



**City of
Portland, Oregon**
Bureau of Development Services
FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-6983
TTY: (503) 823-6868
www.portlandoregon.gov/bds

PROPOSED AMENDMENTS
Title 11, Trees. Chapter 11.50, Trees in Development Situations

Due to recent public concern about large trees being removed in development situations in Portland, BDS proposes to amend Title 11, Trees, to strengthen regulations pertaining to tree preservation, especially preservation of large trees, on private property in development situations.

Timeline/Process

Planning and Sustainability Commission Hearing

Tuesday January 12, 2016
12:30 pm hearing start, time for particular agenda item TBD
1900 SW 4th Avenue, 2500

Urban Forestry Commission

Thursday January 21, 2016
Time TBD
Location TBD

City Council

TBD

Both the Planning and Sustainability Commission and Urban Forestry Commission will hear the same proposal and make their own recommendations to City Council for their consideration and action.

The notice of Planning and Sustainability Commission hearing and link to full report and recommendation is under "Featured Items" on the BDS website, www.portlandoregon.gov/bds.

Proposed Amendments

The proposed amendments are summarized as follows:

- 1. Amend the general tree preservation mitigation requirement that applies to 1/3 of the non-exempt trees on the site over 12 inches in diameter. The mitigation requirement is proposed to be more responsive to the size of the tree not designated to be preserved and protected. The amendment includes tiers of tree sizes and corresponding mitigation, expressed in the number of replacement trees required. (11.50.040.C.1.a)**
 - Changes the fee-in-lieu requirement for trees required to be preserved and protected that are removed.
 - Moves from a fee based on 2 replacement trees (\$1,200) regardless of tree size, to a graduated or tiered replacement schedule, summarized on next page.

Size of Tree Removed (inches in diameter)	Current Code		Proposed Amendments	
	Number of 2-inch Replacement Trees	Corresponding Fee In-Lieu of Preservation	Number of 2-inch Replacement Trees	Corresponding Fee In-Lieu of Preservation
At least 12 and less than 20	2	\$1,200	2	\$1,200
At least 20 and less than 35	2	\$1,200	4	\$2,400
At least 35 and less than 50	2	\$1,200	6	\$3,600
At least 50 or more	2	\$1,200	10	\$6,000

2. Require mitigation for all non-exempt trees 50 inches and larger on the site that are not designated to be preserved and protected. (11.50.040.C.1.b)

- All non-exempt trees 50” or larger required to be preserved and protected, even if they are not required to be part of the 1/3 general preservation standard. (Preservation of these trees may also be used to meet the 1/3 general standard).
- Alternately may pay a fee-in-lieu equal to 10 replacement trees (currently \$6,000).
- As proposed, this does NOT apply to trees in the right-of-way or trees on city-owned or managed property.

3. Add a notification requirement prior to development permit issuance when non-exempt trees 50 inches or greater are not designated to be preserved and protected. (11.50.040.C.1.b(3))

- Notice required to be posted on-site for 14 days, with “self certification” of posting submitted by applicant to BDS. No mailed or e-mail notice currently proposed.
- Notice is for informational purposes only, no opportunity for public comment or appeal.

4. Clarify that trees on private property that are impacted by a capital improvement project are regulated the same as a City or Street Tree, not as a Private Tree. (11.50.040.C.1.c)

- Clarifies that trees that are affected by a CIP in the right-of-way or on city-owned or managed property, but located on private property, are treated as the same as a tree in the right-of-way or on city-owned or managed property.
- In this way, it clarifies that the trees on private property impacted by a CIP are not subject different permitting requirements or mitigation standards than those in the right-of-way or on city-owned or managed property.

Summary of Proposed Draft

Title 11 Amendments to Chapter 11.50

Trees in Development Situations

PROPOSED CODE LANGUAGE

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.

11.50.010 Purpose. [No Changes Proposed]

11.50.020 When a Tree Plan is Required. [No Changes Proposed]

11.50.030 Development Impact Area Option For Large Sites and Streets. [No Changes Proposed]

11.50.040 Tree Preservation Standards.

A. Where these regulations apply.

- 1.** Except when exempted by Subsection B., below, this Section applies to trees within the City of Portland and trees on sites within the County Urban Pocket Areas in the following situations:
 - a.** On sites. Development activities with ground disturbance where there are Private Trees 12 or more inches in diameter and/or City Trees 6 or more inches in diameter and the site:
 - (1)** is 5,000 square feet or larger in area; and
 - (2)** has existing or proposed building coverage less than 85 percent.
 - b.** In streets. Development activities with ground disturbance where there are Street Trees 3 or more inches in diameter.

Summary of Proposed Draft

Title 11 Amendments to Chapter 11.50
Trees in Development Situations

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. On portions of sites located within an IH, IG1, EX, CX, CS, or CM zone.
 2. 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.
 3. Trees exempted from this standard by a land use decision.
 4. 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.
- C.** Tree Preservation Requirement. Any trees preserved shall be protected in accordance with the specifications in Section 11.60.030.
1. Private Trees.
 - a. General tree preservation.
 - (1) Retention. An applicant shall preserve and protect at least 1/3 of the trees 12 inches and larger in diameter located completely or partially on the development site. 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*), 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 removed below the 1/3 requirement, payment to the Tree Planting and Preservation Fund is required equivalent to the cost of the number of two-

inch diameter replacement trees shown in Table 50-1. 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 proposed for removal as allowed by 11.50.040.C.1.a(1) above, the number of replacement trees required for removal of trees below the 1/3 requirement is based on the largest tree or trees proposed for removal. See Section 11.15.010.

Table 50-1
Number of Required Mitigation Replacement Trees

<u>Size of Tree Removed</u> <u>(inches in diameter)</u>	<u>Number of Replacement</u> <u>Trees</u>
<u>At least 12 and less than 20</u>	<u>2</u>
<u>At least 20 and less than 35</u>	<u>4</u>
<u>At least 35 and less than 50</u>	<u>6</u>
<u>At least 50 or more</u>	<u>10</u>

b. Preservation of trees 50 inches or greater.

- (1) Retention. All trees 50 or more inches in diameter must be preserved unless mitigation and notice occurs per 11.50.040.C.1.b(2) and (3), below. Preservation of these trees may also be used to meet the retention standards for general tree preservation in 11.50.040.C.1.a(1), above.
- (2) Mitigation. If a tree 50 or more inches in diameter is removed, payment into the Tree Planting and Preservation Fund is required equivalent to the cost of 10 two-inch diameter replacement trees. The payment is calculated using the per-inch Restoration Fee for Tree Removal in the adopted Portland Parks and Recreation Fee Schedule for Title 11. See Section 11.15.010. Mitigation of these trees may also be used to meet the mitigation standards for general tree preservation in 11.50.040.C.1.a(2), above.
- (3) Notice. If a tree 50 or more inches in diameter is proposed for removal, the property owner or the property owner's designee must post a notice on the site. The posted notice is for notification purposes only. The notice does not provide

Summary of Proposed Draft

Title 11 Amendments to Chapter 11.50
Trees in Development Situations

opportunity for public comment on the proposal or for appeal of the proposal. The property owner or the property owner's designee must provide a signed certification to the Bureau of Development Services that the notice was posted on the site as part of the development permit review process. The development permit may not be issued until the business day following the day the notification period is completed. The notice must:

- Be posted on the site for at least 14 calendar days,
 - Be posted within 10 feet of the street lot line nearest the tree; the notice may not be posted in the public right of way,
 - Include the date of posting and the date of the end of the notification period,
 - Include a site plan at least 8.5 x 11 inches in size showing the location and description of the tree(s) to be removed including the diameter inch size(s), and
 - Contact information for the property owner or the property owner's representative.
- c. 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 per 11.50.040.C.2, below.

2. City and Street Trees.

- 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.

Summary of Proposed Draft

Title 11 Amendments to Chapter 11.50

Trees in Development Situations

- (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.

11.50.050 On-Site Tree Density Standards. [No Changes Proposed]

11.50.060 Street Tree Planting Standards. [No Changes Proposed]

11.50.070 Tree Plan Submittal Requirements. [No Changes Proposed]

11.50.080 Changes to Approved Tree Plans and Emergency Tree Removal. [No Changes Proposed]

Summary of Proposed Draft

Title 11 Amendments to Chapter 11.50
Trees in Development Situations