



MEMORANDUM

TO: Mike Abbaté, PP&R Director

FROM: Jenn Cairo, City Forester

DATE: 10/6/2015

RE: Mitigating the removal of large trees in development situations

INTRODUCTION

In the wake of recent public attention to large trees being removed in the Eastmoreland and Clinton neighborhoods, Urban Forestry proposes to strengthen the Tree Code's protection of the urban canopy by recommending a code amendment requiring inch-per-inch mitigation for the removal of all healthy trees measuring 48" in diameter or greater.

Stakeholders, including the Bureau of Planning and Sustainability (BPS), the Urban Forestry Commission (UFC), and the Tree Code Oversight Advisory Committee (OAC), as well as numerous citizens, have clearly expressed the need for mitigation requirements to be proportional to the canopy benefits lost. They have also expressed that the City should be held to a higher standard than the public.

Larger trees provide more canopy benefits, so more trees are required to replace the lost ecological value when a large tree is removed. For an example of the benefits large trees provide over smaller trees, see the US Forest Service Center for Urban Forest Research publication "The Large Tree Argument" at

http://www.fs.fed.us/psw/programs/uesd/uep/products/cufr_511_large_tree_argument.pdf.

Urban Forestry proposes applying the following code language changes to the removal of all healthy trees measuring 48" in diameter or greater during development on both public and private property.

PROPOSED LANGUGAGE

11.50.040 C.1 Private Trees.

a. Retention. An applicant shall preserve and protect at least one third ($\frac{1}{3}$) of the trees 12 inches and larger in diameter located completely or partially on the development site.

Trees 48 inches or larger in diameter shall be preserved and protected if they are not elected for removal.

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Portland Trees – www.Portlandoregon.gov/trees - permits, tree removal, report a downed tree.

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PortlandParks.org • Amanda Fritz, Commissioner • Mike Abbaté, Director



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.

b. Notice. If a tree measuring 48 inches or larger in diameter is elected to be removed, the applicant shall notify the neighborhood by posting a notice on the site in a location clearly visible from the street nearest the tree. The notice shall state the removal date, the mitigation requirements, and the applicant's contact information. The applicant may not remove the tree until the notice has been posted for a continuous 14 day period.

bc. Mitigation. For each tree at least 12 inches in diameter, but less than 48 inches in diameter, removed below the one-third (1/3) requirement, payment to the Tree Planting and Preservation Fund is required equivalent to the cost of two trees. See Section 11.15.010.

Each tree 48 inches or larger in diameter that is removed shall be replaced inch for inch. Applicants may choose to pay into the Tree Planting and Preservation fund in lieu of planting replacement trees. Payment is based on the adopted fee schedule and assessed at inch per inch.

11.50.040 C.1 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. Notice. If a tree measuring 48 inches or larger in diameter is allowed to be removed, the applicant shall notify the neighborhood by posting a notice on the site in a location clearly visible from the street nearest the tree. The notice shall state why the tree is approved for removal, the removal date, the mitigation requirements, and the applicant's contact information. The applicant may not remove the tree until the notice has been posted for a continuous 14 day period.

bc. 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.

(1) Approved Street Tree removal in conjunction with improvements to partially or fully unimproved streets. Each tree at least 12 inches in diameter but less than 48 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 but less than 48 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.

(3) Any Street or City Tree allowed to be removed that is 48 or more inches in diameter shall be replaced inch for inch. Applicants may choose to pay into the Tree Planting and Preservation fund in lieu of planting replacement trees. Payment is based on the adopted fee schedule and assessed at inch per inch.

STAKEHOLDER REVIEW PLAN

The proposal should be reviewed by the internal bureau stakeholders who will be affected by the legislation. The proposed steps are as follows:

- Mike Abbaté and Warren Jimenez review the proposal
- Mike Abbaté presents the proposal to Commissioner Fritz
- Mike Abbaté and Commissioner Fritz present the proposal to Commissioner Saltzman and Paul Scarlet
- Jenn Cairo presents the proposal to BDS managers Rebecca Esau, Jill Grenda, Kim Tallant, and Douglas Hardy
- Jenn Cairo presents the proposal to Bureau interagency partners at Parks, PBOT, BES, BDS, and the Water Bureau

Once the proposal has been reviewed internally, it should go to the relevant advisory committees for review.

- Title 11 Oversight Advisory Committee
 - Next meetings are 10/12, 11/9, 12/14
- Urban Forestry Commission
 - Next meetings are 10/15, 11/19, 12/17
- Development Review Advisory Committee
 - Next meetings are 10/15, 11/19, 12/17

IMPLEMENTATION PLAN

Implementing this code update would require training BDS staff and some changes to our permit tracking databases. This part of the code is implemented by BDS.

- UF staff works with BPS and BES staff to finalize code language
- UF staff submits proposal for City Council approval
- UF staff works with BTS on additional TrackIT and TRACS programming
- UF staff trains BDS and UF staff on how to implement the code amendment
- UF develops and implements a communication and outreach plan for other Bureaus, the public, developers, and other stakeholders
- UF staff conducts initial monitoring to see if additional staff training is necessary
- UF staff reports on the permit data after 6 months and 1 year (see Evaluation Plan)

EVALUATION PLAN

Data should be evaluated after 6 months, after 1 year, and annually after that. Reports should be presented to BDS managers, the Urban Forestry Commission, and the Development Review Advisory Committee. The reports should include:

- The # and % of development permits that were not exempt from 11.50.040
 - The # and % of those permits that had a 48”DBH or larger tree onsite
 - The # of trees 48”DBH or larger that were preserved
 - The total # of diameter-inches of trees 48”DBH or larger that were preserved
 - The # of trees 48”DBH or larger that were removed
 - The total # of diameter-inches of trees 48”DBH or larger that were removed
- The amount of money paid into the Tree Planting and Preservation Fund from removal of trees 48”DBH or larger
- Distribution of diameter of all the trees identified on Tree Plans for permits that triggered 11.50.040
 - Looking at the distribution, what is the cutoff for the top quartile? Would it be practical to make this the size threshold for inch-per-inch mitigation?
- Qualitative assessment of BDS staff on how the administering of this rule is going

RELATED CODE ISSUES

This is one stopgap measure to improve canopy outcomes through the code. Urban Forestry has been monitoring the effects of the code and noting where changes could potentially improve canopy outcomes.

- Site plans provided by the applicant or private arborist may be inaccurate. More staff would be needed to fact-check and evaluate the accuracy of all site plans in the field.

- The 1/3 preservation standard should be evaluated. Some public stakeholders have expressed that this threshold is too low.
- Developers should only be able to remove trees that will be impacted by development. The code should not give developers carte blanche to remove 2/3 of trees onsite if development is only impacting a portion of the site.
- Trees on adjacent lots do not have to be protected during development, and the critical root zone could be impacted.
- Applicants are not required to identify the health or species of trees on the site plan. This can lead to preserving dead or dying or nuisance trees instead of trees or species contributing positive benefits to the urban ecosystem.