33.853 Tree Review

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33.853.010 Purpose

The tree review process evaluates whether mitigation proposed for tree removal is both appropriate and adequate, considering the purpose of the regulations that encourage tree preservation or limit removal. Tree review also evaluates whether changes to tree preservation plans or tree-related conditions of approval are appropriate, and determines the appropriate mitigation for trees lost due to violations of tree regulations. The review allows flexibility for unusual situations and allows for the purpose of the tree regulations to be met using creative or innovative methods.

33.853.020 When Review Is Required

Tree review is required in the following situations:

A. Scenic Overlay Zone, Johnson Creek Basin plan district, and Rocky Butte plan district. Trees that do not qualify for removal under the applicable overlay zone or plan district regulations listed below may be removed if approved through tree review:

1. The standards in the Scenic Overlay Zone in 33.480.040.B.2.g, Preservation of Trees;
2. The standards in the Johnson Creek Basin plan district in 33.537.125, Tree Removal Standards; or
3. The standards in the Rocky Butte plan district in Subsection 33.570.040.C, Tree Removal Standards.
4. Exception. Where the requested tree removal would also require environmental review, only environmental review is required.

B. Changing tree preservation requirements following land use approval.

1. Generally. Changes to tree preservation requirements approved as part of a land use decision, including changes to trees to be preserved, mitigation requirements, or other requirements stated in conditions of approval, may be approved through tree review.
2. Exceptions.
   a. If the tree preservation or mitigation was required as part of an environmental review, Pleasant Valley resource review or greenway review, changes are subject to the regulations of the relevant overlay zone chapter and exempt from the regulations of this chapter.

b. Requests to remove trees found by an arborist to be dead, dying, or dangerous do not require Tree Review if the condition of the tree is not the result of a violation. A Title 11 tree permit must be obtained and the tree must be replaced.

C. Violations.

1. Corrections to violations of tree protection and tree preservation requirements of this Title, or to violations of tree preservation requirements of a land use review, are reviewed through tree review, except as stated in paragraph C.2.

2. Exception. Corrections to violations of the environmental overlay zone, Pleasant Valley Natural Resources overlay zone, and the Greenway overlay zone, are not subject to Tree Review but are reviewed through the review procedures for those overlay zones.

33.853.030 Procedure

A. Scenic Overlay Zone, Johnson Creek Basin plan district and Rocky Butte plan district. Requests for Tree Review in the Scenic Overlay Zone, Johnson Creek Basin plan district or Rocky Butte plan district are processed through a Type II procedure.

B. Changing tree preservation requirements following land use approval. Requests to change tree preservation requirements of a land use review, or a tree-related condition of approval, are processed through a Type II procedure.

C. Violations. Corrections to violations of tree protection and tree preservation regulations of this Title, or violations of tree preservation requirements of a land use review are processed as follows:

1. Corrections to violations are processed through a Type II Review, except as stated in paragraph C.2.

2. If the original procedure for the review that approved the tree preservation requirement was a Type III procedure, and either C.2.a or b. applies, the violation is processed through a Type III Tree Review.

   a. The violation is for the removal of more than two trees that are 20 or more inches in diameter; or

   b. The violation is for the removal of more than two trees within a tree grove.

33.853.040 Approval Criteria

A. Trees in the Scenic Overlay Zone, Johnson Creek Basin plan district, or Rocky Butte plan district. A request to remove trees in the Scenic Overlay Zone, Johnson Creek Basin plan district, or Rocky Butte plan district will be approved if the review body finds that the applicant has shown that either criterion A.1 or A.2 is met and criterion A.3 is met:

1. The removal is necessary to allow for reasonable development of the site, including access to the site for construction, required parking, pedestrians, and utilities, and considering the allowed uses and characteristics of the area. Alternative locations and construction methods for structures, utilities and paved areas must be considered to

maximize preservation of trees, with emphasis on preservation of trees that are 20 or more inches in diameter and tree groves; or

2. For sites within the Scenic overlay zone or Rocky Butte plan district, the removal is to create or enhance a public view from public property or from a public right-of-way. Consultation with the City Forester is required; and

3. The proposal will continue to meet the purpose of the relevant tree preservation or removal standards. Replacement plantings within the Scenic overlay zone must consist of approved vegetation listed in the *Scenic Resources Protection Plan* appendix.

B. Changes to tree preservation requirements following land use approval. The approval criteria for changes to tree preservation or mitigation requirements are:

1. If the tree preservation requirement was approved as part of a land division or planned development, the requested change will be approved if the review body finds that the applicant has shown that the revised method will continue to meet the requirements of Chapter 33.630, Tree Preservation.

2. If the tree preservation requirement was approved through a land use review other than a land division or planned development, the requested change will be approved if the review body finds that the applicant has shown that the revised method continues to meet the approval criteria of the original review. Any impacts resulting from the requested change must be mitigated to the extent practicable.

C. Corrections to violations. For corrections to violations of tree protection and tree preservation regulations of this Title, or violations of tree preservation requirements of a land use review, the applicant must show the review body that all of the following approval criteria are met:

1. Mitigation plan;

   a. The applicant’s mitigation plan meets the purpose of the regulation that was violated. Where the violation is of a tree preservation requirement of a land use review, the mitigation plan meets the purpose of the regulation that required the preservation plan; and

   b. The mitigation plan includes replacement of trees cut, or the preservation and protection of additional trees on the site not originally proposed for preservation. If replacement of trees is proposed, the plan must at a minimum meet the requirements of Table 853-1. If additional trees on the site are proposed for preservation and protection, the applicant must submit an arborist's assessment indicating the suitability of the trees for preservation, recommendations for protection methods, and any remedial treatment that may be necessary to ensure the long term viability of the trees. The total diameter of additional trees preserved must exceed the total diameter of trees cut.

Table 853-1 Tree Replacement for Violations	
Size of tree removed (inches in diameter)	**Number of Trees to be Planted**
Up to 12	3 trees
More than 12 to up to 20	5 trees
More than 20 to up to 25	7 trees
More than 25 to up to 30	10 trees
More than 30	15 trees

2. Replacement trees must be planted as follows:

   a. On the site where the violation occurred;

   b. If it is not possible to plant the trees on the site where the violation occurred, then the trees may be planted on other property owned by the applicant within the City of Portland. This includes property owned by a Homeowners' Association to which the applicant belongs;

   c. If it is not possible to plant the trees as described in 2.a or b, then a payment in lieu of planting may be made to the Tree Planting and Preservation Fund.

3. Replacement trees must meet the requirements of Section 33.248.030, Plant Materials, unless the mitigation plan calls for different planting specifications to address concerns about plant survival or impacts on the site.

(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. 184524, effective 7/1/11; Ord. No. 186053, effective 1/1/15.)