of the UFC. City Council may designate a tree if it finds that the tree's health, aerial space, and open ground area for the root system have been certified as sufficient by an arborist.
- E.** Removal of designation. The Urban Forestry Commission (UFC) makes a recommendation to City Council as to whether the Heritage Tree designation should be removed from a tree. A recommendation to remove the designation shall be supported by at least six members of the UFC. City Council may remove the designation if it finds that the designation is no longer appropriate.
- F.** Heritage Tree removal. Heritage Trees may be removed only with the consent of the UFC, except as provided in Subsection I., below. The UFC shall hold a public hearing on a request to remove a Heritage Tree. Consent to remove the tree shall be supported by at least six members of the UFC.
- G.** List and plaques. The City Forester maintains a list of the City's designated Heritage Trees. The City Forester may place a plaque on or near Heritage Trees.
- H.** Maintenance and Protection. The City Forester maintains Heritage Trees located on streets and on property owned or managed by the City. Heritage trees on private property shall be maintained by the property owner. It is unlawful for any person without prior written authorization from the City Forester to remove, prune, or injure any Heritage Tree. The City Forester shall report to the Urban Forestry Commission any such authorization granted.
- I.** Emergencies.

 - 1.** If the City Forester determines that a Heritage Tree is dangerous and is a threat to public safety, the City Forester may order the tree to be removed without prior consent from the UFC.
 - 2.** In an emergency, when the City Forester is unavailable, pruning only what is necessary to abate an immediate danger may be performed without

Commented [LB6]: #26 Nuisance Tree is confused with Public Nuisance

Commented [LB7]: #4 Grant City Forester authority to add Heritage Trees to property deeds

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authorization by the City Forester. Any additional work shall be performed under the provisions of this Section.

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**CHAPTER 11.30 - TREE PERMIT
PROCEDURES**

Sections:

- 11.30.010 Purpose.
- 11.30.020 Description of Tree Permits.
- 11.30.030 Applications.
- 11.30.040 Procedure for Type A Permits.
- 11.30.050 Procedure for Type B Permits.
- 11.30.100 Regulations That Apply After Permit Approval.

11.30.010 Purpose.

This Chapter establishes application requirements and procedures for all tree permits required by this Title to ensure that the legal rights of individual property owners and the public are protected. Tree permits are generally required for specific tree related activity when not associated with development.

11.30.020 Description of Tree Permits.

- A. Generally. Tree permits are required for tree-related activities not associated with:
 - 1. Heritage Trees (see Chapter 11.20);
 - 2. Programmatic Permits (see Chapter 11.45); or
 - 3. Tree plans or activities that require a development permit (see Chapter 11.50).
- B. Types of Permits.

There are two types of tree permits, A and B. This Chapter sets out the procedures for each permit type, including when public notice and opportunity for public appeal are required. Applications for activities subject to both a Type A and Type B permit review factors will be processed as a Type B permit. When multiple trees are included in a single permit each tree will be reviewed using the applicable Type A or Type B review factors as appropriate. The type of permit may be modified during the course of the review when the City Forester finds that the standards or review factors are not met or when the approved scope of the tree activity is changed. For example, a Type A tree permit application to remove a dangerous tree may be modified to a Type B removal request when the City Forester finds the tree is not dangerous. Conversely, the City Forester may modify a Type B request to remove a Street Tree by granting a Type A pruning permit instead of allowing the removal. The standards and review factors for granting Type A or B permits are in Chapter 11.40.

Commented [LB8]: #7 Tree Removal on Sites that have both Type A and Type B permits

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Table 30-1 summarizes the public notice and appeal procedures applicable to a Type A or Type B permit.

**Table 30-1
Public Notice and Appeal requirements for City, Street and Private Trees**

Permit Type	Proposal	City/Street or Private Tree	Public Notice/ Public May Appeal [1]
A	Any Type A request	City/Street Private	No
B	Up to four healthy < 20" diameter nuisance and non-nuisance species trees	City/Street	No
	≥ 20" diameter, healthy nuisance or non-nuisance species tree	City/Street	Yes
	More than four healthy ≥ 12" diameter nuisance and non-nuisance species trees	City/Street	
	≥ 20" diameter, healthy non-nuisance species tree [2]	Private	
	More than four healthy ≥ 12" diameter non-nuisance species trees	Private	

Note [1] The applicant may appeal any Type A or B permit decision.

Note [2] No public notice or opportunity for public appeal is required for removal of one healthy non-nuisance species tree >20" diameter per lot per calendar year in any residential zone.

11.30.030 Applications.

- A.** Applications for Tree Permits shall:
1. Be made in writing or electronically upon forms furnished by the City;
 2. Be legible, accurate, and contain sufficient information in order to evaluate the request; and
 3. Be accompanied by the correct fee.

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- B.** A separate application is required for each site **and each activity**, ~~but each application may address multiple trees and multiple types of activities~~, such as planting, pruning, or removal.
- C.** Marking trees to be removed. Applicants for permits for tree removal shall mark each tree proposed for removal by tying or attaching yellow tagging tape around the trunk of the tree at 4.5 feet above ground level.
- D.** Consent to site access. By submitting an application for a tree permit, the owner and applicant agrees that authorized City representatives may enter the site during business hours for the purpose of conducting inspections related to the tree permit request.
- E.** Authority. An applicant will be authorized to apply for the Tree Permit, as described below:

 - 1.** City Trees. For City Trees, only the Bureau that owns the site may submit an application. Where the City is managing trees on lands not owned by the City, the Bureau assigned to manage or care for trees, the owner or the agent authorized to represent the property owner may submit the application.
 - 2.** Street Trees. The applicant shall be the owner of the adjacent property or be authorized by the owner of the adjacent property where the Street Tree will be planted, pruned or removed. Exceptions to this requirement include:

 - a.** The Bureau of Environmental Services shall act as applicant for permits for Street Trees in greenstreet facilities.
 - b.** The Bureau of Transportation shall act as applicant for permits for Street Trees in center medians.
 - c.** The City Forester may plant, prune or remove Street Trees without obtaining the authorization of the adjacent property owner.
 - d.** Public agencies operating under the conditions of a Programmatic Tree Permit are not required to obtain the adjacent owner’s consent for tree-related work on streets.
 - 3.** Private Trees. The applicant shall be the owner of property where the tree is located or be authorized by the owner. For trees that straddle property lines, the owners of all properties where the tree is located shall authorize the application. For commonly held tracts such as open space or private street tracts, the application shall be submitted by the agent or parties authorized to represent the shared ownership interest in the tract. It is the applicant’s responsibility to obtain the appropriate consent for tree permit applications.

Commented [LB9]: #39 Separate Applications for each site and activity

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4. City, Street and Private Trees within easements, or addressed by deed restrictions or other agreements. Any person having or asserting the right to remove trees under the terms of an easement, deed restriction or other agreement shall comply with the provisions of this Title. An easement holder, beneficiary of a deed restriction, or other person seeking to remove a tree on the property of another under an agreement is authorized to apply for permits or approvals required by this Title. The owner of a servient tenement, the grantor of a deed restriction or other person who by agreement has authorized another to possess, occupy or use property owned by the person is authorized to apply for permits or approvals required by this Title. The presence of an easement, deed restriction or other agreement does not change the type of tree. A tree remains either a City Tree, a Street Tree or a Private Tree.

11.30.040 Procedure for Type A Permits.

(Amended by Ordinance No. 188278, effective April 14, 2017.) Type A permits are technical determinations regarding the facts of a particular request, and applications of city standards to ensure that work is performed in accordance with best management practices to protect trees, the public, or public infrastructure, and to ensure tree replacement. Type A permits are reviewed administratively by the City Forester. There is no public notice, and only the applicant may appeal the decision.

A. Application.

1. Generally. Applications for a Type A Tree Permit shall meet the requirements of Section 11.30.030, Applications.
2. Additional information required.
 - a. If the City Forester requires additional information to review an application, the City Forester will send a notice to the applicant requesting the additional information.
 - b. The applicant will have a maximum of 30 days from the date of the City Forester's notice to submit the additional information.
 - c. If the additional information is not received by the City Forester within 30 days from the date of the City Forester's notice, the application will be voided on the 31st day. The City will not refund the filing fee.

B. Decision by the City Forester.

1. The City Forester's decision shall be based on an evaluation of the facts and applicable standards and review factors in Chapter 11.40.

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2. The City Forester may issue the permit, deny the permit, or may apply conditions of approval to the permit to ensure the request complies with the applicable review factors and standards. Type A permits may be self issued for Street Tree pruning. The applicant must agree that such pruning will be conducted in accordance with proper arboricultural practices. Self-issued permits are not subject to Subsection B.4. and may not be appealed.
3. Any work done under a permit shall be performed in strict accordance with the terms and provisions of this Title and conditions of approval of the permit.
4. The City Forester shall notify the applicant of the decision in writing.
5. If the applicant does not file a timely **administrative review request or appeal** as specified in Subsections C. and D., below, the decision is final.

C. Administrative Review

1. Whenever a decision on a tree permit has been made under this Chapter, the applicant or representative may request that the decision be reviewed by the City Forester. The applicant or representative must submit a written request on forms prescribed by the City, to the City, within 14 days of the date of the decision. The City Forester, as applicable, may extend this requirement for good cause shown. Such review will be conducted by the City Forester. The applicant or representative requesting such review will identify how the City Forester erred in applying the standard or review factors. Following the review, the City Forester will issue a written determination.

D. Appeal to Urban Forestry Appeals Board. The applicant may appeal the City Forester's **administrative review** decision on a tree permit. Appeals shall be:

1. Filed with the City Forester on forms prescribed by the City;
2. Filed within 14 days from the date on the City Forester's **administrative review** decision; and
3. Specifically identify how the City Forester erred in applying the standards or review factors.

E. Appeal process.

1. Scheduling the appeal hearing. The appeal hearing will be scheduled within 45 days of the date the appeal was filed. However, the applicant may request the hearing at a later time.
2. Notice. Notice of the appeal hearing will be sent to the applicant at least 14 days before the hearing.

Commented [LB10]: #6 Add admin review step to appeal process

Commented [LB11]: #6 Add administrative review step prior to Appeal Board.

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3. Hearing.
 - a. Appeals are heard by the Urban Forestry Appeals Board (Appeals Board).
 - b. The Appeals Board will consider the application against the applicable standards or review factors, taking into consideration information provided by the applicant, appellant and City staff, and any observations made by members of the Appeals Board if they visit the site.

EF. Appeals Board Decision.

1. The Appeals Board may affirm or reverse the City Forester's decision.
2. The Appeals Board will give due deference to the professional judgment of the City Forester, and will reverse or remand the City Forester's decision only upon a finding that the City Forester's decision is not supported by substantial evidence, or upon a finding that the City Forester's decision was arbitrary or capricious, an abuse of discretion or otherwise was not in accordance with the provisions of this Title.
3. The appeal decision of the Urban Forestry Appeals Board is final and may not be appealed to another review body within the City.

11.30.050 Procedure for Type B Permits.

(Amended by Ordinance No. 188278, effective April 14, 2017.) Type B permits involve the consideration of relevant technical and qualitative factors to prevent risks to public health and safety or significant undue impacts on neighborhood character, and to ensure that the impacts of tree removal are mitigated. Type B permits are reviewed administratively by the City Forester, and the decision may be appealed to the Urban Forestry Appeals Board by the applicant and any person adversely affected or aggrieved by the decision.

A. Application.

1. Generally. Application for a Type B Tree Permit shall meet the requirements of Section 11.30.030, Applications.
2. Additional information required.
 - a. If the City Forester requires additional information to review an application, the City Forester will send a notice to the applicant requesting the additional information.
 - b. The applicant will have a maximum of 30 days from the date of the City Forester's notice to submit the additional information.

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- c. If the additional information is not received by the City Forester within 30 days from the date of the City Forester’s notice, the application will be voided on the 31st day. The City will not refund the filing fee.

B. Decision by the City Forester.

- 1. The City Forester’s decision shall be based on an evaluation of the facts and applicable standards and review factors in Chapter 11.40.
- 2. The City Forester may issue the permit, deny the permit, or may apply conditions of approval to the permit to ensure the request complies with the applicable review factors and standards.
- 3. Any work done under a permit shall be performed in strict accordance with the terms and provisions of this Title and conditions of approval of the permit.
- 4. If the application is denied, the City Forester shall notify the applicant of the decision in writing.
- 5. If the application is tentatively approved, and public notice is required per Table 30-1, the City Forester shall send notice of the pending approval to the applicant and the neighborhood association. The applicant shall post a copy of the notice on the site in a location clearly visible from the street nearest the tree.
- 6. If no **administrative review request** or appeal is filed within a timely manner as specified in Subsections C. and D., below, the decision is final. The City Forester shall notify the applicant that the decision is final.

C. Administrative Review

- 1. Whenever a decision on a tree permit has been made under this Chapter, the applicant or representative may request that the decision be reviewed by the City Forester. The applicant or representative must submit a written request on forms prescribed by the City, to the City, within 14 days of the date of the decision. The City Forester, as applicable, may extend this requirement for good cause shown. Such review will be conducted by the City Forester. The applicant or representative requesting such review will identify how the City Forester erred in applying the standard or review factors. Following the review, the City Forester will issue a written determination.

Commented [LB12]: #6 Add admin review step to appeal process

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CD. Appeal to the Urban Forestry Appeals Board. The applicant may appeal the City Forester's Administrative Review decision. In addition, when public notice is required per Table 30-1, the neighborhood association or any other person may also appeal the decision. Appeals shall be:

1. Filed with the City Forester on forms prescribed by the City;
2. Filed within 14 days from the date of the City Forester's administrative review decision; and
3. Specifically identify how the City Forester erred in applying the standards or review factors.

DE. Appeal process.

1. Scheduling of the appeal hearing. The appeal hearing will be scheduled within 45 days of the date the appeal was filed. However, for good cause shown by any party, the Appeals Board may extend the hearing deadline.
2. Notice. Notice of the appeal hearing will be sent to the applicant, the appellant, and the neighborhood association at least 14 days before the hearing. The applicant shall post a copy of the appeal hearing notice on the site in a location clearly visible from the street nearest the tree.
3. Hearing.
 - a. Appeals are heard by the Urban Forestry Appeals Board (Appeals Board).
 - b. The Appeals Board will consider the application against the applicable standards or review factors, taking into consideration information provided by the applicant, appellant, and City staff, or observations made by members of the Appeals Board if they visit the site.
 - c. Additional testimony and evidence may be introduced at the hearing, and the Appeals Board may delay its decision to provide adequate time for other parties to respond.
 - d. If additional hearings are scheduled, the Appeals Board may, at its discretion, choose to not allow new evidence after the initial hearing.

EF. Appeals Board Decision.

1. The Appeals Board may affirm or reverse the City Forester's decision, or remand the decision to the City Forester to determine appropriate mitigation.

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2. The Appeals Board will give due deference to the professional judgment of the City Forester, and will reverse or remand the City Forester's decision only upon a finding that the City Forester's decision is not supported by substantial evidence, or upon a finding that the City Forester's decision was arbitrary or capricious, an abuse of discretion or otherwise was not in accordance with the provisions of this Title.
3. The appeal decision of the Urban Forestry Appeals Board is final and may not be appealed to another review body within the City.

11.30.100 Regulations That Apply After Permit Approval.

- A. Posting tree removal permits. Permits for tree removal shall be posted while the approved tree removal work is underway. The permit shall be posted in a location visible to pedestrians and motorists.
- B. Certifying compliance with replacement requirements. Applicants shall certify that they have complied with the tree replacement and any other requirements or conditions stipulated on a permit, as applicable.
- C. Permit expiration. Tree Permits expire 90 days from the date of issuance, unless a specific expiration date has been added to the permit by the City Forester or Urban Forestry Appeals Board. The reviewing authority may require a performance guarantee as described in Section 11.10.060, when replacement planting is allowed to be deferred beyond the permit expiration date.
- D. Permit suspension or revocation. The City Forester may suspend or revoke a tree permit. The permit holder shall be notified of the suspension or revocation in writing. Permits may be suspended or revoked when:
 1. The permit is issued in error;
 2. The permit is issued on the basis of incorrect information supplied by the owner or applicant;
 3. The permit is issued in violation of any of the provisions of City code or an approved land use decision; or
 4. The applicant, owner, or contractor listed on a permit is the subject of a pending violation of this Title for the site where the work is proposed or occurring. In such cases, the permit may be suspended until the alleged violation has been resolved.

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**CHAPTER 11.40 - TREE PERMIT
REQUIREMENTS (NO ASSOCIATED
DEVELOPMENT)**

Sections:

- 11.40.010 Purpose.
- 11.40.020 When a Tree Permit is Required.
- 11.40.030 Exemptions.
- 11.40.040 City and Street Tree Permit Standards and Review Factors.
- 11.40.050 Private Tree Permit Standards and Review Factors.
- 11.40.060 Tree Replacement Requirements.

11.40.010 Purpose.

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. 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.

11.40.020 When a Tree Permit is Required.

(Amended by Ordinance Nos. 187216 and 188278, effective April 14, 2017.) A tree permit is required for all trees in the City of Portland as further described below, unless the activity is exempt from the requirements of this Chapter as specified in Section 11.40.030.

- A. Street Trees. Street trees of any size are regulated by this Chapter unless otherwise specified in **Title 33**. See Table 40-1 or 40-2 **for reference**.
- B. City Trees. City trees 3 or more inches in diameter are regulated by this Chapter unless otherwise specified in Table 40-1.
- C. Private Trees. Private trees 12 or more inches in diameter are regulated by this Chapter unless otherwise specified in **Title 33**. See Table 40-1 **for reference**. Trees required to be preserved by a condition of a land use review may be subject to other requirements. All applicable Zoning Code landscape requirements, including landscape buffers and parking lot landscaping, must be met on the site.
- D. Emergency pruning or removal. Emergency pruning or removal of trees is regulated by this Chapter as follows:
 - 1. If an emergency exists because the condition or location of a tree presents such a clear and present danger to structures or the public that there is insufficient time to obtain a tree permit, the hazardous portion of the tree may be removed without first obtaining a required tree permit.

Commented [LB13]: Clarifies Tables 40-1 and 40-2 are reference tools only.

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2. In the course of performing unexpected or emergency road, sewer or water maintenance activities, representatives of the Responsible Engineer may trim, prune or remove a tree as required to perform the immediate work without first obtaining a required tree permit. If such activities occur during normal business hours, these representatives shall first attempt to contact the City Forester to determine if technical assistance can be made immediately available. If such assistance is not immediately available, then the pruning or removal may occur in accordance with proper arboricultural practices.
 3. Any person who prunes or removes a tree under the provisions of this Subsection shall, within 7 days of such action, apply for a Type A tree permit. The application shall include photographs or other documentation to prove that an emergency existed. The City Forester will evaluate the information to determine whether an emergency existed. Failure to submit an application or provide information documenting the emergency nature of the event may be pursued as a violation per Chapter 11.70.
- E.** State, Federal and court orders. Trees that must be removed or pruned by an order of a court, or of a State or Federal agency 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.
- F.** 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.
- G.** Trees on levees. Trees on levees that have been identified by a public Drainage District as violating federal regulations or requirements are subject to the requirements of this Chapter for a Type A permit for removal of trees. Required replacement trees shall be placed outside the critical cross section area of the levee, and may be placed on any property in the same watershed that is owned by the applicant; or on property for which the applicant possesses a legal instrument approved by the City, such as an easement, deed restriction, or interagency agreement, sufficient to carry out and ensure success of the replacement.

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**Table 40-1
Tree Removal in Overlay Zones and Plan Districts [1]**

Overlay Zone or Plan District	Title 11 regulates the following tree permits for removing ^{T11 Tree Size}	Title 33 regulates the following review for removing ^{Tree Size Title 33 Zoning Code}
Environmental conservation and protection overlay zones "c" "p" See: 33.430.080	Street all City ≥ 3" Private ≥ 6" <ul style="list-style-type: none"> Trees within 10 feet of buildings or attached structures Nuisance species trees Non-native non-nuisance species trees Dead, Dying, or Dangerous, or portions of trees, when they pose an immediate danger trees when wood 12 inches in diameter and greater is left in the same ownership, unless the City Forester approves removal of diseased wood from the site because it will threaten the health of other trees Trees projecting into a City-designated view corridor 	Street all City all Private all <ul style="list-style-type: none"> Healthy native trees that do not meet the applicable Title 11 situations listed in this table
Greenway overlay zones "n" "q" "g" "i" "r" See: 33.440.320	Street all City ≥ 3" Private ≥ 6" <ul style="list-style-type: none"> Nuisance species trees Dangerous trees Trees landward of the greenway setback in "g" "i" "r" overlays 	Street all City all Private all <ul style="list-style-type: none"> Native Trees Non-native non-nuisance trees Dead or dying trees Trees not meeting the listed situations when located within or riverward of the greenway setback in "g" "i" "r" overlays Trees not meeting the listed situations when located in "n" "q" overlays
Pleasant Valley Natural Resources Overlay Zone "v" See: 33.465.080	Street all City ≥ 3" Private ≥ 6" <ul style="list-style-type: none"> Trees within 10 feet of buildings or attached structures Nuisance species trees Non-native non-nuisance species trees Dead, Dying, or Dangerous trees when wood 12 inches in diameter and greater is left in the same ownership, unless the City Forester approves removal of diseased wood from the site because it will threaten the health of other trees 	Street all City all Private all <ul style="list-style-type: none"> Healthy native trees that do not meet the applicable Title 11 situations listed in this table
River environmental overlay zone "e" See: 33.475.405	Street all City ≥ 3" Private ≥ 6" <ul style="list-style-type: none"> Street trees that are less than 3 inches in diameter that are non-native trees or nuisance species trees, and are located landward of the river setback and outside the riparian buffer area 	Street all City all Private all <ul style="list-style-type: none"> All trees that do not meet the applicable Title 11 situations listed in this table

Commented [LB14]: #11 Discrepancy between T11 and T33 in river environmental overlay

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**Table 40-1
Tree Removal in Overlay Zones and Plan Districts [1]**

Overlay Zone or Plan District	Title 11 regulates the following tree permits for removing[2] T11 Tree Size	Title 33 Tree Size Title 33 Zoning Code regulates the following review for removing
<p>Scenic Resource Overlay "s"</p> <p>Only applies to trees that are within the scenic corridor setback. See: 33.480.040 B.2.a.</p>	<p>Street all City ≥ 3" Private ≥ 6"</p> <ul style="list-style-type: none"> • Trees within 10 feet of buildings or attached structures • Nuisance species trees • Dead, Dying, or Dangerous trees • Trees associated with the repair and maintenance of water, sewer or storm water lines • Trees within 20 feet of a public safety RF Transmission Facility • Street, City, or Private trees up to and including 12 inches diameter provided that replanting per 33.480.040.B.2.h(7) is met [3] 	<p>Street ≥ 6" City ≥ 6" Private ≥ 6"</p> <ul style="list-style-type: none"> • Trees within the scenic corridor setbacks that do not meet the applicable Title 11 situations listed in this table
<p>Cascade Station/Portland International Center Plan District See: 33.508.340</p> <p>Only applies to trees located in a "e" or "p" overlay</p>	<p>Street all City ≥ 3" Private ≥ 6"</p> <ul style="list-style-type: none"> • Trees within 10 feet of buildings or attached structures • Nuisance species trees • Non-native non-nuisance species trees • Dead, Dying, or Dangerous trees when wood 12 inches in diameter and greater is left in the same ownership, unless the City Forester approves removal of diseased wood from the site because it will threaten the health of other trees • Trees projecting into a City-designated view corridor 	<p>Street all City all Private all</p> <ul style="list-style-type: none"> • Healthy native trees that do not meet the applicable Title 11 situations listed in this table
<p>Columbia South Shore Plan District See: 33.515.262 & 33.515.274</p> <p>Only applies to trees located in a "e" or "p" overlay</p>	<p>Street all City ≥ 3" Private ≥ 6"</p> <ul style="list-style-type: none"> • Trees within 10 feet of buildings or attached structures • Nuisance species trees • Dead, Dying, or Dangerous trees when wood 12 inches in diameter and greater is left in the same ownership, unless the City Forester approves removal of diseased wood from the site because it will threaten the health of other trees 	<p>Street all City all Private all</p> <ul style="list-style-type: none"> • Healthy native trees that do not meet the applicable Title 11 situations listed in this table • Healthy non-native non-nuisance trees that do not meet the applicable Title 11 situations listed in this table
<p>Johnson Creek Basin Plan District 33.537.125</p> <ul style="list-style-type: none"> • Only applies to trees: <ul style="list-style-type: none"> • Within 20 feet of the Springwater Corridor lot line; • On a site with any portion in the special flood hazard area; and/or • On a site with any portion in the South Subdistrict. 	<p>Street all City ≥ 3" Private ≥ 6"</p> <ul style="list-style-type: none"> • All Street Trees • Nuisance species trees • Trees within 10 feet of buildings, attached structures, or right-of-way improvements • Dead, Dying, or Dangerous trees • Trees associated with the repair and maintenance of water, sewer or storm water lines • Any other 6" to 12" tree provided that at least two trees are planted. [3] • Trees removed within 20 feet of the Springwater Corridor must be replaced within 20 feet of the corridor 	<p>Street n/a City ≥ 6" Private ≥ 6"</p> <ul style="list-style-type: none"> • Trees within 20 feet of the Springwater Corridor lot line; on a site with any portion in the special flood hazard area; and/or on a site with any portion in the South Subdistrict that do not meet the applicable Title 11 situations listed in this table

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**Table 40-1
Tree Removal in Overlay Zones and Plan Districts [1]**

Overlay Zone or Plan District	Title 11 Tree Size regulates the following free permits for removing[2]	Title 33 Tree Size Title 33 Zoning Code regulates the following review for removing
Portland International Airport Plan District See: 33.565.540 Applies only to trees located in a "c" or "p" overlay	Street all City $\geq 3"$ Private $\geq 6"$ <ul style="list-style-type: none"> • Trees within 10 feet of buildings or attached structures • Nuisance species trees • Non-native non-nuisance species trees • Dead, Dying, or Dangerous trees when wood 12 inches in diameter and greater is left in the same ownership, unless the City Forester approves removal of diseased wood from the site because it will threaten the health of other trees. This does not apply in landscaped areas of golf courses • Trees projecting into a City-designated view corridor 	Street all City all Private all <ul style="list-style-type: none"> • Healthy native trees that do not meet the applicable Title 11 situations listed in this table
Rocky Butte Plan District See: 33.570.040	Street all City $\geq 3"$ Private $\geq 6"$ <ul style="list-style-type: none"> • All Street Trees • Nuisance species trees • Trees within 10 feet of buildings, attached structures, or right-of-way improvements • Dead, Dying, or Dangerous trees • Trees associated with the repair and maintenance of water, sewer or storm water lines • Any other 6" to 12" diameter tree provided that at least two trees are planted [3] 	Street n/a City $\geq 6"$ Private $\geq 6"$ <p>Trees that do not meet the applicable Title 11 situations listed in this table</p>
South Auditorium Plan District See: 33.580.130	Street all City $\geq 3"$ Private $\geq 6"$ <ul style="list-style-type: none"> • Dead, Dying, or Dangerous trees provided at least one tree is planted in the same general location or in accordance with the adopted landscaping plan 	Street all City $\geq 6"$ Private $\geq 6"$ <p>Trees that do not meet the applicable Title 11 situations listed in this table</p>
Note [1] If a site is in more than one overlay zone or Plan District, the regulations for both areas apply. [2] All Plan Districts and overlay zones require tree replacement, or as allowed by the City Forester. [3] Minimum planting is required to meet zoning code requirements.		

11.40.030 Exemptions.

The following are exempt from the requirements of this Chapter:

- A.** Heritage Trees. Heritage Trees are addressed in Chapter 11.20:
- B.** Trees outside City Limits. Trees that are outside the City Limits, including "County Urban Pocket Areas."
- C.** Programmatic permits. Activities carried out by public agencies operating under a programmatic permit per Chapter 11.45.

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- D.** Tree Removal in association with development permits addressed through Chapter 11.50, Trees in Development Situations.
- E.** Agricultural use. Trees on lots that are part of an allowed farm or forest operation, including plant nurseries, when such removal is a customary and necessary activity for the associated agricultural use as provided for in Title 33, Planning and Zoning. Timber harvesting is subject to Oregon Department of Forestry requirements, ORS Chapter 527, and OAR Divisions 600-665.
- F.** Work done by the City Forester and City Forestry crews involving City and Street Trees. However, the City Forester shall keep records of the location and number of City and Street Trees planted, pruned, and removed.

11.40.040 City and Street Tree Permit Standards and Review Factors.

(Amended by Ordinance No. 188278, effective April 14, 2017.) Type A and B permit applications for tree related work affecting City or Street Trees shall be reviewed using the following applicable review factors and standards in accordance with the application procedures set forth in Chapter 11.30.

**Table 40-2
Summary of Permit Requirements for City and Street Trees**

Activity	Permit Type	Tree Replacement [1] (See Section 11.40.060)	Public Notice / Public May Appeal
No Permit is required for:			
- pruning branches <1/2" or roots <1/4"			
- removing City Trees <3" in diameter;			
- removing street trees that are sucker shoots, self-sown trees < 1/2"; or			
- other activities that are exempt from the requirements of this Chapter (see 11.40.030).			
Planting trees	A	n/a	No
Pruning branches larger than 1/2" or roots larger than 1/4"			
Other activities as described in 11.40.040 A.3			
Removal of any regulated tree that is:	A	tree for tree	No
- dead, dying, or dangerous			
Removing up to 4 healthy trees per site, or abutting right of way per year as follows:			
- less than 3" in diameter	A[2]	tree for tree	No
- 3 to <12" in diameter	B	tree for tree	No
- 12 to <20" in diameter	B	tree for tree	No
- 20" and larger in diameter	B	inch for inch	Yes
Removing more than 4 healthy trees per site, or abutting right of way per year as follows:			
- less than 3" in diameter	A [2]	tree for tree	No
- 3 to <12" in diameter	B	tree for tree	No
- > 12" in diameter	B	inch for inch	Yes
- 20" and larger in diameter	B	inch for inch	Yes

[1] "Tree for Tree" means one tree is required to be planted for each tree removed, "inch for inch" means the City Forester may require up to an equivalent number of inches be planted for the total diameter inches of the tree being removed.

[2] Applies to all Street Trees, in addition to any other City Trees planted as part of a landscaping or mitigation requirement, including trees planted to replace trees removed under a previous tree permit.

- A.** Standards and Review Factors for Type A Permits for City and Street Trees.

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1. Planting. Planting shall meet the specifications in Chapter 11.60 and the following:
 - a. Street Trees. If the City Forester determines that a proposed Street Tree planting is suitable for the space available, and that the species of the tree is appropriate for the location, then the City Forester will grant the permit.

The Responsible Engineer may require the City Forester to submit planting proposals in streets for review for the purpose of protecting existing utilities and sewer branches, and to ensure that the proposed trees are not likely to obstruct the visibility of drivers, cyclists or pedestrians.
 - b. City Trees. If the City Forester determines that a proposed planting on City property is of a species of tree appropriate for the site and that the applicant has the written consent of the City bureau to whom responsibility for the property has been assigned, the City Forester will grant the permit.
2. Pruning or root cutting. The City Forester will grant a permit for pruning of branches 1/2 inch or larger or cutting of roots 1/4 inch or larger if the applicant demonstrates 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.
3. Other activities. A permit is required to attach permanent objects (e.g. lights, signs, or artwork) to a tree or its supports (e.g. guides, wires, stakes), 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.
4. Removal. Trees shall be replaced as indicated in Table 40-2. The City Forester will grant a permit to remove a tree if the City Forester determines that the proposed removal is exempt or allowed by Title 33, Planning and Zoning; and meets at least one of the following:
 - a. Dead trees. The tree is dead or has been damaged beyond repair or where not enough live tissue, green leaves, limbs, roots or branches exist to sustain life.
 - b. Dying trees. 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

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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.

- c. Dangerous trees. The City Forester will evaluate the removal request by first evaluating practicable alternatives to the removal. If the City Forester finds either that the cost of the alternatives significantly exceeds the value of the tree, or that such alternatives will not substantially alleviate the dangerous condition, the City Forester will grant the permit.

B. Standards and Review Factors for Type B Permits for City and Street Trees. Because Type B permits for City and Street Trees are required only for removal; the standards and review factors of this Subsection are specific to tree removal.

- 1. Standards. The City Forester shall determine that the following standards are met before granting a Type B permit:
 - a. For trees located in one of the overlay zones or plan districts identified in Table 40-1, the proposed removal is exempt or allowed by Title 33, Planning and Zoning;
 - b. The tree is not required to be preserved by a condition of a land use review, provision of this Title or the Zoning Code, or as part of a required stormwater facility;
 - c. Trees removed shall be replaced as specified in Table 40-2.
- 2. Review Factors. The City, in the absence of extraordinary circumstances, will not permit the removal of a healthy, functioning City Tree or Street Tree. Maintenance or replacements of sidewalks or curbs, removal of tree litter, or other minor inconveniences do not constitute extraordinary circumstances. Decisions regarding removal of healthy, functioning Street Trees are fact-specific, and are made on a case-by-case basis by the City Forester. In determining whether extraordinary circumstances exist that warrant removal of a healthy tree, the City Forester will consider:
 - a. Whether the species of tree is appropriate for its location, and whether it is a nuisance species tree;
 - b. Whether the tree's crown, stem or root growth habit has developed in a manner that would prevent continued healthy growth or is negatively impacting other trees;

Commented [LB15]: #12 Review Factors for City Trees Type B

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- c. Whether the maintenance of the tree creates an unreasonable burden for the property owner; and
- d. The impact of removal and replanting on the neighborhood streetscape and any adopted historic or other design guidelines.
- e. **Whether removal of the tree will have a significant adverse impact on the viability of other trees or make other trees considerably more vulnerable to new edge effects such as windthrow, sunscald, and unbalanced canopy.**

Commented [LB16]: #10 Consider tree removal impacts on other trees

11.40.050 Private Tree Permit Standards and Review Factors.

Type A and B permit applications for tree related work affecting Private Trees shall be reviewed using the following applicable review factors and standards in accordance with the application procedures set forth in Chapter 11.30.

**Table 40-3
Summary of Permit Requirements for Private Trees**

Activity	Permit Type	Tree Replacement[1] (See Section 11.40.060)	Public Notice / Public May Appeal
No permit is required for: - planting trees - pruning trees outside of the environmental protection (p), environmental conservation (c), or Pleasant Valley Natural Resource (v) overlay zones; - removal of trees smaller than the sizes regulated by this chapter (see 11.40.020 B.); or - other activities that are exempt from the requirements of this chapter (see 11.40.030)			
Pruning native trees in c, p, or v overlay zones	A	n/a	No
Removal of any tree that is: - dead, dying, or dangerous - a nuisance species identified in the Portland Plant List - located within 10 feet of building or attached structure	A	tree for tree	No
Removing up to 4 healthy non-nuisance species trees per site per year as follows:			
- Smaller than 20" diameter	A	tree for tree	No
- 20" diameter and larger	B	inch for inch	Yes[2]
Removing more than 4 healthy non-nuisance species trees per site per year as follows:			
12" diameter and larger	B	inch for inch	Yes

[1] "Tree for Tree" means one tree is required to be planted for each tree removed, "inch for inch" means the City Forester may require up to an equivalent number of inches be planted for the total diameter inches of the tree being removed.

[2] No public notice or opportunity for public appeal is required for removal of one healthy tree > 20" diameter per lot per year in any residential zone.

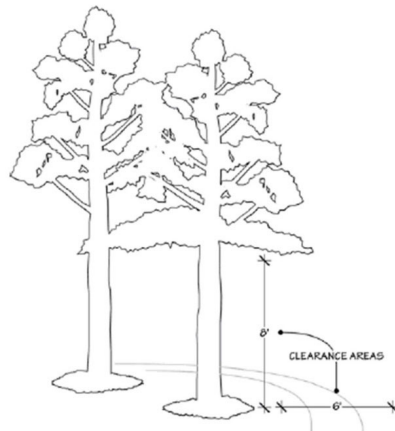
A. Standards and Review Factors for Type A Permits for Private Trees.

- 1. Pruning. A pruning permit is required only if the tree is a native tree in the Environmental (c, p) or Pleasant Valley Natural Resource (v) Overlay Zones.

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- a. Exceptions. A permit is not required for pruning trees in the following situations:
- (1) Pruning trees located within 10 feet of a building or attached structure;
 - (2) Pruning coniferous trees that are within 30 feet of structures, when the structure is within the wildfire hazard zone as shown on the City's Wildfire Hazard Zone Map;
 - (3) Pruning to abate an immediate danger;
 - (4) Pruning for trail maintenance when not exceeding a height of 8 feet and a width of 6 feet as shown in Figure 40-1; or

**Figure 40-1
Trail Vegetation Pruning and Maintenance Area**



- (5) Crown maintenance and crown reduction of trees within the Portland International Airport Plan District or Cascade Station/Portland International Center Plan District that project above or will, upon maturity project above the height limit delineated by the "h" overlay zone or are identified as attracting wildlife species of concern related to air traffic safety.

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- b.** Standards. The City Forester will grant a Type A Permit for pruning if the applicant demonstrates to the City Forester's satisfaction that the pruning will meet the following:

 - (1)** Pruning is limited to 5 native trees per calendar year per 10,000 square feet of site area;
 - (2)** An arborist shall prepare and submit a pruning plan and supervise or conduct the work. The pruning plan shall describe the nature and extent of the proposed pruning as necessary to ensure proper arboricultural practices are followed; and
 - (3)** Additional pruning may be allowed if the applicable criteria are met through an environmental review or natural resource review per Title 33, Planning and Zoning.

- 2.** Removal. Trees shall be replaced as indicated in Table 40-3. The City Forester will grant a permit to remove a tree if the City Forester determines that the proposed removal is exempt or allowed by Title 33, Planning and Zoning; and meets at least one of the following:

 - a.** Dead trees. The tree is dead or has been damaged beyond repair or where not enough live tissue, green leaves, limbs, roots or branches exist to sustain life.
 - b.** Dying trees. 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.
 - c.** Dangerous trees. The City Forester may evaluate the removal request by first evaluating practicable alternatives to the removal. If the City Forester finds either that the cost of the alternatives significantly exceeds the value of the tree, or that such alternatives will not substantially alleviate the dangerous condition, the City Forester will grant the permit.
 - d.** Nuisance species trees. The tree is listed on the "Nuisance Plant List".

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- e. Trees within 10 feet of a building or attached structure. The trunk of the tree at its base is located completely or partially within 10 horizontal feet of the wall of a building or attached structure.
- f. Healthy trees. Up to 4 healthy trees may be removed per site per calendar year if each tree meets the following:
 - (1) Each tree is less than 20 inches in diameter;
 - (2) None of the trees are Heritage Trees; and
 - (3) None of the trees are required to be preserved by a condition of a land use review, provision of this Title or the Zoning Code, or as part of a required stormwater facility;

B. Standards and Review Factors for Type B Permits for Private Trees. Because Type B permits for Private Trees are required only for removal; the standards and review factors of this Subsection are specific to tree removal.

- 1. Standards. The City Forester shall determine that the following standards are met before granting a Type B permit:
 - a. For trees located in one of the overlay zones or plan districts identified in Table 40-1, the proposed removal is exempt or allowed by Title 33, Planning and Zoning;
 - b. The tree is not required to be preserved by a condition of a land use review, or provision of this Title or the Zoning Code; and
 - c. Trees removed shall be replaced as specified in Table 40-3.
- 2. Review Factors. The City encourages retention of healthy Private Trees where practical alternatives to removal exist, and where those alternatives meet the owner's objectives for reasonable use and enjoyment of the property. Factors are considered to ensure that significant adverse impacts are avoided or mitigated, weighing the broader economic, ecological, and community concerns. These decisions are fact-specific and are made on a case-by-case basis. In making these decisions, the City Forester will consider:
 - a. Whether there are practical alternatives that meet the owner's objectives without removing the tree;
 - b. Whether the species of tree is appropriate for its location;

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- c. Whether the tree's crown, stem, or root growth habit has developed in a manner that would prevent continued healthy growth or is negatively impacting other trees; and
- d. Whether the removal will significantly affect public safety or neighborhood character based on the following:
 - (1) The age, size, form, general condition, pruning history and any unique qualities or attributes of the trees;
 - (2) The visibility of the trees from public streets and accessways;
 - (3) The cumulative impacts of current and prior tree removals in the area; and
 - (4) ~~When the tree is associated with a grove, w~~Whether removal of the tree will have a significant adverse impact on the viability of other trees or make other trees considerably more vulnerable to **edge effects such as windthrow-, sunscald, and unbalanced canopy.**

Commented [LB17]: #10 Consider removal impacts on other trees

11.40.060 Tree Replacement Requirements.

Generally, the City Forester will require replacement of trees removed under a Tree Permit as specified in Subsection A. However, the City Forester may instead allow payment into the Tree Planting and Preservation Fund as specified in Subsection B., or may waive or reduce the replacement requirement as specified in Subsection C.

A. Tree replacement specifications

- 1. Quantity. Specific tree replacement requirements are shown in Tables 40-2 and 40-3. Where the requirement specifies "up to inch for inch" replacement, the City Forester will determine the appropriate number of new trees that are required based on the total number of diameter inches of the trees removed. The replacement requirement will compensate for the lost functions of trees removed, and ensure the application meets the applicable standards and review factors.
- 2. Planting. Size, species, location, timing of planting, and on-going maintenance of replacement trees shall be in accordance with the technical specifications in Chapter 11.60.

B. Payment into Tree Planting and Preservation 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

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require payment into the Tree Planting and Preservation Fund instead of requiring replacement trees. Payment is based on the adopted fee schedule.

C. Waivers. The City Forester may waive or reduce the replacement requirement when the City Forester determines:

1. The abutting right-of-way and site already meet the tree density standards of Chapter 11.50; or
2. That the full mitigation required by this Chapter would impose an unreasonable burden on the applicant.
3. The mitigation would result in non-compliance with Title 33 Planning and Zoning.

Commented [LB18]: #9 Title 33 Landscaping and replanting

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**CHAPTER 11.45 - PROGRAMMATIC TREE
PERMITS**

Sections:

- 11.45.010 Purpose.
- 11.45.020 Application Requirements.
- 11.45.030 Procedures.
- 11.45.040 Review Factors.
- 11.45.050 Permit Specifications.

11.45.010 Purpose.

Programmatic Permits may be issued by the City Forester for routine public facility or utility operation, repair and replacement, on-going maintenance programs, and for resource enhancement programs managed by a public agency. The purpose of a Programmatic Permit is to eliminate the need for individual tree removal, pruning or planting permits for ongoing activities that cover a wide geographic area and may include City, Street, and Private Trees. Programmatic permits are not subject to the standards, review factors, or general procedures of the Type A or B permits, but are instead evaluated to prevent cumulative adverse impacts of the activities and ensure that on balance the activities will meet the goals and objectives of the Urban Forest Plan in a reasonable time period. Tree preservation, protection, removal, and planting when associated with a development permit are subject to the procedures found in Chapter 11.50 and not these tree permit requirements.

11.45.020 Application Requirements.

- A.** Applications for Programmatic Tree Permits shall:
 - 1. Be made in writing or electronically upon forms furnished by the City;
 - 2. Be legible, accurate, and contain sufficient information in order to evaluate the request; and
 - 3. Be accompanied by the correct fee.
- B.** Authority. Programmatic Permits may only be obtained by Public Agencies and Utilities as defined in this Title. Consultation on applicability is encouraged prior to application submittal.

11.45.030 Procedures.

(Amended by Ordinance Nos. 188278 and 188647, effective November 17, 2017.)

- A.** Requesting Additional Information.
 - 1. If the City Forester requires additional information to review an application, the City Forester will send a notice to the applicant requesting the additional information.

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2. The applicant will have a maximum of 30 days from the date of the City Forester's notice to submit the additional information.
3. If the additional information is not received by the City Forester within 30 days from the date of the City Forester's notice, the application will be voided on the 31st day. The City will not refund the filing fee.

B. Notice. When the City Forester determines that the application contains sufficient information, the City Forester shall mail notice by US mail or electronically to all recognized organizations within the geographic area affected by the permit request. The notice shall announce the permit application and provide instructions for obtaining additional information, providing comments or to request notification of the City Forester's decision.

In addition to the public notice, the City Forester will provide a summary of pending and approved Programmatic Permits to the Urban Forestry Commission.

C. Decision. The City Forester shall take action to approve, approve with conditions, or deny a Programmatic Permit request within 120 days of determining an application contains sufficient information. The decision will be based on an evaluation of the request against the applicable review factors in Section 11.45.040.

D. Permit limitations.

1. Time Limits. 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.

2. Tree Size Limits.

a. The programmatic permit will not allow the removal of healthy non- nuisance species trees 6 or more inches in diameter, except as provided in Subsection D.2.b., below.

b. If an applicant requests removal of healthy non- nuisance species trees 6 or more inches in diameter, an opportunity for public appeal shall be provided in accordance with Subsection F.2.b.

c. For any request, the City Forester may further limit allowed tree removal in order to meet the review factors in Section 11.45.040.

3. Tree Work Limits. All work conducted under a programmatic permit must be conducted in accordance with proper arboricultural practices.

E. Revocation. The City Forester may revoke a Programmatic Permit upon finding the applicant is not adhering to the limitations imposed or is acting beyond the activities

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permitted by the Programmatic Permit. Non compliance with the Programmatic Permit may also be cause for any other enforcement action as stated in this Title.

F. Appeals.

1. **Timely Filing.** Appeals shall be filed on forms as prescribed by the City within 14 days from the date of the written decision. Such appeals shall specifically identify in writing how the decision-maker erred in the decision.
2. **Appellant.**
 - a. An applicant may appeal a denial, required conditions or specifications of an approval, or the revocation of any Programmatic Permit. Appeal Hearings will be conducted as specified in Subsections 11.30.040 D. through E.
 - b. The public may appeal an approval, required conditions or specifications of Programmatic Permits that authorize the removal of healthy non-nuisance species trees 6 or more inches in diameter. Appeal Hearings will be conducted as specified in Subsections 11.30.050 C. through E.
3. **Appeal Body Referral.** The Appeals Board may refer the appeal request to the full Urban Forestry Commission.

11.45.040 Review Factors.

The City Forester may approve a Programmatic Permit upon finding that the following review factors are met or will be met with conditions:

- A. The proposed activity will result in a net gain to the urban forest functions and benefits described in the purpose statement of Chapter 11.05, considering the applicants proposed performance measures, proposed tree planting and other proposed means to improve the overall health of the urban forest.
- B. The applicant's proposed outreach and notification program, if warranted, will adequately and in a timely manner alert neighboring residents, businesses and the City prior to conducting work authorized under the programmatic permit.

11.45.050 Permit Specifications.

Approved permits shall include the following specifications. The City Forester may modify these specifications during the permit period in order to respond to concerns, changes in regulations, or previously unforeseen issues, provided the applicant is notified in writing and provided an opportunity to appeal the change in accordance with Section 11.45.030, above:

- A. Duration of permit;

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- B.** Geographic area covered by the permit;
- C.** Permitted activities and any restrictions on the method, number, type, location or timing of activities;
- D.** Procedures and thresholds for informing neighboring residents, businesses and the City of upcoming permitted activities; and
- E.** Monitoring, performance tracking and reporting requirements. The City Forester may prescribe rules or procedures that specify the manner in which such tracking and reporting occur.

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**CHAPTER 11.50 - TREES IN DEVELOPMENT
SITUATIONS**

Sections:

- 11.50.010 Purpose.
- 11.50.020 When a Tree Plan is Required.
- 11.50.030 Development Impact Area Option for Large Sites and Streets.
- 11.50.040 Tree Preservation Standards.
- 11.50.050 On-Site Tree Density Standards.
- 11.50.060 Street Tree Planting Standards.
- 11.50.070 Tree Plan Submittal Requirements.
- 11.50.080 Changes to Approved Tree Plans and Emergency Tree Removal.
- 11.50.090 Administrative Review.
- 11.50.095 Appeals.

11.50.010 Purpose.

The regulations of this Chapter support and complement other City development requirements, with a focus on achieving baseline tree preservation and total tree capacity on a site, considering the anticipated use and level of development. This Chapter regulates the removal, protection and planting of trees through the development process to encourage development, where practicable, to incorporate existing trees, particularly high quality or larger trees and groves, into the site design, to retain sufficient space to plant new trees, and to ensure suitable tree replacement when trees are removed. It is the intent of these provisions to lessen the impact of tree removal and to ensure mitigation when tree preservation standards are not met.

11.50.020 When a Tree Plan is Required.

(Amended by Ordinance No. 188816, effective March 16, 2018.) A tree plan is required in conjunction with all development permits, unless there are no Private Trees 12 inches or more in diameter, no City Trees 6 inches or more in diameter, and/or no Street Trees 3 inches or more in diameter, and the site or activity is exempt from Section 11.50.050 On-Site Tree Density Standards; and Section 11.50.060 Street Tree Planting Standards. 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, following completion of the development permit, or when tree preservation does not apply per Subsection 11.50.040 A.1., see Chapter 11.40.

11.50.030 Development Impact Area Option For Large Sites and Streets.

(Amended by Ordinance No. 188278, effective April 14, 2017.) 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 tree density will be based on meeting Option A as applied only to the area within the

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development impact area. Trees may be planted to meet tree density requirement elsewhere on the site.

11.50.040 Tree Preservation Standards.

(Amended by Ordinance Nos. 187675, 188278, 188816, 188959, 189078, 189795 and 190200, effective December 12, 2020.)

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 in the following situations. On sites where these regulations do not apply, tree removal is subject to the requirements of Chapter 11.40, Tree Permit Requirements.
 - a. On sites. Development activities with any ground disturbance or a construction staging area greater than 100 square feet on unpaved portions of the site within the root protection zone, as defined in Subsection 11.60.030 C.1.a., of one or more Private Trees 12 or more inches in diameter and/or one or more City Trees 6 or more inches in diameter.
 - b. In streets. Development activities with any ground disturbance or construction staging not limited to existing paved surfaces where there are one or more Street Trees 3 or more inches in diameter.
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 tree preservation requirements of this Section.

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

1. Private trees on portions of sites located within an IH ~~zone~~.
2. ~~Private trees~~ on sites that are less than 5,000 square feet in area.
3. ~~Private trees~~ on sites that have existing or proposed building coverage of 85 percent or more.
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.
5. ~~Private~~ Trees exempted from this standard by a land use decision.

Commented [LB19]: #14 Clarify street trees are adjacent to sites and not on sites

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6. Tree preservation requirements approved in a land division or planned development review under Title 33, Planning and Zoning and the requirements of that review are still in effect.
 7. Repair and replacement of existing fences and decks that are not changing in footprint or length when no trees are to be removed as a part of the project.
- C. Tree Preservation Requirement. Any trees preserved shall be protected in accordance with the specifications in Section 11.60.030. The regulations for Private Trees in Subsection 11.50.040 C.1. sunset after December 31, 2024. After December 31, 2024 the regulations in effect will be those in effect on January 1, 2015.
1. Private Trees.
 - a. General tree preservation.
 - (1) Retention. An applicant shall preserve and protect at least 1/3 of the non-exempt trees 12 inches and larger in diameter located completely or partially on the development site, unless mitigation occurs per Subsection 11.50.040 C.1.a.(2) below. ~~Any fractional result will be rounded up to the next whole number.~~ 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 (*Quercus garryana*), Pacific Madrone (*Arbutus menziesii*), Pacific Yew (*Taxus brevifolia*), Ponderosa Pine (*Pinus ponderosa*), ~~Western Redcedar (*Thuja plicata*)~~, or Western Flowering Dogwood (*Cornus nuttallii*) species are not included in the total count of trees on the site but may be used toward meeting the preservation standard.
 - (2) Mitigation. For each tree not preserved and protected below the 1/3 requirement, payment to the Tree Planting and Preservation Fund is required as shown in Table 50-1. For trees ~~not preserved and protected removed~~ at least 12 inches and less than 20 inches in diameter the mitigation fee is the cost of (2) two-inch diameter replacement trees. For trees ~~not preserved and protected removed~~ at least 20 inches in diameter or greater the mitigation fee is the cost per diameter inch of tree ~~not preserved and protected removed~~. The fee is calculated using the per-inch Restoration Fee for Tree Removal in the adopted fee schedule for Title 11. In cases where more than one tree is ~~not preserved and protected proposed for removal~~ in excess of that allowed by

Commented [LB20]: #17 Clarification of 1/3 trees calculation and add *Thuja plicata*

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Subsection 11.50.040 C.1.a.(1), the mitigation payment required to meet the 1/3 retention standard is based on the largest tree or trees proposed for removal.

- (3) **Removal.** Each tree not preserved and protected may be removed. Any trees removed shall be removed in accordance with the specifications in Section 11.60.050.

Commented [LB21]: #16 Clarify when tree removal can occur

**Table 50-1
Required Mitigation**

Size of Tree Removed (inches in diameter)	Required Mitigation
At least 12 and less than 20	The cost of (2) two-inch diameter replacement trees
At least 20 or more	The cost per inch of tree removed

- b. Preservation of trees 20 inches or greater.
 - (1) Retention. An applicant shall preserve and protect all non-exempt trees 20 inches in diameter or greater located completely or partially on the development site, unless mitigation and notice occurs per Subsections 11.50.040 C.1.b.(2) and 11.50.040 C.1.c., below. Retention or mitigation of these trees may also be used to meet the standards for general tree preservation in Subsection 11.50.040 C.1.a. above.
 - (2) Mitigation. For each tree 20 or more inches in diameter not preserved and protected, payment to the Tree Planting and Preservation Fund is required as shown in Table 50-1. The fee is calculated using the per-inch Planting and Establishment Fee in Lieu for development in the adopted fee schedule for Title 11.
 - (3) **Removal.** Each tree not preserved and protected may be removed. Any trees removed shall be removed in accordance with the specifications in Section 11.60.050.
- c. Notice for trees 36 inches or greater not preserved and protected. If a tree 36 inches or greater in diameter is not preserved and protected as allowed by Subsection 11.50.040 C.1.b.(2) above, the property owner or the property owner’s representative must post a notice on

Commented [LB22]: #16 Clarify when tree removal can occur

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the site and send a notice to the recognized Neighborhood Association and District Coalition in which the site is located. The notices are for notification purposes only. The notices do not provide for public comment on the proposal or for appeal of the proposal. The property owner or the property owner's representative must provide a signed certification to the Bureau of Development Services that a notice was posted on the site and a notice was sent to the Neighborhood Association and District Coalition. The development permit may not be issued until the business day following the day the notification period is completed.

- (1) The posted notice must:
 - (a) Be posted on the site for at least 45 calendar days prior to development permit issuance;
 - (b) Be posted within 10 feet of the street lot line nearest the tree or trees to be removed;
 - (c) Include the date of posting and the date of the end of the notification period;
 - (d) Include a site plan at least 8.5 x 11 inches in size showing the location and description of the trees(s) to be removed including diameter inch size(s); and
 - (e) Include contact information for the property owner or the property owner's representative.
 - (2) The notices to the Neighborhood Association and District Coalition must:
 - (a) Be e-mailed or mailed to the Neighborhood Association and District Coalition using the contact information maintained by the Office of Community & Civic Life. If mailed, the notice must be sent via certified or registered mail. The date of the e-mail or the mailing must be at least 45 calendar days prior to development permit issuance;
 - (b) Include a description of the trees(s) to be removed including diameter inch size(s); and
 - (c) Include contact information for the property owner or the property owner's representative.
- d. Exemption of tree preservation mitigation payments for affordable

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housing developments. Projects are exempt from the mitigation requirements in Subsection 11.50.040 C.1.b.(2) if the development will be an affordable housing development approved for system development charge exemptions under Section 30.01.095. The amount of the mitigation exemption shall be pro-rated to a percentage equal to the percentage of dwelling units on the development site that are approved for the systems development charge exemption in Section 30.01.095. The Director of the Portland Housing Bureau may adopt administrative rules for the administration of Subsection 11.50.040 C.1.d.

Commented [LB23]: Added space

- e. Exception for Capital Improvement Projects. Trees on private property that are part of a capital improvement project and within the development impact area are regulated as City and Street Trees.

2. City and Street Trees.

Commented [LB24]: #15 Clarify City Forester review in City projects

- a. ~~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.~~

- b. ~~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 Planting and Preservation Fund. The City Forester may reduce or waive the following mitigation requirements:~~

- ~~(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 Planting Standards will be credited toward meeting this requirement.~~

- ~~(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 or Street Tree planting standards.~~

a. General Tree Preservation

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- (1) Retention. The City Forester will identify potential impacts and opportunities to preserve and protect existing trees, as well as any measures required to protect trees on site, on adjacent sites, or in the street. Any work on any Street Tree or City Tree must be approved by the City Forester.
- (2) Mitigation. Any required mitigation specified below shall occur on the site, in the street planter strip, elsewhere on City property or in the street, or as a payment into the Tree Planting and Preservation Fund. The City Forester may reduce or waive the following mitigation requirements.
 - (a) 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 Planting Standards will be credited toward meeting this requirement.
 - (b) Any other Street Tree 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 or Street Tree planting standards.
- (3) Removal. Any trees approved to be removed by the City Forester may be removed. Any trees removed shall be removed in accordance with the specifications in Section 11.60.050.

Commented [LB25]: #15 Clarify City Forester review is required in City projects

Commented [LB26R25]: #18 City development, preservation language

Commented [LB27]: #16 Clarify when removal can occur

11.50.050 On-Site Tree Density Standards.

(Amended by Ordinance Nos. 187675, 188278, 188959 and 190200, effective December 12, 2020.)

A. Where these Regulations Apply. This Section applies to sites within the City of Portland and the County Urban Pocket Areas. Unless exempted in Subsection 11.50.050 B., the following are subject to the On-Site Tree Density Standards:

- 1. New Development;
- 2. Exterior alterations to existing development with a project valuation that is more than the threshold stated in Subsection 33.258.070 D.2.a.

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- B.** Exemptions.
- 1.** The following development activities are exempt from the on-site tree density standards:
 - a.** A specific condition of land use review approval exempts the site from these density standards;
 - b.** The site is within the Portland International Airport Plan District or Cascade Station/Portland International Center Plan District and is subject to the Airport Landscape Standards; see Title 33, Planning and Zoning.
 - c.** Private trees on portions of sites located within an IH zone.
 - d.** Work conducted under Demolition, Site Development, Septic, Plumbing or Zoning Permits.
 - 2.** Sites with the following primary uses are exempt from the on-site tree density standards:
 - a.** Railroad Yards;
 - b.** Waste Related;
 - c.** Agriculture;
 - d.** Aviation and Surface Passenger Terminals;
 - e.** Detention Facilities;
 - f.** Mining;
 - g.** Radio Frequency Transmission Facilities; or
 - h.** Rail Lines and Utility Corridors;
- C.** New development shall meet City specifications and standards in Chapter 11.60 and the on-site tree density requirements in Subsection D., below. Exterior alterations shall meet City specifications and standards in Chapter 11.60 and the on-site tree density requirements in Subsection D., below, but are only required to spend 10 percent of project value on the requirements in Subsection D. and the nonconforming upgrades required by Chapter 33.258, Nonconforming Situations.
- D.** On-Site Tree Density Requirements.

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1. Required Tree Area. The required tree area is based on the size of the site and the type and size of proposed and existing development as shown in Table 50-2. Applicants may choose Option A or Option B for calculating required tree area except only Option A may be used to apply standards to a "Development Impact Area".

**Table 50-2
Determining Required Tree Area**

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

Commented [LB28]: #40 Updates T11 definition to align with T33

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

**Table 50-3
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 canopy tree.

3. Tree Density Credits
 - a. Trees planted on site to meet any required stormwater or other landscaping requirement may be counted toward the On-site tree density requirements.

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- b. Trees that are retained and protected, including trees preserved per Section 11.50.040, may be credited as follows:
 - (1) Trees between 1.5 and less than 6 inches in diameter count as one small canopy size tree.
 - (2) Trees 6 or more inches in diameter count as one medium canopy size tree for each full increment of 6 diameter inches.
 - (3) **Trees straddling a private property line count as one medium canopy size tree for each full increment of six diameter inches on the property where development is occurring.**
- c. Payment in lieu of planting. The applicant may pay a fee to the Tree Planting and Preservation Fund per Section 11.15.010 equivalent to the cost of planting and establishing one 1.5-inch caliper tree. The fee per tree shall be credited at a rate of one medium canopy size tree.
- d. On sites less than or equal to 3,000 square feet, healthy non-nuisance species trees planted or retained in the street planting strip may be credited as described in this Subsection.

Commented [LB29]: #38 Tree density and shared trees

11.50.060 Street Tree Planting Standards.

- A. Where these Regulations Apply.
 - 1. This Section applies to projects within or fronting on any 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 planting standards of this Section:
 - 1. Development activities associated with the following:
 - a. Additions, alterations, repair or new construction where the project value is less than \$25,000;
 - b. Activity that is limited to the street, and does not modify or create sidewalks, tree wells, or **existing or potential** tree planting areas; or
 - c. Demolition Permits.

Commented [LB30]: #47 Clarifies modifying street tree planting areas

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2. Where physical constraints preclude meeting the Street Tree planting requirement because:
- a. Existing driveways, trees, and 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.

Commented [LB31]: #19 Clarify Street tree planting requirements

C. Street Tree Planting Requirement.

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 Responsible 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 on City property or in the street in the same watershed, instead of paying a fee in lieu of planting.
- 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.

Commented [LB32]: #43 Remove reference to watersheds

Commented [DN33]: #20 Clarify the 200' threshold for street tree planting standards

11.50.070 Tree Plan Submittal Requirements.

(Amended by Ordinance Nos. 188278 and 188816, effective March 16, 2018.) A tree plan submittal shall include the following information. The tree plan information may be combined with other relevant plan sheets. The submittal shall include:

- A. Site Plan Requirements. The site plan shall include the following information with sufficient detail to show that the proposal complies with this Title. See the definition for site in Title 33.

Commented [LB34]: #45 Middle Housing Land Division Clarification

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1. Existing improvements;
2. Any construction staging areas on site;
3. Proposed alterations including structures, impervious area, grading, and utilities;
4. Existing trees:
 - a. Trees on the site. Indicate the location and the diameter size of:
 - (1) Any Heritage Trees and trees required to be preserved as part of a condition of land use approval. These shall be clearly labeled.
 - (2) All Private Trees at least 12 inches in diameter and all City Trees at least 6 inches in diameter located completely or partially on the site. On City-owned or -managed sites, the City Forester may require smaller size trees be shown.
 - (3) Trees smaller than 6 inches in diameter shall be shown when proposed to be retained for tree density credit.

Applicants using the development impact area option as described in Section 11.50.030, need only identify the trees on the site inside and 25 feet beyond the edge of the development impact area. For all trees shown to be retained on the tree plan (including those beyond the development impact area), tree protection methods detailed in Subsection 11.60.030 C. shall be implemented. Protection may be achieved using the Prescriptive Path or Performance Path.

- b. Trees in the street. For the street area adjacent to the development site or development impact area, indicate the location and the diameter size of:
 - (1) Any Heritage Trees and trees required to be preserved as part of a condition of land use approval
 - (2) All trees within the adjacent street that are at least 3 inches in diameter.

Applicants using the development impact area option within the street when not associated with development of an adjacent site as described in Section 11.50.030, shall identify trees 3 or more inches in diameter inside and 15 feet beyond the edge of the development impact area.

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When the 15 foot distance extends onto property outside the street, provide estimates of tree size and location for trees 6 or more inches in diameter on these properties. For City projects, the City Forester or project arborist may determine which trees on adjacent properties shall be identified per this Subsection.

5. Proposed tree activity:
 - a. Indicate trees to be retained and proposed tree protection measures meeting the specifications in Chapter 11.60. Trees that are retained but are not protected in accordance with the protection requirements in Chapter 11.60 may not be used to meet preservation or density standards.
 - b. Indicate trees to be removed. It is the applicant's responsibility to obtain the appropriate consent from the adjacent property owner for tree removal when the tree is only partially on the site.
 - c. Show location, species, planting size and number of trees proposed to be planted. Trees to be planted shall meet the specifications in Chapter 11.60.

B. Narrative requirements.

1. If alternative tree protection measures are proposed, documentation addressing the requirements in Section 11.60.030, Tree Protection Specifications, shall be included.
2. If a tree is to be exempted from tree preservation standards based on poor tree health or condition, supporting documentation from an arborist shall be included.
3. If a tree is to be exempted from tree preservation standards based on it being listed on the Nuisance Plants List, supporting documentation from a landscape professional or an arborist shall be included.

11.50.080 Changes to Approved Tree Plans and Emergency Tree Removal.

- A. When changes are necessary to an approved Tree Plan and the changes will not affect compliance with any applicable conditions of a land use review, the change may be reviewed as a revision to the approved development permit. Any proposed revisions to the Tree Plan will be approved upon demonstrating the applicable tree preservation and density standards are met. When development activity has already commenced on the site and the applicant is proposing to retain alternate trees not

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previously shown to be protected, an arborist report will be required that documents the alternate tree is healthy and has not been injured by the development activity.

- B.** Emergency Tree Pruning or Removal. Emergency pruning or removal of trees is regulated by this Chapter as follows:
- 1.** If an emergency exists because the condition or location of a tree presents such a clear and present danger to structures or the public that there is insufficient time to obtain a tree permit, the hazardous portion of the tree may be removed without first obtaining a revision to an approved tree plan.
 - 2.** Any person who removes a tree under the provisions of this Section shall, within 7 days of such action, apply for a revision to the approved tree plan. The application shall include photographs or other documentation to prove that an emergency existed. The BDS Director will evaluate the information to determine whether an emergency existed. Failure to submit an application or provide information documenting the emergency nature of the event may be pursued as a violation per Chapter 11.70.

11.50.090 Administrative Review.

(Added by Ordinance No. 1888816, March 16, 2018.)

- A.** Whenever a decision has been made under this Chapter, the property owner of the development site or that property owner's representative may request that the decision be reviewed by the BDS Director or City Forester, as applicable. The owner or owner's representative must submit a written request to the City within 180 days of the date of the decision. Such review will be conducted by the BDS Director or City Forester, as applicable. The owner or owner's representative requesting such review will be given the opportunity to present evidence. Following the review, the BDS Director or City Forester, as applicable, will issue a written determination.
- B.** Nothing in this Section limits the authority of either the BDS Director or City Forester to initiate a proceeding in accordance with Title 3 Bureau of Development Services, Title 11 Trees, and Title 22 Hearings Officer.

11.50.095 Appeals.

(Added by Ordinance No. 1888816, March 16, 2018.) A determination issued as stated in Section 11.50.090 may be appealed by the property owner of the development site or that property owner's representative to the Code Hearings Officer, as provided for in Chapter 22.10 of City Code. All appeals from the Code Hearings Officer's determination in accordance with this Section will be by writ of review as authorized by Section 22.04.010 of the City Code and ORS 34.010-34.100.

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**CHAPTER 11.60 - TECHNICAL
SPECIFICATIONS**

Sections:

- 11.60.010 Where These Regulations Apply.
- 11.60.020 Tree Planting Specifications.
- 11.60.030 Tree Protection Specifications.
- 11.60.040 Tree Pruning and Root Cutting Specifications.
- 11.60.050 Tree Removal Specifications.
- 11.60.060 Tree Maintenance Specifications and Responsibilities.

11.60.010 Where These Regulations Apply.

- A.** City of Portland. This Chapter applies to all regulated trees within the City of Portland.
- B.** County Urban Pocket Areas. Trees in the County Urban Pocket Areas are subject to all regulations of this Chapter except Section 11.60.060, Tree Maintenance Specifications.

11.60.020 Tree Planting Specifications.

(Amended by Ordinance No. 188278, effective April 14, 2017.) The following specifications apply to trees planted to meet a requirement of this Title. These specifications may be combined with other requirements as necessary to ensure trees are properly selected, spaced, and sized.

- A.** Prohibited Locations.
 - 1.** In the South Waterfront Plan district area, planting trees is not allowed between the riverfront trail and the river at major or minor viewpoints as designated in Title 33 Planning and Zoning.
 - 2.** In the Columbia South Shore Well Field Wellhead Protection Area as designated in Title 21, planting trees over the top of polyethylene geomembrane liners installed to meet the requirements of the Columbia South Shore Well Field Wellhead Protection Manual is prohibited.
 - 3.** Trees may not be planted on or within 25 feet south of the toe of the Marine Drive levee slope.
- B.** Planting size. In general, the following represent the minimum tree planting size standard; however, the City Forester may allow smaller or require larger trees to suit the site conditions.
 - 1.** Broadleaf trees. Broadleaf trees shall meet the minimum caliper size as determined by the development type listed in Table 60-1:

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**Table 60-1
Broadleaf Tree Size Requirements**

Development Type	Tree Size	
	On Site	Street
One and Two to Four Family Residential	1.5"	1.5"
Multi Dwelling Residential	1.5"	2"
All others	1.5"	2.5"

Commented [LB35]: #40 Updates T11 definition to align with T33

2. Coniferous trees. Conifer trees shall be a minimum of 5 feet in height.
3. 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), or Pleasant Valley Natural Resource (v) overlay zone. When planting Garry Oak, Pacific Madrone, or native conifers in these areas, the minimum planting size may be reduced to a 3 to 5-gallon container size. For Street Trees in these areas, the City Forester may approve a smaller planting size for native species.

- C. Canopy size category. Tree canopy types are categorized as small, medium, or large based on the estimated canopy size at maturity. The "Portland Tree and Landscaping Manual" suggested plant lists include the size categories recognized for many trees. To determine the size category of a tree not listed in the "Portland Tree and Landscaping Manual", the applicant shall provide an objective source of information about the tree's mature height, crown spread, and growth rate. This information can come from published sources, internet sources, or nursery information such as cut sheets.

The canopy size category is calculated according to the following formulas, which incorporate the estimated height and crown spread of a mature specimen and the tree species' growth rate:

1. Small trees have a canopy factor of less than 40, Medium trees have a canopy factor from 40 to 90, and Large trees have a canopy factor greater than 90;
2. Canopy factor = (Mature height of tree) x (Mature canopy spread) x (Growth rate factor) x 0.01;
3. The growth rate factor is 3 for fast-growing trees, 2 for medium-growing trees, and 1 for slow-growing trees.

- D. Species requirements.

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1. Species diversity. 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.

For Street Trees, the City Forester may make an exception to this requirement in order to fulfill or complement an adopted street or landscape plan.

2. Nuisance species. Trees listed in the "Nuisance Plants List" are prohibited for proposed planting or required replacement.
3. Native species. Any trees required to be planted in environmental (c, p), greenway (n, q, or greenway setback and riverward portion of g, i, and r overlay zones), scenic corridors (s), or Pleasant Valley Natural Resource (v) overlay zones shall be native species. Refer to the "Portland Plant List" for information on appropriate native species for the specific site conditions. Planting activities shall be conducted with hand tools, and may not disturb other native vegetation.

In streets, the City Forester may make an exception to allow planting of non-native Street Trees in these areas when the proposed species of tree will not likely displace native species, and the soil conditions, available growing space, or other site constraints make planting a native tree species infeasible.

4. Adopted guidelines. The City Forester will require species that do not conflict with the requirements of this Section and, to the extent practical, are consistent with characteristics set forth in applicable historic design or other adopted guidelines.
5. Street Tree species. Street Tree species shall conform to the City Forester's "Recommended List of Street Trees". The City Forester may approve or require an alternate or unlisted species when the alternate species is an appropriate and viable selection and is consistent with applicable objectives of an adopted area-specific tree plan or guidelines.

E. Installation and establishment.

1. Installation. All required trees shall be planted in-ground, except when in raised planters that are used to meet Bureau of Environmental Services stormwater management requirements. Plant materials shall be installed to current nursery industry standards and proper arboricultural practices. Plant materials shall be labeled for the inspector and properly supported to ensure survival. Support devices such as guy wires or stakes shall not interfere with vehicular or pedestrian movement.

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2. 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, it is encouraged that planting occur during the wet months or as per City Forester recommendations. Planting of trees may be deferred between May 1 and September 30 upon filing a performance guarantee as provided in Section 11.10.060 or other assurance deemed acceptable by the City Forester or BDS Director as applicable.
3. Maintenance. Maintenance of required trees including meeting the maintenance specifications in this Chapter is the ongoing responsibility of the property owner. Trees that die shall be replaced in kind. The cost of the tree and maintenance is the responsibility of the property owner.

11.60.030 Tree Protection Specifications.

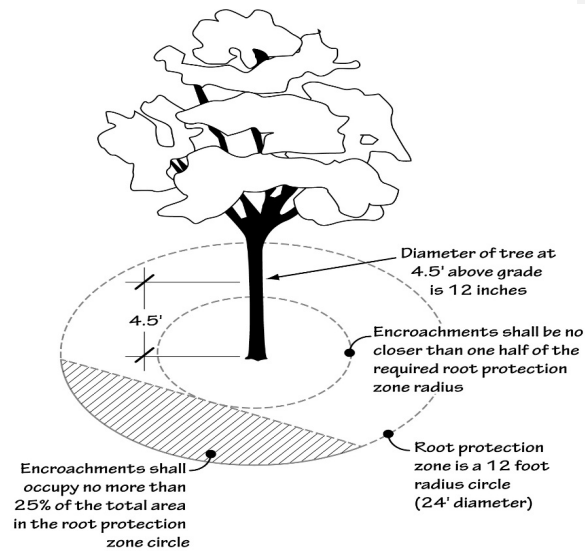
(Amended by Ordinance No. 188278, effective April 14, 2017.)

- A. Intent. Tree protection during development helps to reduce the negative impacts of construction. The tree protection regulations keep the foliage crown, branch structure and trunk clear from direct contact and injury by equipment, materials or disturbances; preserve roots and soil in an intact and non-compacted state; and visibly identify the root protection zone in which no soil disturbance is permitted and other activities are restricted. Maintaining these protections through development will lessen undesirable consequences that may result from uninformed or careless acts, preserve both trees and property values, and reduce risks associated with damaged or destabilized trees.
- B. Applicability. These standards apply to any tree that is required to be retained on site or in the street during a development activity. Proposed tree protection shall meet the requirements of Subsection C., below, except that the City Forester may approve or require alternate protection methods for Street or City Trees.
- C. Protection methods. The Tree Plan shall show that trees retained are adequately protected during construction using one of the methods described below:
 1. Prescriptive Path.
 - a. A root protection zone is established as follows:
 - (1) For trees on the development site - a minimum of 1 foot radius (measured horizontally away from the face of the tree trunk) for each inch of tree diameter (see Subsection 11.80.020 C., Measurements):
 - (2) Street Trees – the City Forester may prescribe greater or lesser protection than required for on-site trees.

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- (3) Existing encroachments into the root protection zone, including structures, paved surfaces and utilities, may remain. New encroachments into the root protection zone are allowed provided:
- (a) the area of all new encroachments is less than 25 percent of the remaining root protection zone area when existing encroachments are subtracted; and
 - (b) no new encroachment is closer than 1/2 the required radius distance (see Figure 60-1);

**Figure 60-1
Permissible RPZ Encroachments**



b. Protection fencing

- (1) Protection fencing consisting of a minimum 6-foot high metal chain link construction fence, secured with 8-foot metal posts shall be established at the edge of the root protection zone and permissible encroachment area on the development site. Existing structures and/or existing secured

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fencing at least 3.5 feet tall can serve as the required protective fencing.

- (2) When a root protection zone extends beyond the development site, protection fencing is not required to extend beyond the development site. Existing structures and/or existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.
 - c. Signage designating the protection zone and penalties for violations shall be secured in a prominent location on each protection fence;
 - d. Installation of landscaping required by Title 33 is allowed within the root protection zone and is not an encroachment. Any in-ground irrigation systems are considered encroachments.
 - e. The following is prohibited within the root protection zone of each tree or outside the limits of the development impact area: ground disturbance or construction activity including vehicle or equipment access (but excluding access on existing streets or driveways), storage of equipment or materials including soil, temporary or permanent stockpiling, proposed buildings, impervious surfaces, underground utilities, excavation or fill, trenching or other work activities; and
 - f. The fence shall be installed before any ground disturbing activities including clearing and grading, or construction starts; and shall remain in place until final inspection.
2. Performance Path. When **the applicant determines that** the prescriptive path is not practicable, the applicant may propose alternative measures to modify the prescriptive **protection path** ~~root protection zone~~, provided the following standards are met:
- a. The alternative root protection zone is prepared by an arborist who has visited the site and examined the specific tree's size, location, and extent of root cover, evaluated the tree's tolerance to construction impact based on its species and health, and identified any past impacts that have occurred within the root zone;
 - b. The arborist has prepared a plan providing the rationale used to demonstrate that the alternate method provides an adequate level of protection based on the findings from the site visit described above, **including a development site plan to demonstrate how the protection plan conforms to the site and the proposed development activity**;

Commented [LB36]: #23 Performance path option

Commented [LB37]: #44 Arborist reports and tree protection plan

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- c. The protection zone shall be marked with signage, stating that penalties will apply for violations, and providing contact information for the arborist;
- d. If the alternative methods require the arborist be on site during construction activity, the applicant shall submit a copy of the contract for those services prior to permit issuance and a final report from the arborist documenting the inspections and verifying the viability of the trees prior to the City's final inspection;
- e. If the alternative tree protection method involves alternative construction techniques, an explanation of the techniques and materials used shall be submitted;
- f. The arborist shall sign the tree preservation and protection plan and include contact information.

The BDS Director may require the proposed tree protection method to be peer reviewed for adequacy; reject the proposal if deemed insufficient to meet Subsection C.2.b, above; or require a performance guarantee per Section 11.10.060 in order to ensure the protection methods are properly implemented.

- 3. Additional information. The City may request additional information regarding the proposed development, including construction management approaches, if the proposed development and tree protection appear to conflict. The purpose of this provision is to ensure that logistical considerations are adequately addressed in order to prevent the need for changes to the tree protection measures during the construction process.
- D. Changes to tree protection. Changes to the tree protection measures during the course of the development may be approved as a revision to a permit provided that the change is not the result of an unauthorized encroachment into a root protection zone, and the applicant demonstrates that the tree protection standards of this Section continue to be met. When an unauthorized encroachment has occurred, the city may pursue an enforcement action or other remedy per Chapter 11.70.
- E. Tree protection inspections. The City Forester or BDS Director may conduct inspections during the course of project activity to determine compliance with this Title and confirm that tree protection zones are being maintained and root protection methods are effective. No person may refuse entry or access to a permitted development site to any authorized representative of the City who provides proper credentials and requests entry for the purpose of conducting a Tree Protection inspection. In addition, no person may obstruct, hamper or interfere with any such representative while in the process of carrying out their official duties.

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11.60.040 Tree Pruning and Root Cutting Specifications.

Pruning or root cutting shall be in accord with proper arboricultural practices, using clean and sharp tools. No tree may be excessively pruned or topped as defined in this Title.

11.60.050 Tree Removal Specifications.

Trees shall be removed in a manner that will not jeopardize the public safety or damage structures including utility lines or services, or adjacent trees. In most cases, trees shall be entirely removed. Where appropriate, standing dead trees, or snags, may be left by cutting them to a height that will not threaten a target such as people or structures. Fire safety and preventing harmful pests should also be considered. However, well situated snags can function as important wildlife habitat providing nesting sites and a food source for foraging birds.

- A.** Completion. To prevent the creation of hazards from partially removed trees, once work has commenced to remove a tree, this work shall be completed in a timely manner. A tree will be considered completely removed when reduced to a stump no taller than 4.5 feet. The City Forester may grant an exception to this specification to allow snag creation. For Street Tree removals, the City Forester may direct that the stump be ground out up to 18 inches below grade.
- B.** Disposal of wood and woody debris.
 - 1.** City and Street Trees. Disposal, use, or reuse of wood and woody debris from City or Street Trees is at the sole discretion of the City Forester including specific disposal methods for infected wood. Cost for disposal is the responsibility of the property owner (or adjoining property owner for Street Trees). If the City Forester determines that the cost of storage or sale of the wood is not commercially feasible, the City Forester may give such surplus wood to the adjoining property owner or other group as the City Forester may so designate. Unless the City Forester has given the wood to a group, organization, or individual, it is unlawful for any person to possess or dispose of any wood from any City or Street Tree.
 - 2.** Private Trees. Disposal, use, or reuse of wood and woody debris from Private Trees is at the property owner's discretion, provided storage of wood does not constitute a public health or safety nuisance. In environmental (c, p), or Pleasant Valley Natural Resource (v) overlay zone, large woody debris may be required to remain or portions of trees left standing as snags. If the City Forester has determined that the tree is affected by a pathogen or insect infestation that will likely adversely impact surrounding trees, all portions of the tree shall be removed from the site and properly disposed at the property owner's expense.

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11.60.060 Tree Maintenance Specifications and Responsibilities.

The following specifications apply to all trees in the city. The purpose of these provisions is to protect the health, safety and welfare of the public, safeguard public infrastructure assets, and ensure the continued health of the urban forest.

A. General.

1. Permits required. Any person pruning, removing, **completing removal**, 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 Type A tree permit in accordance with the provisions of Chapter 11.30. The application fee may be waived when the City forester has directed the work to be done.
2. Responsibilities.
 - a. Property owner. It is the duty of every owner of property to maintain trees located on the property or on the adjacent street planting area in accordance with this Section. Further, the owner shall be responsible for all costs associated with such maintenance, removal and any tree replacement, if required.
 - b. Bureau of Transportation. For trees located in center medians, the Bureau of Transportation is responsible for the requirements of this Section.
 - c. Bureau of Environmental Services. For trees located in green street facilities as described in Title 17, the Bureau of Environmental Services is responsible for the requirements in this Section.
3. City Forester authority for tree maintenance. The City Forester may or may direct others to prune, remove or treat to control insects and disease for any trees in the streets, parks, other City owned or managed properties, or private properties if the City Forester determines that controlling insect infestations, disease or dangerous conditions is needed to maintain the public health, safety or health of the urban forest.
4. Available remedies. In addition to specific remedies cited in this Section, any infractions or violations of these requirements may additionally be corrected or enforced per the provisions in Chapter 11.70.

Commented [LB38]: #24 Clarify definition of removal

B. Dead, Dying and Dangerous Trees.

1. All trees which are determined by the City Forester or a private arborist to be dead, dying, or dangerous as defined in this Title are required to be

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removed to safeguard people or property. The City may require a replacement tree at the property owner's expense.

2. Conflicting determinations. In the case where there are conflicts in the determinations from a private arborist or arborists, the City Forester shall make the final determination.
3. Exceptions. A dead or dying tree that is being maintained as a snag, or does not otherwise result in a public nuisance as described in this Section or Chapter 29.20, Property Nuisances, may remain provided it is not deemed dangerous.

C. Dutch Elm Disease prevention and eradication.

1. Infected elms and elmwood. All species and varieties of elm trees (genus *Ulmus*) infected with the fungus known as Dutch elm disease (*Ophiostoma ulmi* or *Ophiostoma novo-ulmi*) as determined by laboratory analysis are declared to be a public nuisance. It is the duty of any owner of a lot or parcel where infected elmwood is present to promptly remove any such elm tree or dead elmwood under the supervision and direction of the City Forester.
2. Pruning restrictions. Pruning any species or varieties of elm trees between April 15 and October 15 is prohibited. This prohibition may be waived by the City Forester when such pruning is necessary to remove hazard limbs, provide the clearances otherwise required by this Section or for other causes as deemed necessary by the City Forester. In cases where the City Forester has allowed pruning to occur during the pruning prohibition period, the responsible party shall properly dispose of removed elm wood within 24 hours.
3. Authority to inspect. The City Forester is hereby authorized to enter upon any lot or parcel during business hours for the purposes of inspecting any elm tree or dead elmwood situated thereon, obtaining specimens for the purpose of laboratory analysis or to determine whether such tree because it is dead or substantially dead may serve as a breeding place for the European or native elm bark beetle (genus *Scolytus*). If the City Forester determines that the tree serves such purpose, the City Forester may declare the elm tree or dead elmwood a public nuisance.
4. Determination and action. If, based on analysis of specimens removed from any elm tree, it is determined that such tree is infected, or the City Forester determines that any dead or substantially dead elm trees or dead elmwood may harbor the elm bark beetle, the City Forester will serve a written notice requiring the property owner or responsible party to remove, destroy and properly dispose of such trees or dead Elmwood located on the property or on the adjacent street planting area. If the property owner or responsible

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party fails, neglects or refuses to remove and destroy, or properly dispose of, such elm tree or dead elmwood within 15 days after service of such notice, the City Forester may abate the nuisance as provided in Chapter 11.70.

- D.** Clearances. The property owner or responsible party is required to prune or remove, if necessary, any tree located on the property or on the abutting street planting area when said trees are not maintained to meet the branch clearances as set forth below:
1. Sidewalk clearance. Branches of trees extending over sidewalks may not be less than 7½ feet above the sidewalk.
 2. Roadway clearance. Branches of trees extending into any public or private roadway may not be less than 11 feet above the pavement. Moreover, on any street designated as a Regional Trafficway, Major City Traffic Street, District Collector, or a one-way street where parking has been prohibited, branches shall be trimmed to a height of 14 feet above the crown of the street.
 3. Overhead powerline clearance. Branches of any tree may not interfere with any light, pole, or overhead powerline used in connection with or as a part of the City or Public Utility system. In addition to the authority granted to the City to prune or direct property owners to prune trees in violation of this Section, a Public Utility operating pursuant to an approved Programmatic Permit may also prune any tree which interferes with the safe operation of the utility system.
- E.** Visibility. The owner or responsible party shall keep trees located on the property or on the adjacent street planting area from completely or partially obstructing visibility as follows:
1. Visibility of traffic control devices such as directional and informational signs as defined by the Manual of Uniform Traffic Control Devices;
 2. Visibility for drivers, bicyclists, or pedestrians; or
 3. In any way that presents an unreasonable hazard to the travelling public.
- F.** Sidewalks and curbs.
1. Obstructions. The owner or responsible party shall keep the sidewalk adjacent to the owner's property clear of branches, leaves, flowers, fruit or other organic matter that may obstruct or render the passage of persons unsafe.
 2. Repairs. When the curb or sidewalk, or both, abutting any property become damaged or in a state of disrepair because of a tree maintained by the

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property owner, the repair of the curb or sidewalk, or both, will be treated as other curb or sidewalk repairs in accordance with the provisions of Title 17. The removal of any tree or portion thereof, as the Responsible Engineer in consultation with the City Forester may determine necessary, will be granted through the appropriate tree permit. The City may require alternative construction methods be used in order to retain the tree. If the tree is removed, the City Forester may require that the removed tree be replaced in accordance with the required permit.

G. Public waterlines, storm sewers and sanitary sewers.

1. **Damage from Roots.** Whenever the Responsible Engineer finds that roots of any tree have entered any sewer, drain or waterline in the street or City-owned easement, and are stopping, restricting, retarding the flow of sewage or drainage, or causing waterline leakage or believes that removal of the tree is necessary to reasonably prevent future root entry into the sewage, drainage, or water facility, the Responsible Engineer may refer the condition to the City Forester.
2. **Remedies.** In addition to the remedies described in Chapter 11.70, the City Forester may remedy the violation by directing the property owner or responsible party to prune the roots or remove the tree. If the City Forester believes that the required amount of root pruning will irreparably damage or destroy the tree, the City Forester will notify the owner and require removal and replacement of the tree. Nothing in this Subsection will be construed to limit the Responsible Engineer's authority to separately invoke abatement proceedings.

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CHAPTER 11.70 - ENFORCEMENT

Sections:

- 11.70.010 Purpose.
- 11.70.020 Where These Regulations Apply.
- 11.70.030 Violations.
- 11.70.040 Enforcement Authority.
- 11.70.050 Prohibited Actions.
- 11.70.060 Inspections and Evidence.
- 11.70.070 Notice and Order.
- 11.70.080 Correcting Violations of this Title.
- 11.70.090 Enforcement Actions.
- 11.70.100 Nuisance Abatement.
- 11.70.110 Summary Abatement.
- 11.70.120 Administrative Review.
- 11.70.130 Appeals to the Code Hearings Officer.
- 11.70.140 Further Appeals.
- 11.70.150 Waivers.

11.70.010 Purpose.

This Chapter establishes an enforcement system to prohibit illegal tree activity in order to further the City's goals for optimizing and enhancing the urban forest. The primary focus of this system is to seek corrective action and restoration before seeking more punitive measures. Nevertheless, penalties are necessary to ensure that it does not become less costly to violate the Title than to abide by its requirements. The enforcement actions prescribed herein are established to be effective deterrents for egregious or willful misconduct and are intended to escalate for the severity or repeated nature of the violation.

11.70.020 Where These Regulations Apply.

- A.** City of Portland. This Chapter applies to all trees within the City of Portland.
- B.** County Urban Pocket Areas. Trees in the County Urban Pocket Areas are subject to all regulations of this Chapter except Subsections 11.70.050 A. through C. and E. through G. (some Subsections of Prohibited Actions); 11.70.060 B. (a Subsection of Inspections and Evidence); and 11.70.080 C. (a Subsection of Correcting Violations of This Title).

11.70.030 Violations.

- A.** Each specific incident and each day of non-compliance for the following may be considered a separate violation of Title 11:
 - 1.** Any failure, refusal or neglect to comply with any provision of this Title;

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2. Allowing or causing a tree-related condition that threatens to injure the public health or safety, or threatens to damage public or private property; or
3. Causing or allowing any prohibited actions as cited in this Chapter to occur.

B. The following constitute violations of Title 33 Planning and Zoning and not Title 11:

1. Overlay Zones and Plan Districts. Removal of any tree in Overlay Zones or Plan Districts when the removal is not exempt or allowed by Title 33 Planning and Zoning or has not been otherwise authorized through an applicable development permit or land use review.
2. Conditions of land use reviews. Unauthorized removal of a tree required to be protected as a condition of a land use review while a condition of approval is in effect.

11.70.040 Enforcement Authority.

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.

When violations of the tree maintenance specifications of Section 11.60.060 affect public infrastructure or jeopardize the travelling public, the Responsible Engineer is authorized to invoke summary abatement to correct the violation. In cases where multiple violations of City code exist on a property, the City Forester, BDS Director, and Responsible Engineer 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.

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**Table 70-1
Summary of Enforcement Authority**

	Heritage Trees	City/Street Trees	Private Trees	Overlay Zones and Plan Districts	
				City/Street Trees	Private Trees
Development permit[1,2,3] (Ch. 11.50)	BDS/CF	BDS/CF	BDS	BDS/CF	BDS
Tree Permit, no development[4] (Ch. 11.40)	CF	CF	CF	CF/BDS	CF/BDS
Maintenance violations[4] (Ch. 11.70)	CF	CF	CF/BDS	CF/BDS	CF/BDS

CF = City Forester BDS = BDS Director

Note [1] For sites in County Urban Pocket Areas, enforcement applies only to on-site trees, and is done by BDS.

[2] Trees specifically required to be preserved by condition of land use approval that have been removed or damaged will be enforced by the BDS Director through Title 33 Planning and Zoning.

[3] The BDS Director is the lead enforcement authority for violations of development permits issued by BDS. The BDS Director may consult with the City Forester when Heritage, City, or Street Trees are involved. The City Forester is the lead enforcement authority for violations during development not covered under a BDS permit.

[4] The City Forester is the lead enforcement authority when no development is occurring. The City Forester may consult with the BDS Director when the provisions of Titles 29 or 33 are also violated.

11.70.050 Prohibited Actions.

Any of the following actions constitute violations of this Title and may be declared a nuisance for the purposes of correcting or abating the unlawful action.

- A.** Failure to properly maintain trees. It is unlawful for any person to fail to comply with any of the tree maintenance specifications set forth in Section 11.60.060.
- B.** Conducting regulated activities without a tree permit. It is unlawful for any person to plant, place, prune, alter, remove, destroy, cut, break or injure any tree without first obtaining a tree permit for said action, except as provided in this Title.
- C.** Non-compliance with terms and conditions of a tree permit. It is unlawful for any person to violate the conditions or time limits imposed upon any tree permit.
- D.** Non-compliance with terms and conditions of a development permit. It is unlawful to fail to adhere to the requirements of a development permit for tree preservation, protection or planting.
- E.** Topping and excessive pruning. It is unlawful for any person to top or excessively prune any tree. Trees shall be allowed to grow in their natural form. A tree that has been topped or excessively pruned may be considered "removed" for the purposes of establishing penalties and any replacement requirements. The City may also

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require the property owner or responsible party to treat the tree as described in Section 11.70.080.

- F.** **Activities that cause injury to regulated trees. It is unlawful for any person to injure a regulated tree as defined in 11.80.20.**
- FG.** Attachments to trees. It is unlawful to attach or keep attached to any City or Street Tree, any signs, ropes, wires, chains or other devices whatsoever, when such devices are determined to threaten the viability of the tree or are likely to create a hazard. Any attachments to City or Street Trees are subject to obtaining a tree permit from the City Forester, as stated in Chapter 11.40.
- GH.** Interference with tree grates and tree guards. It is unlawful for any person to damage, interfere or otherwise misuse any tree grate or guard set for the protection of any Street Tree, City tree, or Heritage tree. Removal of such devices may only occur as authorized by the City Forester.
- HI.** Failure to install or maintain protection measures. It is unlawful for any person to fail to install required tree protection measures prior to commencing any development activity subject to Chapter 11.50. Furthermore, it is unlawful for such person to move any required protection measures, neglect or fail to maintain such measures throughout the development activity, or allow any restricted activity or disturbance to occur within the protection area without prior City approval.
- IJ.** Removal or failure to maintain required trees. It is unlawful for any person to fail to maintain in a healthy condition, trees required to be planted by virtue of a tree permit or development permit, including landscape trees and trees necessary to meet tree density standards. Any such trees that die shall be replaced.

11.70.060 Inspections and Evidence.

- A.** The City may conduct inspections whenever it is necessary to enforce any provisions of this Title, to determine compliance with this Title or whenever the City has reasonable cause to believe there exists any violation of this Title. Inspections shall occur during business hours. If the responsible party is at the site when the inspection is occurring, the BDS Director, City Forester, or other authorized representative shall first present proper credentials to the responsible party and request entry. If such entry is thereupon refused, the BDS Director or City Forester shall have recourse to any remedy provided by law to obtain entry, including obtaining an administrative search warrant.
- B.** If any tree is removed without a tree removal permit, a violation will be determined by measuring the circumference of the stump at the ground to establish the diameter size of the tree. For purposes of this Subsection, the diameter size of the tree is the circumference divided by 3.14.

Commented [LB39]: #30 Clarify injuring a regulated tree is a prohibited action

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- C. In cases where a tree stump has been removed, the BDS Director or City Forester may use photographs of the tree including the city's most current aerial images to determine if a violation has occurred. For aerial photographs, when the associated canopy measures 1,600 square feet at the edge of the dripline, this may be considered prima facie evidence of a violation of this Chapter. Nothing in this Subsection will be construed to limit the introduction of other photographic evidence before the Code Hearings Officer.
- D. When there is insufficient evidence to demonstrate whether a removed tree was a nuisance **species** or native tree species, the tree will be considered as a non-native, non-**species** tree.
- E. Tree removal, topping, or other injury caused by natural causes or weather will not be deemed a violation of this Title, provided there is no other clear evidence to suggest that the tree was deliberately removed or injured.

11.70.070 Notice and Order.

- A. Notification required. Except in the case of summary abatement or immediate danger, if the BDS Director or City Forester finds one or more violations of the provisions of this Title on a property or adjacent street, the BDS Director or City Forester shall notify the property owner to prune, remove or take any other action as necessary to correct the violations. Notification to the property owner will be accomplished by mailing a notice to the owner, at the owner's address as recorded in the county assessment and taxation records for the property. The notice may be sent via either first class or certified mail. Notice to the property owner may also be accomplished by posting notice on the property. Additional notice to the responsible party, if different than the owner, may also be provided at the City's discretion.
- B. Content of the notice. The notice shall include:
 - 1. The date of posting (if notice was posted at the property);
 - 2. The street address or a description sufficient for identification of the property;
 - 3. A statement that one or more violations of this Title exist at the property with a general description of the violations;
 - 4. Disclosure that penalties, charges, and liens may result from a failure to remedy the violations;
 - 5. Specification of a response period during which the property may be brought into compliance with this Title before penalties, charges or liens will be assessed; and

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6. Disclosure that the owner's right to request an administrative review to appeal the findings of the notice of violation and a description of the time limits for requesting an administrative review as set forth in this Chapter.
- C. Compliance inspections and penalties. Once a notice has been mailed, the owner will be responsible for all enforcement penalties associated with the property, as described in this Chapter, until the violations are corrected and the City has been so notified. Except in the case of summary abatement, whenever the owner believes that all violations listed in the first or any subsequent notice of violation have been corrected, they shall notify the City.
- D. Time limits. The BDS Director or City Forester shall 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.
- E. Information filed with County Recorder. If the City finds violations of this Title on any property, the City may record with the County Recorder information regarding City code violations and possible liens on the property.

11.70.080 Correcting Violations of this Title.

(Amended by Ordinance Nos. 188278 and 188647, effective November 17, 2017.)

- A. General. The following list of remedies gives the City Forester and BDS Director broad discretion in applying a reasonable and effective means to restore a tree or site where trees have been illegally removed or damaged, or where a dead, dying, dangerous, or nuisance **species** tree has been identified to be preserved to meet Subsection 11.50.040 C.1. The rights and remedies provided in this Chapter are cumulative, are not mutually exclusive, and are in addition to any other rights, remedies and penalties available to the City under any other provision of law including the enforcement actions described in Section 11.70.090. The City Forester or BDS Director may adopt administrative rules to establish priorities and guidelines for the following remedies.
- B. Standard remedies. Standard remedies are intended to address a wide variety of violations of this Title. Additional remedies specific to City and Street Trees, and trees in development situations are described in Subsections C. and D. When the City determines that a violation of this Title has occurred, any or all of the standard remedies described in this Subsection, and any applicable additional remedies described in this Section may be required depending on the severity and extent of the violation.
 1. Minor Infractions. For minor infractions that do not result in damage to a tree, the City will first seek to correct the violation without penalties. These infractions may include failing to prune or remove a tree in violation of Chapter 11.60, failing to install or maintain tree protection when prohibited activities have not occurred within the root protection zone, or failing to

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plant a tree as required by a development permit or condition of granting a tree removal permit.

2. Treatment. For trees that are damaged but were not removed and where the City Forester concurs that the tree may still be viable, the violation will not be considered an "illegal tree removal" provided:
 - a. The property owner or responsible party contracts for the services of an arborist to assess the damage and prescribe a treatment regimen;
 - b. The property owner or responsible party enters into a contract with an arborist to complete the treatment regimen. The treatment and associated monitoring period shall be at least 1 year, but may be longer; and
 - c. The arborist shall provide the City with updates on the services performed, when they were performed, and the status of the tree's condition at intervals determined by the original treatment regimen. If the tree dies at any time during the treatment and monitoring period, the property owner or responsible party shall remove and replace the tree subject to the tree replacement requirements described in Subsection B.3.
 - d. In lieu of the treatment regimen and monitoring period described above, the City Forester may instead accept a performance guarantee per Chapter 11.10. The performance guarantee shall be sufficient to cover the cost of removing the tree plus the cost of tree replacement as described in Subsection B.3. When the property owner or responsible party selects this option, death of the tree within the 3 year timeframe may be deemed prima facie evidence that the damage was the sole cause of the tree's death.
3. Revised Tree Plan and Payment in Lieu. In cases where a dead, dying, dangerous or nuisance species tree is identified to be preserved to meet Subsection 11.50.040 C.1., the City Forester may require a revision to the submitted tree plan to ensure that only healthy, viable trees are preserved to meet the requirement. If the applicant disagrees with the City's determination on the health or species of a tree to be preserved, an arborist report can be submitted by the applicant to demonstrate compliance. If no trees remain on site to meet the preservation requirement, the applicant may pay the applicable mitigation fee, as defined in Subsection 11.50.040 C.
4. Tree Replacement and Payment in Lieu. The City may require replacement for any trees removed illegally. The City may require greater than tree-for-tree replacement, but may not require greater than inch-for-inch

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replacement. ~~The amount of replacement trees will be determined by the volume of removed tree canopy.~~ For each tree that the City positively determines was dead, dying, or dangerous, the replacement will be limited to one tree. The responsible party shall enter into a replanting and maintenance plan agreement approved by the City. When the responsible party is unable to accommodate the required replacement planting on the site or adjacent street, the balance of required inches may be paid as a fee in lieu of planting to the Tree Planting and Preservation Fund.

Commented [LB40]: #31 Replacement requirement for correction a violation

5. Tree Permit Violation Review. The City may require any person who cuts, removes, or damages any tree without a permit as required by this Title or is in non-compliance with any term, condition, limitation or requirement of a tree permit or Tree Plan, to submit an application for a Tree Permit Violation Review. Trees removed in violation of Title 33 Planning and Zoning requirements may also be processed in accordance with the enforcement provisions of that Title.

Tree Permit Violation Applications are processed as Type B permits, and are subject to public notice but not the public appeal procedures of Chapter 11.30. The purpose of this review is to establish appropriate replacement requirements and notify interested parties. Failure to abide by the conditions of the approval will be treated as a repeat offense.

- C. Additional remedies for City and Street Trees. In addition to the remedies provided by any other provision of this Chapter, when the City Forester determines that a violation of this Title has occurred involving a City Tree or Street Tree, the City Forester may seek additional remedies as described below.

1. Restoration Fees. The City may require any person to pay into the City's Urban Forestry Fund a restoration fee for the damaged or removed tree according to the City's adopted fee schedule. The restoration fee may be doubled if any of the following apply:
 - a. The person has been convicted of a previous violation of this Title; or
 - b. The tree was subject to the protection requirements of a Tree Plan.
2. Civil Remedies. The City will have the right to obtain, in any court of competent jurisdiction, a judgment against any person removing or causing damage to any City tree or Street Tree in violation of this Title. In any such action, the measure of damages is the actual replacement value of the damaged or destroyed trees as well as any other consequential damage to other public facilities within the street.

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- D.** Additional remedies for Private Trees Subject to a Tree Plan. In addition to the remedies provided by any other provision of this Chapter or other Titles, when the BDS Director determines that a violation of this Title has occurred involving a Private Tree shown to be protected on a Tree Plan, the BDS Director may require the property owner or responsible party to correct the violation using any of the following remedies.
- 1.** Tree Protection Re-inspection Fee. When an inspection of a site subject to development under an approved Tree Plan finds that tree protection measures have not been installed as required or are not properly maintained, the City may issue a correction notice and require the responsible party to pay a Tree Protection Re-inspection Fee. Payment of the fee is required prior to final inspection.
 - 2.** Tree Plan Revision. For tree removal or injury which results in removal, and where the tree was not required to be preserved by virtue of a land use approval, the BDS Director may require the applicant to prepare a revision to the approved plans and demonstrate conformance with the applicable tree preservation and tree density standards in Chapter 11.50, including any additional tree planting, payments, or preservation of alternate trees.
- E.** Additional remedies for Heritage Trees. In addition to the remedies provided by any other provision of this Chapter, when the City Forester determines that a violation of this Title has occurred involving a Heritage Tree, the City Forester may seek additional remedies as described below.
- 1.** Restoration Fees.
 - a.** Private Heritage Trees. The City may require any person to pay into the City's Tree Planting and Preservation Fund for the damage or removal of a Heritage Tree, according to the City's adopted Title 11 Tree Fee Schedule.
 - b.** City and Street Heritage Trees. The City may require any person to pay into the City's Urban Forestry Fund for the damage or removal of a Heritage Tree, according to the City's adopted Title 11 Tree Fee Schedule.

11.70.090 Enforcement Actions.

(Amended by Ordinance Nos. 188278 and 189413, effective March 6, 2019.)

- A.** General. The following list of enforcement actions gives the City Forester and BDS Director additional means to obtain compliance with the requirements of this Title. The rights and remedies provided in this Chapter are cumulative, are not mutually exclusive, and are in addition to any other rights, remedies and penalties available to the City under any other provision of law. The City Forester or BDS Director

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may adopt administrative rules to establish priorities and guidelines for the following enforcement actions.

- B.** Standard enforcement actions. Standard enforcement actions may be invoked for general violations of this Title, including conducting tree activities without a required tree permit. In addition to these standard actions, the City Forester may take additional actions for City and Street Tree violations as described in Subsection C.
1. Civil penalties. The City Forester or BDS Director may issue a fee, penalty notice or citation, as applicable, to any person who cuts, removes, prunes or harms any tree without a permit as required by this Title or is otherwise in non-compliance with any term, condition, limitation or requirement of an approval granted under this Title, and require payment of a civil penalty up to \$1,000 per day. Each tree constitutes a separate violation, and each day that the person fails to obtain a permit or remains in non-compliance with a permit or tree plan may also constitute a separate violation.
 2. Initiating a proceeding before the Code Hearings Officer. The City Forester and BDS Director are each authorized to initiate proceedings before the Code Hearings Officer, as stated in the procedures in Title 22 Hearings Officer, to enforce the provisions of this Section when the responsible person fails to respond to the City Forester or BDS Director's notice or citation as described in ~~11.70.070 Subsection B.1, above.~~ **11.70.070 Subsection B.1**, above. The Hearings Officer may order any party to:
 - a. Abate or remove any nuisance;
 - b. Install any equipment or plant trees necessary to achieve compliance;
 - c. Pay to the City of Portland a civil penalty of up to \$1,000 per day. In determining the amount of any civil penalty to be assessed, the Code Hearings Officer will consider the following:
 - (1) The nature and extent of the property owner or responsible party's involvement in the violation;
 - (2) The benefits, economic, financial or otherwise, accruing or likely to accrue as a result of the violation;
 - (3) Whether the violation was isolated and temporary, or repeated and continuing;
 - (4) The magnitude and seriousness of the violation;
 - (5) The City's cost of investigation and remedying the violation;

Commented [LB41]: #33 Clarify enforcement action

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- (6) Any other applicable facts bearing on the nature and seriousness of the violation.
 - d. Undertake any other action reasonably necessary to correct the violation or mitigate the effects thereof.
- 3. Delayed intake of applications.
 - a. Development permits or land use reviews. When a violation of this Title has occurred on a site, the BDS Director may refuse land use or development permit applications until the violation has been satisfactorily resolved.
 - b. Tree permits. When a violation of this Title has occurred, the City Forester may delay intake or review of applications for tree permits from the property owner or other applicant, as identified on the violated permit application, until the violation has been satisfactorily resolved.
- 4. Disqualification from City contracts. At their discretion, the City Forester or Responsible Engineer may refuse to consider any arborist, builder, landscaper, contractor, or tree service that has been cited for any tree activity in violation of this Title or submitted a falsified report for the criteria required in this Title, as a responsible bidder for any City contracts for a period of 2 years from the date of violation or falsified report.
- 5. Removal from City's list of local tree care providers. The City Forester may remove any arborist, builder, landscaper, contractor, or tree service that refuses to correct a violation, has been fined for any tree violation of this Title, or submitted a falsified report for the criteria required in this Title, from the list of contractors providing related services for a period of 2 years from the date of violation or report.
- 6. Abatement. Whenever a responsible party or property owner conducts a prohibited action per Section 11.70.050, the City may pursue abatement proceedings to remove the nuisance. Whenever the City has declared that such nuisance exists, the property liable for the nuisance will be directed to abate the nuisance by following the notice and abatement procedures outlined in this Chapter.
- 7. Stop Work Orders. When any work is being conducted in violation of this Title, ~~and public health or safety is threatened,~~ the City Forester or BDS Director may issue a stop work order as stated in the requirements of Section 3.30.080.
- 8. Enforcement fees and penalties.

Commented [LB42]: #32 Provide City Forester authority to issue a stop work order

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- a. The City may charge fees and penalties in the form of a monthly enforcement penalty for each property found in violation of this Title that meets the following conditions:
 - (1) The property is a subject of a notice of violation of this Title as described in Section 11.70.070;
 - (2) A response period of 30 days has passed since the effective date of the initial notice of violation; and
 - (3) The property remains out of compliance with the initial notice of violation or any subsequent notice of violation.
- b. The amount of the fees and penalties in the monthly enforcement penalty shall be charged as set forth in the Title 11, Trees Fee Schedule, as approved by the City Council.
- c. Properties in violation for 3 months from the initial notice of violation will be assessed fees and penalties in the form of an enforcement penalty that is twice the amount as listed in the Title 11, Trees Fees Schedule, as approved by the City Council.
- d. Whenever the owner believes that all violations listed in the first or any subsequent notice of violation have been corrected, they shall notify the ~~BDS~~ Director or City Forester. Upon receipt of such notice, the ~~BDS~~ Director or City Forester will promptly schedule an inspection of the property and notify the owner if any violations remain uncorrected.
- e. Once monthly enforcement penalties begin, they will continue until all violations listed in the first or any subsequent notice of violation have been corrected, inspected and approved.
- f. ~~When a property meets the conditions for charging fees and penalties as described in this Section, the BDS Director or City Forester, as applicable, will file a statement with the Revenue Division that identifies the property, the amount of the monthly penalty, and the date from which the charges are to begin. The Revenue Division will then:~~
 - ~~(1) Notify the property owner of the assessment of enforcement penalties;~~
 - ~~(2) Record a property lien in the Docket of City Liens;~~

Commented [LB43]: Minor clarification

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- ~~(3) Bill the property owner monthly for the full amount of enforcement penalties owing, plus additional charges to cover administrative costs of the Revenue Division; and~~
- ~~(4) Maintain lien records until the lien and all associated interest, fees, penalties, and costs are paid in full; and the BDS Director or City Forester, as applicable, certifies that all violations listed in the original or any subsequent notice of violation have been corrected.~~

9. Liens. When a property meets the conditions for charging costs, fees, or penalties as described in this Chapter, the BDS Director or City Forester, as applicable, will file a statement with the Revenue Division that identifies the property, the amount of the costs, fees, or penalties, and the date from which the charges are to begin. The Revenue Division will then:
- a. Notify the property owner of the assessment of enforcement penalties;
 - b. Record a property lien in the Docket of City Liens;
 - c. Bill the property owner for the full amount of enforcement penalties owing, plus additional charges to cover administrative costs of the Revenue Division; and
 - d. Maintain lien records until the lien and all associated interest, fees, penalties, and costs are paid in full; and the BDS Director or City Forester, as applicable, certifies that all violations listed in the original or any subsequent notice of violation have been corrected.

Commented [LB44]: #27 Enforcement Authority

- C. Additional Enforcement Actions for City and Street Tree Violations. The City Forester may impose the following additional actions for City or Street Tree violations.
- 1. Criminal penalties. In addition to any other remedy provided in this Chapter, the City Attorney, acting in the name of the City, may seek Criminal Penalties in any court of competent jurisdiction. The court may require that any responsible party violating any provision of this Title will, upon conviction, be fined a sum not exceeding \$1,000 or will be imprisoned for a term not exceeding 6 months.
 - 2. Institution of legal proceedings. In addition to any other remedy provided in this Chapter, the City Attorney, acting in the name of the City, may maintain an action or proceeding in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this Title.

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11.70.100 Nuisance Abatement.

(Amended by Ordinance No. 188278, effective April 14, 2017.)

- A.** Abatement. If, within the time limit set by the City in the notice of violation, any nuisance described in the notice has not been removed and abated, or cause shown, as specified in Sections 11.70.100 through .130 of this Title, why such nuisance should not be removed or abated, or where summary abatement is authorized, the BDS Director or City Forester may cause the nuisance to be removed and abated, including disposal in an approved manner.
- B.** Warrants. The BDS Director or City Forester may request any Circuit Court judge to issue a nuisance abatement warrant whenever entry onto private property is necessary to remove and abate any nuisance, or whenever the BDS Director or City Forester has reasonable cause to believe that there exists upon any property any violation as described in Section 11.70.030 above.
- C.** Grounds for issuance of nuisance abatement warrants; affidavit.

 - 1.** Affidavit. A nuisance abatement warrant will be issued only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant, the statute, ordinance or regulation requiring or authorizing the removal and abatement of the nuisance, the property to be entered, the basis upon which cause exists to remove or abate the nuisance, and a statement of the general types and estimated quantity of the items to be removed or conditions abated.
 - 2.** Cause. Cause will be deemed to exist if reasonable legislative or administrative standards for removing and abating nuisances are satisfied with respect to any property, or if there is cause to believe that a nuisance violation exists, as defined in this Title, with respect to the designated property.
- D.** Procedure for issuance of a nuisance abatement warrant.

 - 1.** Examination. Before issuing a nuisance abatement warrant, the judge may examine the applicant and any other witness under oath and shall be satisfied of the existence of grounds for granting such application.
 - 2.** Issuance. If the judge is satisfied that cause for the removal and abatement of any nuisance exists and that the other requirements for granting the application are satisfied, the judge will issue the warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered, and a statement of the general types and estimated quantity of the items to be removed or conditions abated. The warrant will contain a direction that it be executed during business hours, or where the judge has specially determined upon a showing that it cannot be effectively

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executed between those hours, that it be executed at any additional or other time of the day or night.

3. Police assistance. In issuing a nuisance abatement warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and to assist the representative of the bureau in any way necessary to enter the property and remove and abate the nuisance.
4. Return. A nuisance abatement warrant shall be executed within 10 working days of its issue and returned to the judge by whom it was issued within 10 working days from its date of execution. After the expiration of the time prescribed by this Subsection, the warrant unless executed is void.

E. Cost of nuisance abatement.

1. Whenever a nuisance is abated by the City, the BDS Director or City Forester shall keep an accurate account of all expenses incurred for each nuisance abated including but not limited to abatement costs, civil penalties, fees, administrative costs, recorders fees and title report charges as set forth in the Title 11, Trees Fee Schedule, as approved by City Council.
2. When the City has abated a nuisance maintained by any owner of real property, for each subsequent nuisance which is abated by the City within 2 consecutive calendar years concerning real property, owned by the same person, an additional civil penalty as set forth in the Title 11, Trees Fee Schedule, shall be added to the costs, charges and civil penalties. The additional civil penalty shall be imposed without regard to whether the nuisance abated by the City involved the same real property or is of the same character as the previous nuisance.
3. Costs and penalties resulting from nuisance abatement shall be assessed as a lien upon the real property as provided in Section 11.70.090 Enforcement Actions.

11.70.110 Summary Abatement.

- A. When summary abatement is authorized by this Title, the decision regarding whether or not to use summary abatement will be at the City's discretion. In the case of summary abatement, notice to the owner or occupant of the property prior to abatement is not required.
- B. Following summary abatement, the BDS Director or City Forester, as applicable, shall post upon the property liable for the abatement a notice describing the action taken to abate the nuisance violation. In addition, a Notice of Summary Abatement shall be mailed to the property owner. The notice shall include:

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1. The date the nuisance on the property was abated;
2. The street address or description sufficient to identify the property;
3. A statement of the violations of Title 11 that existed at the property and were summarily abated;
4. Disclosure that penalties, charges and liens will result from the summary abatement; and
5. Disclosure of the owner's right to appeal the findings of the notice as set forth in this Chapter.

11.70.120 Administrative Review.

- A. Whenever a property owner or responsible party has been given a notice as required by this Chapter and has been directed to make any correction or to perform any act and the owner or responsible party believes the finding of the notice was in error, the owner or responsible party may have the notice reviewed by the BDS Director or City Forester, as applicable. If a review is sought, the owner or responsible party shall submit a written request to the City within 15 days of the date of the notice. **The BDS Director or City Forester, as applicable, may extend this requirement for good cause ~~shown~~.** Such review will be conducted by the BDS Director or City Forester, as applicable. The owner or responsible party requesting such review will be given the opportunity to present evidence. Following the review, the BDS Director or City Forester, as applicable will issue a written determination.
- B. Nothing in this Section limits the authority of either the BDS Director or City Forester to initiate a proceeding under Title 22 Hearings Officer.

Commented [LB45]: #34 Allow City Forester to extend deadline for admin reviews

11.70.130 Appeals to the Code Hearings Officer.

A determination issued as stated in Section 11.70.120 may be appealed to the Code Hearings Officer, as provided for in Chapter 22.10 of City Code.

11.70.140 Further Appeals.

All appeals from the Code Hearings Officer's determination in accordance with Section 11.70.130 will be by writ of review as authorized by Section 22.04.010 of the City Code and ORS 34.010 - 34.100.

11.70.150 Waivers.

The BDS Director or City Forester may grant an exception when the enforcement of the requirements of this Title would cause undue hardship to the owner or occupants of the affected property, or whenever the BDS Director or City Forester deems it necessary in order to accomplish the purpose of this Title.

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- A.** To carry out the intent of this Section the BDS Director and City Forester shall establish written policies in the form of waivers to explain the exceptions available to property owners. Waivers will include the following information:
- 1.** An explanation of the purpose of the waiver and a list of the requirements the owner shall meet in order to qualify for the waiver;
 - 2.** An explanation of the period of time during which the waiver will be in effect;
 - 3.** A list of the actions the owner shall perform to fulfill their responsibilities to maintain the waiver and to prevent the waiver from being cancelled.
- B.** The owner shall apply for a waiver in writing. This Section may not be construed so as to evade the provisions of Title 22 Hearings Officer.

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**CHAPTER 11.80 - DEFINITIONS AND
MEASUREMENTS**

Sections:

- 11.80.010 Defining Words.
11.80.020 Definitions and Measurements.

11.80.010 Defining Words.

Words used in the tree code have their normal dictionary meaning unless they are listed in Section 11.80.020 below. Words listed in Section 11.80.020 have the specific meaning stated, unless the context clearly indicates another meaning.

11.80.020 Definitions and Measurements.

(Amended by Ordinance Nos. 188278 and 189078, effective July 18, 2018.)

- A.** Information about the use of terms in the tree code is contained in Section 11.10.030.
- B.** The definition of words with specific meaning in the tree code are as follows:
1. "Appeals Board" is the Urban Forestry Appeals Board. The duties and composition are in Section 11.20.030.
 2. "Arboriculture" refers to the horticultural focus on the study and care of trees and other woody plants.
 3. "Arborist" means a professional listed as a certified arborist by the International Society of Arboriculture or a consulting arborist registered with the American Society of Consulting Arborists.
 4. "Attached Structure" means a structure attached to a building.
 5. "BDS Director" is the Director of the Bureau of Development Services or the BDS Director's designee. The duties of the BDS Director are in Section 11.10.010.
 6. "Building" means a structure that has a roof, is enclosed on at least 50 percent of the area of its sides and required a development permit prior to construction.
 7. "Building Coverage" has the same meaning as in Title 33 Planning and Zoning.
 8. "Business Hours" means 7:30 am to 5 pm, during working days.
 9. "City" is the City of Portland.

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10. "City Forester" is the Manager of Urban Forestry, or the Manager's designee. The duties of the City Forester are in Section 11.10.010.
11. "Commission" means the Urban Forestry Commission, also referred to as the UFC. The duties and composition are in Section 11.20.020.
12. "Construction Staging Area" means a designated area for the storage of equipment and vehicles, stockpiles, waste bins, and other construction-related materials during a construction project. Any construction trailers are to be included in the construction staging area. In some cases, more than one staging area may be established on site.
13. "County Urban Pocket Areas" refers to properties within unincorporated Multnomah County that are subject to the existing Intergovernmental Agreement to Transfer Land Use Planning Responsibilities Between the City of Portland and Multnomah County.
14. "Diameter" refers to the cross-sectional size expressed in inches of a tree measured 4.5 feet above the ground. See Subsection 11.80.020 C., Measurements.
15. "Days" means calendar days, unless specifically stated as working days. Working days include Monday through Friday, excluding holidays as identified in Human Resources Administrative Rule 6.02.
16. "Development, Alteration" has the same meaning as in Title 33, Planning and Zoning.
17. "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. 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.
18. "Development Permit" refers to permits issued by the City such as building permits, zoning permits, site development permits, public works permits and capital improvement projects.
19. Development Types:
 - a. "Single Dwelling" refers to a house, attached house, or manufactured home with or without an accessory dwelling unit located on its own lot or parcel as those terms are defined in Title 33 Planning and Zoning

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- b. "One ~~and Two~~ to Four Family Residential" refers to a house, attached house, **accessory dwelling unit**, duplex, attached duplex, **triplex, fourplex**, or manufactured home on one lot or parcel as those terms are defined in Title 33 Planning and Zoning.
 - c. "Multi-Dwelling Residential" refers to more than ~~two~~ **four** dwelling units on a single lot or parcel, **structures that contain five or more dwelling units that share common walls or floor/ceiling with one or more units**, as well as Group Living, ~~and Single Room Occupancy housing~~ as defined in Title 33 Planning and Zoning.
 - d. "Commercial/Office/Retail/Mixed Use" means development that includes one or more of the following primary uses. The uses refer to the Use Categories in Title 33 Planning and Zoning: The uses are: Household Living, Commercial Parking, Quick Vehicle Servicing, Office, Retail Sales And Service, Self-Service Storage and Vehicle Repair.
 - e. "Industrial" means development that includes one or more of the following primary uses. The uses refer to the Use Categories in Title 33 Planning and Zoning. The uses are: Industrial Service, Manufacturing And Production, Warehouse And Freight Movement and Wholesale Sales.
 - f. "Institutional" means development that includes one or more of the following primary uses. The uses refer to the Use Categories in Title 33 Planning and Zoning. The uses are: Colleges, Community Service, Daycare, Medical Centers, Parks and Open Areas, Religious Institutions and Schools.
 - g. "Other" means development that includes one or more of the following primary uses referred to in Title 33 Planning and Zoning. The uses are: Commercial Outdoor Recreation, Major Event Entertainment and Basic Utilities.
- 20.** "Injury" means a wound inflicted upon a tree resulting from any activity, including trenching, excavating, altering the grade, smothering within the root protection zone of a tree, bruising, scarring, tearing or breaking of roots, bark, trunk, branches or foliage, herbicide or poisoning, or any other action leading to the death or permanent damage to tree health including the following:
- a. "Disturbance" is the various activities from construction or development that may damage trees.

Commented [LB46]: #40 Updates T11 definition to align with T33

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- b. "Excessive Pruning" is removing in excess, one-fourth (25 percent) or greater, of the functioning leaf, stem or root area in a single growing season. Exceptions are when clearance from overhead utilities or public improvements is required or to abate a hazardous condition or other public nuisance. Excessive pruning does not include normal pruning that follows ANSI standards, see "Proper Arboricultural Practices," and "Pruning"
 - c. "Removal" is felling, cutting or removing any portion of the crown trunk, or root system of a tree, that results in the loss of physiological viability, or any procedure in which the natural result will lead to the death of the tree, including girdling, poisoning, topping or drowning the tree.
 - d. "Smothering" is the result of compaction or compression of the soil particles or texture that may result from the movement of heavy machinery and trucks, storage of construction materials, structures, paving, or any other means that creates an upper layer that is impermeable within the root protection zone.
 - e. "Topping" means the inappropriate pruning practice used to reduce tree height by cutting to a predetermined crown limit without regard to tree health or structural integrity. Topping does not include acceptable pruning practices as described in the American National Standards Institute (ANSI) "A-300 Pruning Standards" and companion "Best Management Practices for Tree Pruning" published by the International Society of Arboriculture, such as crown reduction, utility pruning, or crown cleaning to remove a safety hazard, dead or diseased material. Topping is considered "removal".
21. "Land Use Review" is a procedure for a specific use or development required under Title 33 Planning and Zoning.
22. "Nuisance Plant List" is a list within the "Portland Plant List" that identifies nuisance trees and plants.
23. "Overlay Zones and Plan Districts" refer to any of the following overlay zones or plan districts as shown on the Official Zoning Map, unless the specific regulation states otherwise:
- a. Environmental Overlays shown on the Official Zoning Map with a "c" or "p".
 - b. Pleasant Valley Natural Resource Overlay, shown on the Official Zoning Map with a "v".

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- c. Willamette River Greenway Overlay Zones, as applied to the Natural "n", or Water Quality "q", overlays and only within or riverward of the greenway setback portion of the Recreational "r", General "g" and Industrial "i" overlays, as designated on the Official Zoning Map.
 - d. Scenic Resources Overlay, for trees located within scenic corridors, shown on the Official Zoning Map with an "s".
 - e. Aircraft Landing Zone, for trees located within the aircraft landing zone, shown on the Official Zoning Map with an "h".
 - f. Johnson Creek Basin Plan District, only applied to the South subdistrict, to areas within the special flood hazard area, and to sites that abut the Springwater Corridor.
 - g. Rocky Butte Plan District.
 - h. South Auditorium Plan District.
24. "Person" includes any individual, property owner, firm, association, corporation, agency, entity, or organization of any kind.
25. "Proper Arboricultural Practices" refers to the methods employed during tree planting or cutting or removing any part of the branching structure of a plant in the crown, trunk or root areas in accordance the most recent edition of the American National Standards Institute (ANSI) "A-300 Standards" and published "Best Management Practices" of the International Society of Arboriculture.
26. "Pruning" is the removal or reduction of parts of a tree that are not requisite to growth or production, are no longer visually pleasing, or are injurious to the health or development of the tree.
27. "Public Agency" means any public agency or public utility as defined in ORS 757.005, or drainage district as defined in ORS 174.116.
28. "Recognized Organization" is a neighborhood, community, business, or industrial association, or organization recognized or listed by the Office of Community & Civic Life. Recognized organization also includes the Office of Community & Civic Life district offices.
29. "Responsible Engineer" for the Bureau of Transportation this shall be the City Engineer, for the Bureau of Environmental Services this shall be the Chief Engineer of the Bureau of Environmental Services, and for the Portland Water Bureau this shall be the Chief Engineer of the Portland Water Bureau. Each Responsible Engineer may delegate their authority and

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duties to another employee in the same bureau. The duties are as prescribed in Section 11.10.010.

30. "Responsible Party" is a person in control of property in fee ownership or tenancy where a tree is located or property adjacent to a Street Tree. The responsible party may include the owner or owners, lessees, tenants, occupants or other persons in charge. In cases of violations, the responsible party may also include the person, partnership, or corporation who violated the provisions of this Title.
31. "Site" has the same meaning as in Title 33 Planning and Zoning.
32. "Street" has the same meaning in Section 9-101 of the City Charter.
33. "Treatment" is the application of therapeutic remedies or corrections to site conditions when injury to trees has occurred to improve the chances of long term viability. Generally these measures should occur only under the direction of an arborist. Treatment measures include compensatory or corrective pruning, fertilization, inoculation, soil fracturing, grade restoration and supplemental irrigation.
34. "Tree Area" is the amount of area on a development site that is used to calculate the required number of trees to be planted to meet tree density standards.
35. "Tree Plan" is a site plan showing trees to be preserved and protected, planted, or removed. Specific requirements for Tree Plans are in Chapter 11.50.
36. Tree Related Terms:
 - a. "City Tree" is a tree within City limits that is on property owned or managed by the City. A tree that straddles a property line between private property and City-owned or -managed property is a Private Tree, shared by the City and adjacent property owner. A tree on a property line between City-owned or managed property and the street is a Street Tree.
 - b. "Dangerous Tree" is one where the condition of the tree presents a foreseeable danger of inflicting damage that cannot be alleviated by treatment, ~~or pruning,~~ or by making practicable site condition modifications. A tree may be dangerous because it is likely to injure people or damage vehicles, structures, or development, such as sidewalks or utilities.

Commented [LB47]: #29 Definition of dangerous does not consider site condition.

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- c. "Dead Tree" is a tree that is dead or has been damaged beyond repair or where not enough live tissue, green leaves, limbs, or branches exist to sustain life as determined by an arborist.
- d. "Dying Tree" is a tree in an advanced state of decline because it is diseased, infested by insects or rotting and cannot be saved by reasonable treatment or pruning, or must be removed to prevent spread of the infestation or disease to other trees or is imminently likely to become a danger or die.
- e. "Heritage Tree" is a tree designated as a Historic Landmark Tree, a Historic Tree, or a Heritage Tree.
- f. "Native Tree" is a tree listed on the "Portland Plant List" as native to the Willamette Valley.
- g. "Non-Native Non-Nuisance **Species** Tree" is a tree that is not identified on the Portland Plant List as a native species or a nuisance **species** tree.
- h. "Nuisance **Species** Tree" is a tree of a species listed on the "Nuisance Plant List".
- i. "Protected Tree" is a tree that shall be retained and protected because of a condition of approval on a land use review, a tree plan, or because it is a Heritage Tree.
- j. "Private Tree" is a tree on property that is not owned or managed by the City. A tree that straddles a property line between private property and City-owned or –managed property is a Private Tree, shared by the City and adjacent property owner. A tree that straddles a private property line and the street is a Street Tree.
- k. "Street Tree" means any tree growing in or upon any city managed street. In some cases, property lines lie several feet behind the sidewalk or edge of road pavement. Where a street is not fully improved with curbs or sidewalks but is paved, a tree may be considered a Street Tree if it is located within 15 feet of the edge of pavement, unless a survey by a licensed surveyor or property boundaries can clearly establish otherwise. For completely unimproved streets, the actual property line will be used to demarcate between Private Trees and Street Trees. A tree that straddles a private property line and the street is a Street Tree.
- l. "Tree" means a perennial, woody stemmed plant that typically supports a distinct crown of foliage and typically reaches a mature

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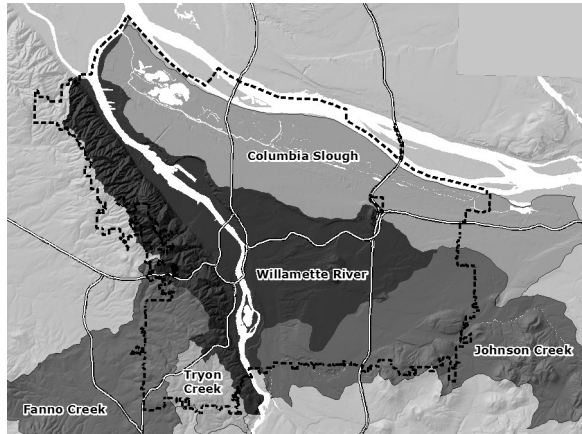
height of at least 16 feet and excludes plants listed as shrubs or herbaceous plants in the Tree and Landscaping Manual published by the Bureau of Development Services or the Portland Plant List.

- m.** "Tree Grove" is a group of six or more native trees at least 12 inches in diameter, or Oregon white oak trees or Pacific madrone trees that are at least 6 inches in diameter and that form a generally continuous canopy, or are spaced as appropriate for that species or species assemblage. Groves are generally non-linear. Other trees and understory vegetation located within the grove are considered part of the grove and are counted as part of the canopy area. A tree grove may be identified by a qualified professional, such as an arborist or environmental scientist, based on the types, configuration, or functions of a grouping of trees. Functions include structural support and wind protection for the trees within the grove, microclimate and shade, and habitat such as nesting, foraging, and cover for birds and other wildlife.
- 37.** "Utility" is a public utility, business, or organization that supplies energy, gas, heat, steam, water, communications, or other services through or associated with telephone lines, cable service and other telecommunications, sewage disposal and treatment, and other operations for public service. It does not include transportation service, railroad operations, or service otherwise licensed under City Code
- 38.** "Watershed" means one of the areas as shown in Figure 80-1 and further defined by the Bureau of Environmental Services. For the purposes of establishing planting within a specific watershed as part of this Title, watersheds end at the City limits and the following also apply:

 - a.** Columbia Slough – sites on Hayden Island are included in this watershed
 - b.** Willamette River – sites in Northwest Portland that are west of the Willamette River watershed are included in this watershed
 - c.** Fanno Creek/Tryon Creek – these two watersheds are managed as a single watershed unit
 - d.** Johnson Creek – all sites within the Johnson Creek watershed

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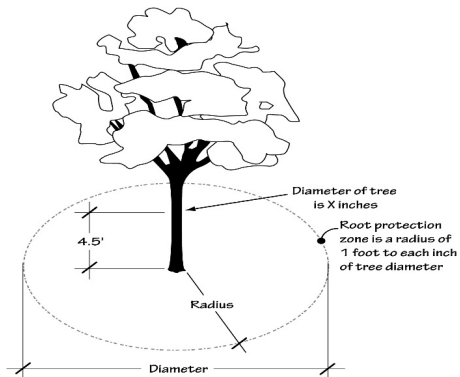
**Figure 80-1
Watershed Boundaries**



- C. Measurements. For the purposes of establishing distances and other types of required measurements, the following methods are applied.
1. Root Protection Zone (Prescriptive Path). To determine the required root protection zone, measure the size of the tree to be protected. For each diameter inch of the tree, measure one foot away from the tree to establish the radius of the circle surrounding the tree. Each 1 inch diameter of tree requires 1 foot radius for the root protection zone. See Figure 80-2.

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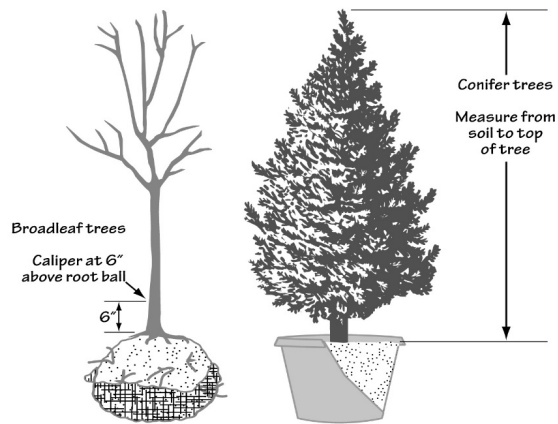
**Figure 80-2
Root Protection Zone**



2. Tree Location. A tree's location for purposes of establishing the applicable requirements of this Title is determined by the trunk at the point where it meets the ground. Surface roots extending from the trunk are not used to determine the tree's location.
3. Measuring Tree Size
 - a. New trees. New trees are measured in caliper inches, which is the diameter of the trunk 6 inches above the soil or root ball for bare root trees. For coniferous trees, tree height is used. See Figure 80-3.

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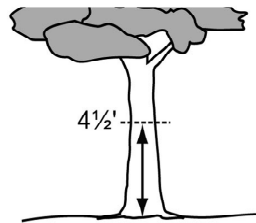
**Figure 80-3
Measuring Tree Size for New Trees**



b. Existing trees.

- (1) Existing trees are generally measured in terms of diameter inches at a height of 4-1/2 feet above the ground. See Figure 80-4. The diameter may be determined by measuring the circumference of the tree trunk and dividing by 3.14.

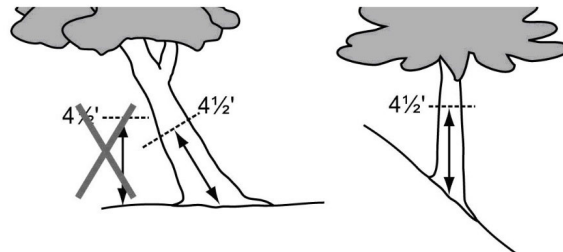
**Figure 80-4
Measuring Tree Size for Existing Trees**



- (2) When the trunk is at an angle or is on a slope, the trunk is measured at right angles to the trunk 4.5 feet along the center of the trunk axis, so the height is the average of the shortest and the longest sides of the trunk; see Figure 80-5.

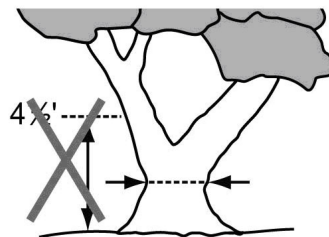
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**Figure 80-5
Measuring Existing Trees with an Angle or on Slopes**



- (3) When the trunk branches or splits less than 4.5 feet from the ground, measure the smallest circumference below the lowest branch. See Figure 80-6.

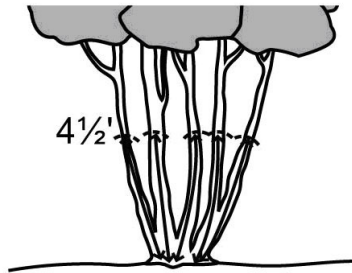
**Figure 80-6
Measuring Split Trunk Tree**



- (4) For multi-stemmed trees, the size is determined by measuring all the trunks, and then adding the total diameter of the largest trunk to one-half the diameter of each additional trunk (see Figure 80-7). A multi-stemmed tree has trunks that are connected above the ground and does not include individual trees growing close together or from a common root stock that do not have trunks connected above the ground.

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**Figure 80-7
Measuring Multi-stemmed Trees**



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