

Title 11, Trees and Administrative Rule Table of Issues

Urban Forestry Commission, 4/21/2016

Item #	Topic	Description	Code Section	Source	Potential-Solution Category
Tree Preservation					
1	Tree Preservation and Protection when Minimal Ground Disturbance	Ex. Foundation stabilizing pin which is less than 12" ground disturbance. No exemption in code for minimal ground disturbance.	11.50	BDS Staff (This item MAY be handled completely or partially by RICAP 8)	Code clarification/Amendment
2	Tree Preservation and Protection when Private Trees are near ROW	If a tree is adjacent to the ROW – Can the area used to calculate the 25% encroachment allowance be in the ROW, or must it be on private property?	11.50	BDS Staff	Code Clarification-ROW/Encroachments
3	Tree Plans-Species Identification	T11 does not require that applicant identify species on their tree plans with arborist report. Should it? Especially to identify nuisance trees? Under current code, there is nothing to keep nuisance species trees from being preserved. They <i>may</i> be exempt but nowhere in the code does it say that they can't be preserved to meet preservation requirements.	11.50 11.60	BDS/UF Staff (This item MAY be handled completely or partially by RICAP 8)	Code Clarification/Amendment-Arborist Report
4	Tree Plans-Health Identification	T11 does not require that applicant identify health of tree on tree plans with arborist report. Should it? Especially to identify dead, dying, or dangerous trees? Under current code, there is nothing that prohibits dead, dying or nuisance species trees from being preserved. They <i>may</i> be exempt but nowhere in the code does it say that they can't be preserved to meet requirements.	11.50 11.60	BDS/UF Staff (This item MAY be handled completely or partially by RICAP 8)	Code Clarification/Amendment-Arborist Report/Tree health
5	Tree Preservation and Protection for Construction Staging	Require tree protection measures for construction staging in addition to ground disturbance	11.50 11.60	RICAP 8 (This item MAY be handled completely or partially by RICAP 8)	Code Clarification/Amendment
6	Title 33 Flexible Development Options to Encourage Tree Preservation	Add methods to provide incentives for tree preservation and flexible development options, such as reduced setbacks, where tree preservation is proposed. Potentially reduce SDCs or other fees.	33	3/30/16 Report to Council	Code Amendment-Protection
7	Tree Preservation and Mitigation in Development Situations	<p><u>Development situations</u> - Large trees – preservation and mitigation (replanting/fees) – revisit aspects of both the “interim” code changes adopted by City Council 2016, and Oct. 19, 2015 Administrative Rule.</p> <p>Consider mitigation requirements based on tree species and/or health of tree.</p> <p>Consider applying same standards to City/Street Trees as Private Trees</p> <p>Consider trigger for discretionary review (e.g., LUR, Title 11 review).</p> <p>Also, make it clear that mitigation is not preservation;</p> <p>Reconsider prohibition on removing large trees under certain circumstances.</p> <p>Revisit and confirm or refine code intent/purpose statements and provisions requiring compensation for loss of functions provided by trees</p> <p>Consider changing the standard to include a combination of number of trees and percent of inches.</p>	11.50.040	OAC 3/30/16 Report to Council	<p>Code Amendment/Admin Rules</p> <p>Uniform Standards</p> <p>Interaction w other Codes</p> <p>Protection</p> <p>Mitigation</p> <p>Standards</p> <p>Removal/Mitigation</p>

		<p>Reconsider allowing 2/3 of trees at least 12" dbh w/out mitigation.</p> <p>Review/refine: 1) graduated fee scale, 2) applicability to City Trees and Street Trees during CIP/PW projects (anticipating they may not be not be addressed in upcoming Council action), 3) level of discretion afforded the City Forester in determining mitigation requirements (reduced through Admin Rule).</p> <p>Consider how the Title 11 amendments work with Title 33 tree removal standards and replacement requirements in overlays and plan districts.</p> <p>Review tree fencing requirements and cost of fencing compared to fee in lieu of preservation – do they work together in support of tree preservation and protection?</p> <p>Reconsider/update fee-in-lieu amount</p>			<p>Mitigation Standards</p> <p>Interaction with Other codes</p> <p>Protection</p>
8	Development Impact Area Requirements	Consider requiring (rather than allowing) the Development Impact Area for certain sites based on size or existing tree density. Would improve tree preservation and planting on larger, heavily treed sites.	11.50	OAC	Code Amendment
9	Tree Preservation and Protection When Development is Far from Trees	<p>Ex. A. If development is on one side of a property, and a house (or other large barrier) is between the proposed development and tree to be preserved, is fencing really required, or can the house act as the protection fencing with notes on the site plan saying to NOT store materials w/in 20' of the tree? Would this technically fall under the performance path for tree protection and would an arborist report really be required? Can orange construction fencing be proposed in this situation?</p> <p>Ex. B Are we going to require that trees in the back yard be protected for projects that trigger preservation when the whole project is in the front yard (i.e. a driveway)?</p>	11.5011.50	BDS Staff (This item MAY be handled completely or partially by RICAP 8)	Code Clarification/Amendment
10	Tree Preservation and Performance Path Protection-Fencing Requirements	Performance path for root protection fencing. Should arborist reports be required to provide more information/justification as to why the standard fencing type cannot be used? Is due to site configuration. Are seeing submission of arborist reports to avoid the fencing requirement	11.60.030 C.2	BDS Staff	Code Clarification/Amendment/Procedural Clarification-Arborist Report
11	Tree Preservation and Protection when Private Trees are near Development Impact Area	The code does not say that the development impact area cannot contain the root protection zones of trees that are outside the development impact area. Development impact area can be drawn so it goes within five feet of a 25 inch tree that is outside the development impact area. There is no requirement to show or protect the 25 inch tree because it is outside the development impact area.	11.50	BDS Staff	Code Clarification-Protection/Encroachments
12	Tree Preservation Exemptions-General	Revisit exemptions from Tree Preservation standards, including for smaller lots, in zones that allow 100% building coverage, and have no landscaping requirements, and on for sites with existing or proposed building coverage >85%.	11.50.040	OAC	Code Amendment-Standards
13	Title 33 Amenity Bonus' in Multi-dwelling Zones	<p>Match maximum allowed amenity bonus for tree preservation to other bonus'. Generally, the amenity bonuses can be cobbled together to achieve a maximum bonus of 50% in density, but each individual item adds a maximum of 5-10% to the density. This normally means that one would need to put together several amenities to get a full 50% bonus.</p> <p>For the tree preservation bonus, a bonus density of 5% is achieved for each 12-inch caliper tree saved above the base T-11 requirements. There is no individual maximum to this amenity bonus, meaning that essentially saving 10 additional trees would allow someone to get a 50% amenity bonus. Should there be an upper limit of 10-15% so that this bonus still needs to be combined with other bonuses to achieve a 50% increase? In cases with existing development with some mature landscaping, the existing landscaping is essentially providing an opportunity to ramp up the density.</p> <p>Also, since so many of the other bonuses are intended to promote larger, more family friendly housing, the ability for the tree bonus to be used for the entire potential allotment also further degrades the effectiveness of the other bonuses. Or it may encourage people to take larger units and split them into smaller units exceeding the density, as long as they don't affect the existing landscaping.</p>	33.120.265	BPS Staff (This item MAY be handled completely or partially by RICAP 8)	Code Amendment

Planting and Mitigation Requirements					
14	Large Canopy and Evergreen Planting	Review barriers to and potential incentives for planting large canopy and evergreen trees. Provide better incentives or education for planting large canopy and evergreen trees in development and non-development situations, where appropriate.	11.40 11.50	3/30/16 Report to Council	Code Amendment-Mitigation/education/Admin Rule
15	Hardship Waiver Policy	Establish policy and criteria for waiving enforcement of tree replacement requirements due to hardship	11.70	OAC	Code Amendment/Policy Document
16	Tree Density Value Exemption	Revisit using nonconforming upgrade threshold exemption for tree density, including discrepancy between high value interior only and interior/exterior alterations and disconnect with tree preservation standards in some situations. Tree inspectors have reported situations where minor ground disturbance triggers tree preservation allowing site clearing. If project is less than nonconforming upgrade threshold, no planting is required	11.50.050	Staff	Code Amendment
17	Tree Density-Waivers for Special Circumstances	Ex.: School sites that are redeveloping with new playing fields do not have room to plant required trees. As a result they are required to pay large fees in lieu of planting (Franklin/Roosevelt). Should we include a waiver option for institutions or schools that include playing fields? Should we have a waiver option in general when there is not space to plant trees on site?	11.50	BDS Staff	Code Amendment
18	Tree Density when Additional Development Area is Proposed	If there's only room for so many trees, do you require a fully-planted site or mitigation when trees are being removed for a driveway?	11.50	UF Staff	Code Clarification/Amendment
19	Fee In-Lieu for Type B Permits	Revisit Administrative Rule standardized approach (i.e., \$1,200 fee) for removal of trees through the Type B permit. Allow more discretion to evaluate case-by-case? Graduated scale?	Admin Rule	OAC	Code Amendment/Admin Rule Standards
20	Tree Preservation Exemptions for Dead, Dying, Dangerous and Nuisance Trees	Revisit requirements for trees currently exempt from Tree Preservation Standards. Consider requiring mitigation for Dead, Dying, or Dangerous Trees, and Trees on PPL Nuisance Plants List. Consider new code section requiring replacement or mitigation for these trees <i>separate from the preservation standard</i> . Would establish more consistency between development and non-development situations (e.g., tree-for-tree replacement) for trees at least 12" dbh), however is not consistent with how most tree exemptions are treated in Title 33 (plan districts, land divisions). Consider Title 33 change to refer to Title 11 for replacement of exempt trees (similar to treatment of non-Nuisance, non-Native trees in the e-zone chapter. Would need to balance with development goals. Would partially address concerns raised during PPL update about the lack of mitigation for trees on the Nuisance Plants List.	11.50.040	Staff	Code Amendment-Mitigation Consistency between Code sections Mitigation
Tree Removal					
21	Tree Removal w/in 10 feet of Structure in Non-development Situations	Should we be allowing permitted removal of large healthy trees within ten ft of an attached structure for Type A permits?	11.40	(This item MAY be handled partially by RICAP 8, through definition of Structure)	Code Amendment-Removal/permitting clarification
22	Tree Removal on Sites that have both Type A and Type B permits	If multiple trees are being removed and some are B approval criteria and some are A approval criteria what criteria apply? Are all of the trees reviewed against the Type B standards? Or are the DDD etc. trees held against the Type A standards?	11.30	UF Staff	Code clarification
23	Tree Removal Type B Permits and Groves	The code does not provide enough flexibility to allow UF to asses tree removal for groves when some of the trees are large/healthy and others are small, DDD. Removing the small or DDD trees could comprise the larger trees so in some cases shouldn't be allowed to be removed.	11.40	UF Staff	Code Clarification/Amendment-Removal
24	Type A Tree Removal	Revisit code allowance for removal of one large healthy non-nuisance tree in residential zones, without opportunity for public appeal.	11.30 11.40	OAC	Code Amendment-Removal
25	Limit Tree Removal Where	Discourage unnecessary tree removal, such as restrictions on tree removal with only minor ground-disturbance and demolitions.	11.50	3/30/16 Report to	Code Amendment-

	not Necessary for Development Project	Look at limiting tree removal in situations where the development activity doesn't require it, or where there are potential loopholes. There are anecdotal reports from tree inspectors of applicants using development permits for minor ground disturbance to remove trees that aren't related to actual development activity. We have also seen land division applicants clearing sites with a demo permit and then applying for their land division to avoid tree preservation requirements.		Council	Removal/add restrictions
Consistency/interaction with other codes					
26	Enforcement Authority	Allow liens to be placed on property when violation not resolved		UF Staff (This item MAY be handled completely or partially by RICAP 8)	Code Amendment-Enforcement
27	Title 33 Land Divisions-Tree Protection on Adjacent Sites	According to 33.630, can you require an applicant to protect a tree on an adjacent site located close to the property line during a land division?	33.630	BDS Staff	Code Clarification/Amendment
28	Title 33 Non-conforming Upgrades and Tree Density	Nonconforming Upgrades are triggering updates to the Tree Density AND the base zone tree density requirements. Can they double dip (base zone count toward Nonconforming Upgrades)?	33.258	BDS Staff	Code Clarification
29	Title 33 Landscaping Requirements and Tree Density	When using existing trees to meet Tree Density, but then also needing to plant bushes around trees to meet landscaping requirements - code says this is ground disturbance and the trees require protection. Sometimes not feasible to fence a tree and then plant surrounding bushes in the same area.	11.50	BDS Staff	Code Clarification/Procedural Clarification
30	Title 33 Landscaping Standards and Tree Removal Permits	Non-development section of the code does not reference replanting requirements in the zoning code for plan districts, overlay zones or parking lots. As such a UF removal permit could push applicants out of planting requirements in the 33.200s (buffer zones, parking lots, plan districts such as airport plan district which has spacing/species requirements.)	11.30 11.40 33.200s 33.400s 33.500s	BDS Staff	Code clarification/Amendment -Interaction w/ other Codes/zoning
31	Conflict between ADA projects and Tree Preservation in ROW	Question: Legally mandated PBOT projects often conflict with street tree retention. These include the construction of new curbs and sidewalks as well as ADA ramps where curbs and sidewalks already exist. Under Section 17.08.010 A.1, PBOT is responsible for improvements in the public right-of-way. In addition, Section 17.06.050 A does not authorize the review of tree-related issues by the Public Works Administrative Appeal Panel (PWAA). Additionally, Section 11.05.050.B.1, in relevant part, states that when there is a conflict between regulations, then (a) the more restrictive governs; or (b) when both codes are equally restrictive, then the more recently adopted requirement applies. Conflicts arise between public works projects and street tree retention requirements often enough that a process must be developed to resolve such conflicts. Answer: The administrative rule allows the City Engineer to cause a tree to be removed when the tree is causing a safety hazard to the traveling public. Neither the tree code nor administrative rule provide guidance on how to resolve tree preservation conflicts for construction of street improvements. This issues should be addressed if and when a tree code amendment package is proposed.	11.05.050.B.1 17.06.050.A 17.08.010 A.1	3/21/16 BDS/UF Memo to PBOT in Response to PBOT Question	
Technical or overarching items					
32	Life of Tree Plan	If the site is subject to the same tree plan through the development process, how long is the site tied to that tree plan?	11.50.020	BDS Staff	Code Clarification/Amendment/Procedural Clarification
33	Definition of Tree	Need Definition of Tree	11.80	UF Staff (This item MAY be	Code Clarification/Amendment

				handled completely or partially by RICAP 8)	ent
34	Definition of Building	Need Definition of Building	11.80	UF Staff (This item MAY be handled completely or partially by RICAP 8)	Code Clarification/Amendment
35	Definition of Attached Structure	Need Definition of Attached Structure Is an awning/covering over concrete an attached structure?	11.80	UF Staff (This item MAY be handled completely or partially by RICAP 8)	Code Clarification/Amendment
36	Definition of Ground Disturbance	Need definition of Ground Disturbance. Especially as it relates to the trigger for tree preservation and protection.	11.80		Code Clarification/Amendment
37	Trees on Property Lines	Revisit how to address trees straddling lot lines.		OAC, Staff	Code Clarification
38	Tree Density and Tree Canopy Calculations	Where should applicants be getting their information to calculate 'tree canopy density' when the tree is not listed on the Tree & Landscaping Manual?		UF Staff	Code Clarification/Procedural Clarification
39	Tree Removal w/in 10 feet of Structure in Non-development Situations	What constitutes the "base of the trunk" when measuring the distance to a building/attached structure?	11.40	UF Staff	Code Clarification Procedural Clarification definition
40	Tree Preservation and Protection-Root Protection Zone Encroachments	Clarify elements of 25% area/50% distance allowed encroachments	11.60	RICAP 8 (This item MAY be handled completely or partially by RICAP 8)	Code Clarification
41	Definition of Development	Is a trade permit considered a development permit by state law? If so, are permits for water or sewer connections that include ground disturbance subject to tree preservation? (Note: trade permits are not considered development permits, but does this warrant an explicit code clarification?)	11.50	BDS Staff	Code Clarification/Amendment
42	Reference	Correct reference to tree density requirements for development impact areas.	11.50	RICAP 8 (This item MAY be handled completely or partially by RICAP 8)	Code clarification
Administrative Rule					
43	Type A and Type B Disconnect on Tree Replacement Requirements	<u>Non-development situations</u> – Rectify Type A and B tree removal permit policy-disconnect created by the Administrative Rule. For Type B (discretionary) permits, the rule requires waiver of tree replacement when sites meet Title 11 Tree Density standards. Type A permits, which are streamlined/non-discretionary permits would still require tree-for-tree replacement regardless of how many trees are on the site. Also review waiver provision relating to sites that meet tree density in 11.40.060 C 1 pg 43)	11.40	OAC	Code Amendment/Admin Rule
44	Administrative Rule Procedural Issues	Should the Tree Code provide an administrative rule process for Urban Forestry which does not have an admin rule process defined elsewhere?	11.10 Admin Rule	BDS Staff	Administrative Rule
45	Administrative Rule-General	Review and revise as needed the recently-filed Administrative Rule governing replanting requirements in certain situations for consistency with Title 11, citywide tree canopy impacts and clarity of intention and administration.	Admin Rule	3/30/16 Report to Council, UF Staff	Admin Rule