

CHAPTER 11.50 - TREES IN DEVELOPMENT SITUATIONS

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11.50.010 Purpose.

The regulations of this Chapter support and complement other City development requirements, with a focus on achieving baseline tree preservation and total tree capacity on a site, considering the anticipated use and level of development. This Chapter regulates the removal, protection and planting of trees through the development process to encourage development, where practicable, to incorporate existing trees, particularly high quality or larger trees and groves, into the site design, to retain sufficient space to plant new trees, and to ensure suitable tree replacement when trees are removed. It is the intent of these provisions to lessen the impact of tree removal and to ensure mitigation when tree preservation standards are not met.

11.50.020 When a Tree Plan is Required.

(Amended by Ordinance No. 188816, effective March 16, 2018.) A tree plan is required in conjunction with all development permits, unless there are no Private Trees 12 inches or more in diameter, no City Trees 6 inches or more in diameter, and/or no Street Trees 3 inches or more in diameter, and the site or activity is exempt from Section 11.50.050 On-Site Tree Density Standards; and Section 11.50.060 Street Tree Planting Standards. If multiple development permits are required for a development proposal, including demolitions and subsequent construction, the same Tree Plan shall be included with each permit. For tree removal when no development permit is required, following completion of the development permit, or when tree preservation does not apply per Subsection 11.50.040 A.1., see Chapter 11.40.

11.50.030 Development Impact Area Option For Large Sites and Streets.

(Amended by Ordinance No. 188278, effective April 14, 2017.) Where development is proposed on a site larger than one acre or where work is occurring in the street and is not associated with an adjacent development site, the applicant may choose to establish a development impact area. For sites using the development impact area option, tree preservation requirements shall be based on the trees within the development impact area and tree density will be based on meeting Option A as applied only to the area within the development impact area. Trees may be planted to meet tree density requirement elsewhere on the site

11.50.040 Tree Preservation Standards.

(Amended by Ordinance Nos. 187675, 188278, 188816, 188959, 189078 and 189795, effective December 12, 2019.)

A. Where these regulations apply.

1. This Section applies to trees within the City of Portland and trees on sites within the County Urban Pocket Areas in the following situations. On sites where these regulations do not apply, tree removal is subject to the requirements of Chapter 11.40, Tree Permit Requirements.
 - a. On sites. Development activities with any ground disturbance or a construction staging area greater than 100 square feet on unpaved portions of the site within the root protection zone, as defined in Subsection 11.60.030 C.1.a., of one or more Private Trees 12 or more inches in diameter and/or one or more City Trees 6 or more inches in diameter.
 - b. In streets. Development activities with any ground disturbance or construction staging not limited to existing paved surfaces where there are one or more Street Trees 3 or more inches in diameter.
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. Private trees ~~On~~ portions of sites located within an IH, IG1, ~~EX~~, or CX zone.
2. On sites that are less than 5,000 square feet in area.
3. On sites that have existing or proposed building coverage of 85 percent or more.
4. 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.
5. Trees exempted from this standard by a land use decision.
6. 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.

7. Repair and replacement of existing fences and decks that are not changing in footprint or length when no trees are to be removed as a part of the project.

C. Tree Preservation Requirement. Any trees preserved shall be protected in accordance with the specifications in Section 11.60.030. The regulations for Private Trees in Subsection 11.50.040 C.1. sunset after December 31, 2024. After December 31, 2024 the regulations in effect will be those in effect on January 1, 2015.

1. Private Trees.

- a. General tree preservation.

- (1) Retention. An applicant shall preserve and protect at least 1/3 of the non-exempt trees 12 inches and larger in diameter located completely or partially on the development site, unless mitigation occurs per Subsection 11.50.040 C.1.a.(2) below. 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 not preserved and protected below the 1/3 requirement, payment to the Tree Planting and Preservation Fund is required as shown in Table 50-1. For trees removed at least 12 inches and less than 20 inches in diameter the mitigation fee is the cost of (2) two-inch diameter replacement trees. For trees removed at least 20 inches in diameter or greater the mitigation fee is the cost per diameter inch of tree removed. 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 in excess of that allowed by Subsection 11.50.040 C.1.a.(1), the mitigation payment required to meet the 1/3 retention standard is based on the largest tree or trees proposed for removal.

**Table 50-1
Required Mitigation**

Size of Tree Removed (inches in diameter)	Required Mitigation
At least 12 and less than 20	The cost of (2) two-inch diameter replacement trees
At least 20 and less than 36	The cost of (4) two-inch diameter replacement trees
At least 36 <u>20</u> or more	The cost per inch of tree removed

- b.** Preservation of trees ~~36~~20 inches or greater.
- (1) Retention. An applicant shall preserve and protect all non-exempt trees ~~36~~20 inches in diameter or greater located completely or partially on the development site, unless mitigation and notice occurs per Subsections 11.50.040 C.1.b.(2) and 11.50.040 C.1.b.~~(3)~~c., below. Retention or mitigation of these trees may also be used to meet the standards for general tree preservation in Subsection 11.50.040 C.1.a. above.
- (2) Mitigation. For each tree ~~36~~20 or more inches in diameter not preserved and protected, payment to the Tree Planting and Preservation Fund is required as shown in Table 50-1. The fee is calculated using the per-inch ~~Restoration Fee for Tree Removal~~Planting and Establishment Fee in Lieu for development in the adopted fee schedule for Title 11.
- ~~c.(3)~~ c. Notice for trees 36 inches or greater not preserved and protected. If a tree 36 inches or greater in diameter is not preserved and protected as allowed by Subsection 11.50.040 C.1.b.(2) above, the property owner or the property owner's representative must post a notice on the site and send a notice to the recognized Neighborhood Association and District Coalition in which the site is located. The notices are for notification purposes only. The notices do not provide for public comment on the proposal or for appeal of the proposal. The property owner or the property owner's representative must provide a signed certification to the Bureau of Development Services that a notice was posted on the site and a notice was sent to the Neighborhood Association and District Coalition. The development permit may not be issued until the business day following the day the notification period is completed.

(1)(a) The posted notice must:

- (a)(i)** Be posted on the site for at least 45 calendar days prior to development permit issuance;
- (b)(ii)** Be posted within 10 feet of the street lot line nearest the tree or trees to be removed;
- (c)(iii)** Include the date of posting and the date of the end of the notification period;
- (d)(iv)** Include a site plan at least 8.5 x 11 inches in size showing the location and description of the trees(s) to be removed including diameter inch size(s); and
- (e)(v)** Include contact information for the property owner or the property owner's representative.

(2)(b) The notices to the Neighborhood Association and District Coalition must:

- (a)(i)** Be e-mailed or mailed to the Neighborhood Association and District Coalition using the contact information maintained by the Office of Community & Civic Life. If mailed, the notice must be sent via certified or registered mail. The date of the e-mail or the mailing must be at least 45 calendar days prior to development permit issuance;
- (b)(ii)** Include a description of the trees(s) to be removed including diameter inch size(s); and
- (c)(iii)** Include contact information for the property owner or the property owner's representative.

d.(4) Exemption of tree preservation mitigation payments for affordable housing developments. Projects are exempt from the mitigation requirements in Subsection 11.50.040 C.1.b.(2) if the development will be an affordable housing development approved for system development charge exemptions under Section 30.01.095. The amount of the mitigation exemption shall be pro-rated to a percentage equal to the percentage of dwelling units on the development site that are approved for the systems development charge exemption in Section 30.01.095. The Director of the Portland Housing Bureau may adopt administrative rules for the administration of Subsection 11.50.040 C.1.**d.b.(4)**.

~~e.e.~~ 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.

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.

(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.

(Amended by Ordinance Nos. 187675, 188278 and 188959, effective May 24, 2018.)

A. Where these Regulations Apply. This Section applies to sites within the City of Portland and the County Urban Pocket Areas. Unless exempted in Subsection 11.50.050 B., the following are subject to the On-Site Tree Density Standards:

1. New Development;

2. Exterior alterations to existing development with a project valuation that is more than the threshold stated in Subsection 33.258.070 D.2.a.

B. Exemptions.

1. The following development activities are exempt from the on-site tree density standards:
 - a. A specific condition of land use review approval exempts the site from these density standards;
 - b. The site is within the Portland International Airport Plan District or Cascade Station/Portland International Center Plan District and is subject to the Airport Landscape Standards; see Title 33, Planning and Zoning.
 - c. Private trees ~~On~~ portions of sites located within an IH, IG1, ~~EX,~~ or ~~CX~~ zone.
 - d. Work conducted under Demolition, Site Development, Septic, Plumbing or Zoning Permits.
2. Sites with the following primary uses are exempt from the on-site tree density standards:
 - a. Railroad Yards;
 - b. Waste Related;
 - c. Agriculture;
 - d. Aviation and Surface Passenger Terminals;
 - e. Detention Facilities;
 - f. Mining;
 - g. Radio Frequency Transmission Facilities; or
 - h. Rail Lines and Utility Corridors;

C. New development shall meet City specifications and standards in Chapter 11.60 and the on-site tree density requirements in Subsection D., below. Exterior alterations shall meet City specifications and standards in Chapter 11.60 and the on-site tree density requirements in Subsection D., below, but are only required to spend 10 percent of project value on the requirements in Subsection D. and the nonconforming upgrades required by Chapter 33.258, Nonconforming Situations.

D. On-Site Tree Density Requirements.

1. Required Tree Area. The required tree area is based on the size of the site and the type and size of proposed and existing development as shown in Table 50-2. Applicants may choose Option A or Option B for calculating required tree area except only Option A may be used to apply standards to a "Development Impact Area".

**Table 50-2
Determining Required Tree Area**

Development Type	Option A	Option B
One and Two Family Residential	40 percent of site or development impact area	Site area minus building coverage of existing and proposed development
Multi Dwelling Residential	20 percent of site or development impact area	
Commercial/Office/Retail/Mixed Use	15 percent of site or development impact area	
Industrial	10 percent of site or development impact area	
Institutional	25 percent of site or development impact area	
Other	25 percent of site or development impact area	

2. Required Tree Density. The required tree area shall be planted with some combination of large, medium or small canopy trees at the following rates:

**Table 50-3
Number of Required Trees and Minimum Planting Area**

Canopy size category (at maturity)	Number of trees required per size of tree area	Min. required planting area per tree (min. dimension)
Large	1 per 1,000 s.f.	150 s.f. (10' x 10')
Medium	1 per 500 s.f.	75 s.f. (5' x 5')
Small	1 per 300 s.f.	50 s.f. (3' x 3')

Refer to Chapter 11.60, Technical Specifications, to calculate tree canopy size categories. When the canopy size category of the tree species is not or cannot be determined, the tree will be considered a small canopy tree.

3. Tree Density Credits
 - a. Trees planted on site to meet any required stormwater or other landscaping requirement may be counted toward the On-site tree density requirements.

- b.** Trees that are retained and protected, including trees preserved per Section 11.50.040, may be credited as follows:

 - (1)** Trees between 1.5 and less than 6 inches in diameter count as one small canopy size tree.
 - (2)** Trees 6 or more inches in diameter count as one medium canopy size tree for each full increment of 6 diameter inches.
- c.** Payment in lieu of planting. The applicant may pay a fee to the Tree Planting and Preservation Fund per Section 11.15.010 equivalent to the cost of planting and establishing one 1.5-inch caliper tree. The fee per tree shall be credited at a rate of one medium canopy size tree.
- d.** On sites less than or equal to 3,000 square feet, healthy non-nuisance species trees planted or retained in the street planting strip may be credited as described in this Subsection.

11.50.060 Street Tree Planting Standards.

[No change]

11.50.070 Tree Plan Submittal Requirements.

[No change]

11.50.080 Changes to Approved Tree Plans and Emergency Tree Removal.

[No change]

11.50.090 Administrative Review.

[No change]

11.50.095 Appeals.

[No change]