

## **ENN-7.02 - Inspection and certification of landscaping required by Titles 24 and 33 of the Portland City Code**

### **INSPECTION AND CERTIFICATION OF LANDSCAPING REQUIRED BY TITLES 24 AND 33 OF THE PORTLAND CITY CODE**

*Administrative Rule Adopted by Bureau of Development Services*

ARB-ENN-7.02

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Relating to Certification of Required Landscaping

For Information Contact (503) ) 823 4989

Effective September 1, 2004

**TOPIC:** Inspection and certification of landscaping required by Titles 24 and 33 of the Portland City Code

**AUTHORITY:**

Under Section 3.30.010 of Title 3, Bureau of Development Services is responsible for administering and enforcing the provisions of several of the City's development codes, including Title 24 (Building Regulations) and Title 33 (Planning and Zoning). In addition, the Director of BDS is responsible for inspecting sites for compliance with applicable code provisions and laws.

Under Section 3.30.040 of Title 3, the Director of the Bureau of Development Services (BDS) has the authority to adopt rules and supplemental regulations regarding the codes that BDS enforces. Such rules shall apply to all permitted development activity. Furthermore such rules must be found to be in conformance with the intent and purpose of the titles being enforced.

**CITATIONS:**

Some portions of the cited code sections do not apply to this rule. Paragraphs that do not apply are noted below.

#### **3.30.010 Duties of the Bureau of Development Services.**

The Bureau of Development Services shall be responsible for:

**A.** The administration and enforcement of:

1. (Not applicable.)
2. Building Regulations, Title 24.
- 3 through 9. (Not applicable.)
10. Other regulations enacted by the State of Oregon and adopted by the City Council and assigned to the Bureau.

**B.** The application and enforcement of the provisions of Planning and Zoning Regulations, Title 33 and Subdivision Regulations, Title 34, as delegated by the Director of Planning.

**C.** The examination and checking of applications, plans, specifications and supporting documentation required as a prerequisite to the approval of land use actions and permits for development.

**D.** (Not applicable.)

**E.** The issuance of approvals and permits required for the construction, installation, repair, or alteration of land, buildings or equipment.

**F.** The inspection of sites, buildings or other structures and equipment for compliance with plans and specifications and with applicable Code provisions and laws; and

**G.** (Not applicable.)

#### **3.30.040 Establishment of Enforcement Priorities and Remedies.**

In order to carry out the duties as set forth in Section 3.30.010, the Director of the Bureau of Development Services may:

**A.** Adopt written policies and procedures for the enforcement of applicable Code provisions and laws and establish enforcement priorities based on the number of budgeted enforcement personnel, public safety and welfare factors, and any priorities established by the City Council.

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### **PERMANENT RULE:**

#### **Applicability of Rule**

The provisions of this rule apply to "required landscaping," which is all landscaping installations and tree preservation required by conditions of approval of land use reviews or by the Portland City Code as administered by the Bureau of Development Services.

The requirement to install "required landscaping" or to preserve specified trees in accordance with the approved plans has not changed. Whether Self Certifying or using a Third Party Certifier, the property owner is responsible for ensuring that the landscaping is actually installed and trees preserved as approved, including any irrigation systems or other required elements. If

required landscaping is not installed as per the approved plans or if final inspections are not completed, BDS may pursue compliance activities.

### Landscaping Certification Program

• **Self Certification:** Allows property owners to certify that landscaping was installed or trees preserved according to the approved plans, and applies to most residential and some commercial projects.

• **Third Party Certification:** Allows a Third Party (a "landscape certifier") to certify most commercial and some larger or more sensitive residential landscape installations. The Third Party will certify that landscaping was installed in accordance with the approved plans.

This program applies to work performed under Residential (RS), Site Development (SD), and Commercial (CO) permits. BDS will continue to inspect landscaping performed under Zoning (ZP) permits and some SD permits.

### Requirements for Third Party Certification and Self Certification

BDS will determine the applicable requirement by the time that the permit is issued. The applicant will receive a copy of the Landscape Certification form. In addition, the form is available online at [www.bds.ci.portland.or.us](http://www.bds.ci.portland.or.us), or in the Development Services Center at 1900 SW 4th Avenue, Portland, Oregon, 97201.

The applicable requirement will be determined in accordance with Table 1 "What type of inspection is required?"

Permit Type	CO: Commercial SD: Site Development RS: 1&2 Family Residential ZP: Zoning	What type of inspection is required?		
		Self Certification	Third Party Certification	BDS Inspection
Eight or fewer individual trees planted or preserved, and 5,000 square feet or less of landscaped area (includes environmental zone plantings)		CO, RS		SD, ZP
Any other required landscaping performed where a Third Party Certification is not required		CO, RS		SD, ZP
More than 8 individual trees planted or preserved, or more than 5,000 square feet of landscaped area (includes environmental zone plantings)			CO, SD, RS	ZP
Required landscaping in all tracts in common ownership			CO, SD, RS	ZP
Wet pond, dry pond, and vegetated infiltration strips and basins			CO, SD, RS	ZP
When Third Party Certifications are specified by the conditions of land use approval			CO, SD, RS	ZP

BDS will continue to inspect landscaping work done under Site Development Permits that do not require Third Party Certification

BDS will continue to inspect landscaping work done under Zoning Permits

### Persons Qualified to Perform a Third Party Certification

In most circumstances, the designer working on the project must certify that the landscaping was installed in accordance with the approved plans. All registered landscape architects and landscape contractors are qualified to provide a Third Party certification.

The State of Oregon registers these professions.

Some landscape installations involve only trees (whether planted or preserved). In these situations, a Certified Arborist (by the International Society of Arboriculture) or a Registered Consulting Arborist (by the American Society of Consulting Arborists) is qualified to certify the installation of trees in accordance with the approved plans.

Some situations require specialized plantings, such as in environmental zones. BDS will accept certifications by individuals with bachelor's or higher degrees in the following fields where the training is closely related to the situation being certified.

- Botany
- Environmental Science
- Horticulture
- Forestry/Silviculture
- Ecology and Related Fields

The City of Portland does not in any way guarantee the performance of Landscape Certifiers.

### **Recording the Landscape Certification**

The "Landscape Certification Form" is available at the Development Services Center at 1900 SW 4th Avenue in Portland, or online at [www.bds.ci.portland.or.us](http://www.bds.ci.portland.or.us).

#### Self Certification

When the landscape installation is done, a completed Landscape Certification Form and at least one photograph of the landscaping must be submitted to the BDS Site Development Section, 1900 SW Fourth Avenue, Suite 5000, Portland OR, 97201. The site address and permit number must be included on the form for BDS to properly record your information. The photograph may be either electronic (JPEG format required) or hard copy.

#### Third Party Certification

The landscape certifier must submit a completed Landscape Certification form and at least one photograph of the landscaping to the BDS Site Development Section, 1900 SW Fourth Avenue, Suite 5000, Portland OR, 97201. The landscape certifier must include the site address and permit number on the form for BDS to properly record the information. The photograph may be either electronic (JPEG format required) or hard copy.

### **Substitutions**

Occasionally plant substitutions may be necessary because of limited availability. Any substitutions must be noted on the approved plans. All changes must be within the limits allowed by the City Code. All substitutions must be attached to the approved plans and submitted with the completed Landscape Certification form.

### **Finaling the Building Permit**

When the "required landscaping" installation is complete, submit the Landscape Certification form and site photograph, and call for the Erosion Control Permanent Measures inspection (IVR #210). The landscape certification must be completed and submitted before the Erosion Control Permanent Measures inspection (IVR #210) can be approved.

The Landscape Certification form and site photograph must be submitted to BDS, and all other permit approvals obtained, before the building permit can be finalized and before the final Certificate of Occupancy can be issued (when the Certificate of Occupancy is applicable).

### **Delaying the Installation of Landscaping after the Building is Finished**

If landscaping installation must be delayed for seasonal reasons, the landscape installation may be deferred for up to six (6) months following construction.

To delay landscape installation, the property owner or Third Party certifier must submit a written request including the date that the landscaping is expected to be complete to: BDS Site Development Section, Suite 5000, 1900 SW 4th Avenue, Portland, OR 97201. If a Certificate of Occupancy applies to the project (for CO permits), the property owner or developer must also submit a written request for a temporary Certificate of Occupancy in order to occupy the building before the landscaping is completed. The temporary Certificate of Occupancy can be requested from the BDS Inspections Division.

When the landscape installation is complete, the owner or developer may submit the Landscape Certification form and site photograph, and call for the Erosion Control Permanent Measures inspection (IVR #210).

### **Enforcement**

The goal for the Landscape Certification program is to ensure that the landscaping is installed in accordance with the approved plans.

The property owner is responsible for ensuring that the landscaping is installed in accordance with the approved plans. Errors or omissions by a Self Certifier or by a Third Party Certifier do not excuse the property owner from the requirement to install the landscaping in accordance with the approved plans.

If a false or incorrect Landscape Certification form is submitted, BDS will take one or more of the following steps to seek correction of the situation:

- The Site Development Section may withhold final approval of the site work until the landscaping has been installed correctly and verified.
  - Where applicable, the issuance of the Certificate of Occupancy may be delayed.
  - If necessary, the case may be referred to the Compliance Services Section of BDS to carry out code enforcement activities, which may result in fines being assessed.
  - If a Third Party Certifier has submitted a false or incorrect Landscape Certification form, BDS may notify any regulatory or certification body with which the certifier is registered.
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#### **HISTORY**

Effective September 1, 2004

Filed for inclusion in PPD September 29, 2004.