

33.630 Tree Preservation

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33.630.010 Purpose

The land division process provides the flexibility and opportunity to promote creative site design that considers multiple objectives, including integration of trees. The regulations of this chapter require that trees be considered early in the design process with the goal of preserving high value trees and mitigating for the loss of trees. Desired benefits of trees include:

- Protecting public health through the absorption of air pollutants, contamination, and capturing carbon dioxide;
- Buffering from noise, wind, and storms;
- Providing visual screening and summer cooling;
- Reducing energy demand and urban heat island impacts;
- Filtering stormwater and reducing stormwater runoff;
- Reducing erosion, siltation, and flooding;
- Stabilizing slopes;
- Enhancing property values;
- Providing fish and wildlife habitat, including support for native species biodiversity through the preservation and planting of native trees;
- Providing food for people and wildlife; and
- Contributing to the beauty of the City, its natural heritage, and the character of its neighborhoods.

33.630.020 Where These Regulations Apply

- A.** Generally. The regulations of this chapter apply to all proposals for land divisions on sites outside the Central City plan district that have at least one tree that is at least 6 inches in diameter, except where all trees on the site are exempt under 33.630.030. Where a tree trunk is partially on the land division site, it is considered part of the site.
- B.** Sites in C, E, I, and CI zones where all of the proposed lots are currently developed with commercial, employment, industrial, or institutional development may defer tree preservation review to the time of any future development or redevelopment of the site. Sites that use this option are subject to the standards of Title 11, Trees at the time of development. Sites in the IH, IG1, EX, and CX zones are not eligible to use this provision.

- C. Proposals to divide sites that are partially within an environmental overlay zone or the Pleasant Valley Natural Resources overlay zone and include a concurrent environmental review or Pleasant Valley Resource review are not subject to the tree preservation standards of Section 33.630.100. However, the tree preservation approval criteria in 33.630.200 apply to these proposals.

33.630.030 Exempt From These Regulations

The following trees are exempt from the regulations of this chapter:

- A. Trees that are on the Nuisance Plants List;
- B. Trees that are less than 6 inches in diameter;
- C. Trees that are dead, dying, or dangerous as determined by an arborist. The review body may require additional analysis or documentation to confirm the condition of the tree;
- D. Trees where the trunk is within 10 feet of an existing building that will remain on the site;
- E. Trees where the trunk is located completely or partially within an existing right-of-way that is not part of the land division site;
- F. Trees where the trunk is located completely or partially within Environmental or Pleasant Valley Natural Resources Overlay zones. Those trees are instead subject to the regulations of Chapter 33.430, Environmental Zones, or 33.465, Pleasant Valley Natural Resources Overlay Zones.

33.630.100 Minimum Tree Preservation Standards

- A. **The applicant must show how existing trees will be preserved.** The options listed below represent minimum tree preservation standards. Additional tree preservation may be required to meet the approval criteria of Section 33.630.200. The total tree diameter on the site is the total diameter of all trees completely or partially on the site, minus the diameter of trees that are listed in Section 33.630.030, Trees exempt from these regulations. The applicant must choose one of the following options:
 1. Option 1: Preserve all of the trees that are 20 or more inches in diameter and at least 20 percent of the total tree diameter on the site;
 2. Option 2: Preserve at least 75 percent of the trees that are 20 or more inches in diameter and at least 25 percent of the total tree diameter on the site;
 3. Option 3: Preserve at least 50 percent of the trees that are 20 or more inches in diameter and at least 30 percent of the total tree diameter on the site;
 4. Option 4: Where all trees are less than 20 inches in diameter, preserve at least 35 percent of the total tree diameter on the site;
 5. Option 5: If one or more tree groves are located completely or partially on the site, preserve all of the grove trees located on the site and at least 20 percent of the total tree diameter or canopy area on the site; or
 6. Option 6: If the site is larger than one acre, preserve at least 35 percent of the total tree canopy area on the site.

- B. Heritage Trees.** Heritage Trees located on the land division site may be counted toward meeting preservation standards. Heritage Trees must be preserved unless removal has been approved by the Urban Forestry Commission.
- C. Calculations.**
 - 1. Tree diameter and number of trees. When calculating the amount of tree diameter and the number of 20 inch diameter and larger trees on the site, the applicant may choose one of the following methods of measurement:
 - a. Tree inventory. A tree inventory identifies all trees on the site, specifying location, species, and diameter of each tree; or
 - b. Statistical sampling. Statistical sampling may be used to estimate the total tree diameter and total number of trees at least 20 inches in diameter present. Sampling must be carried out by a professional forester based on standard methodologies.
 - 2. Tree canopy. When calculating the amount of tree canopy on the site, the total canopy area must be based on the most recent aerial photograph available. The aerial photograph used must be no more than 5 years old. Other data such as LiDAR may be used to help in calculating tree canopy as appropriate.
- D. Location of preserved trees.** Trees may be preserved on lots, within tree preservation tracts, or within other privately managed tracts, such as flood hazard, recreation area or stream, spring, seep, and wetlands tracts. Proposed tree preservation within tracts that are to be managed by the City of Portland or a service district, must be approved by the City or service district.

33.630.200 Tree Preservation Approval Criteria

Applicants must demonstrate how the proposed tree plan will meet the following tree preservation criteria. In meeting these criteria, applicants may use options available in this and other chapters of this Title to modify development standards and minimum density in order to preserve trees.

- A.** To the extent practicable, trees proposed for preservation provide the greatest benefits as identified in the purpose of this chapter. In general, healthy, native or non-nuisance trees that are 20 or more inches in diameter and tree groves, are the highest priority for preservation. However, specific characteristics of the trees, site and surrounding area should be considered and may call for different priorities, such as native tree growth rates and priority tree sizes as described in the *Portland Plant List*, buffering natural resources, preventing erosion or slope destabilization and limiting impacts on adjacent sites;
- B.** Trees proposed for preservation are suitable based on their health, overall condition and potential for long-term viability, considering the anticipated impact of development and tolerance typical for the tree species;
- C.** Tree preservation is maximized to the extent practicable while allowing for reasonable development of the site, considering the following:

1. The specific development proposed;
 2. The uses and intensity of development expected in the zone and the area in which the site is located;
 3. Requirements to provide services to the site under Chapters 33.651 through 33.654, including street connectivity and street plan requirements. Options to limit impacts on trees while meeting these service requirements must be evaluated;
 4. Requirements to protect resources in Environmental, Pleasant Valley Natural Resources, or Greenway Natural, Water Quality, and River Environmental overlay zones. Protection of environmental resources and retention of benefits from trees should be maximized for the site as a whole; and
 5. Other site constraints that may conflict with tree preservation, such as small or oddly shaped sites or trees located in existing utility easements.
- D. Mitigation.** Where the minimum tree preservation standards of 33.630.100 can not be fully met, as determined by evaluating the above criteria, or when there is a concurrent Environmental Review and the minimum tree preservation standards do not apply, mitigation must be provided as needed to replace the functions of trees removed from the site. Options for mitigation may include preservation of smaller diameter or native trees, permanent preservation of trees within a tree preservation or environmental resource tract, tree planting, payment into the City's Tree Planting and Preservation Fund, or other options that are consistent with the purpose of this chapter.

33.630.400 Modifications That Will Better Meet Tree Preservation Requirements

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

In order to approve the modification, the review body must find that the modification will result in improved tree preservation, considering the tree preservation priorities for the site, and will, on balance, be consistent with the purpose of the regulation being modified.

B. Minimum Density.

1. In multi-dwelling zones, minimum density may be reduced to preserve trees as stated in Paragraph 33.120.205.C.3. This provision may be used to reduce minimum density during the land division process. Sites that reduce minimum density at the time of the land division are not eligible to further reduce minimum density at the time of development on the lots.
2. A reduction in minimum density in single-dwelling zones may be approved as part of the land division review. The reduction is done as part of the land division review and does not require an adjustment.

- a. Minimum density may be reduced by 20 percent or one lot, whichever is more, up to a maximum reduction of 4 lots. Reductions greater than those listed in this paragraph are prohibited.
- b. The review body will approve the reduction in minimum density if the following are met:
 - (1) The reduction in minimum density will result in improved tree preservation, considering the tree preservation priorities for the site; and
 - (2) The lot or lots where trees are proposed to be preserved are not large enough to be further divided under the current zoning. Trees proposed for preservation may be placed in a tree preservation tract to reduce lot sizes and provide better protection for the trees to be preserved.

33.630.500 Tree Preservation Credit

Trees that are preserved in a tree preservation tract that is outside of an Environmental or Pleasant Valley Natural Resources overlay zone may count toward meeting the tree density standards for individual lots in Chapter 11.50, Trees in Development Situations. If this option is chosen, at least one tree must be planted or preserved on each lot created for single-dwelling or duplex development. The preliminary plan must indicate the lots where the credit from the preserved trees will be used.

33.630.600 Recording Tree Preservation Plans and Related Conditions

Tree preservation plans approved as part of the preliminary plan and related conditions of approval must be recorded with the County Recorder. The documents must be approved by BDS prior to recording.

33.630.700 Relationship To Other Tree Regulations

Other tree regulations of this Title and other Titles may apply at the time of a land division and at the time of development.

(Added by: Ord. Nos. 175965 and 176333, effective 7/1/02. Amended by: Ord. No. 178657, effective 9/3/04; Ord. No. 179980, effective 4/22/06; Ord. No. 181357, effective 11/9/07; Ord. No. 182429, effective 1/16/09, effective 5/13/11; Ord. No. 184524, effective 7/1/11; Ord. No. 186053, effective 1/1/15; Ord. No. 187216, effective 7/24/15; Ord. No. 188259, effective 3/31/17; Ord. No. 188177, effective 5/24/18; Ord. No. 188958, effective 5/24/18).

