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Tree Code Update Work Session

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June 3, 2024

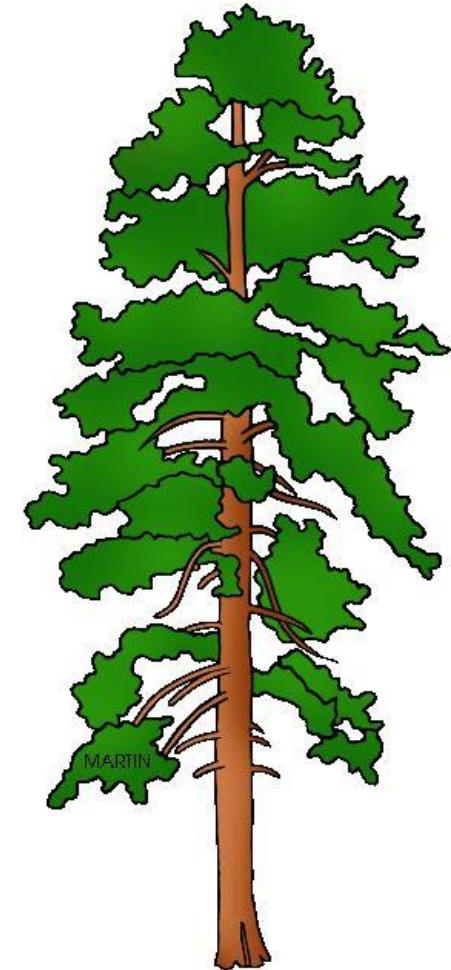
AGENDA



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Agenda

1. City Council Environment and Climate Goal
2. Summary of the Tree Regulation Update Advisory Committee (TRUAC) Process
3. Highlight Proposed Code Amendments
4. Review Current Bend Development Code (BDC) requirements
5. Proposed Amendments with TRUAC Recommendations
6. Proposed Street Trees and Planter Strip Landscaping Requirements
7. Public Outreach
8. Next Steps



City Council Environment and Climate Goal



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Why Are We Here?

City Council Environment and Climate Goal

Goal: Improve quality of life for more people in Bend by increasing equitable access to clear air, water and to a healthy environment. Implement solutions that fulfill the City's commitment to being good stewards of our natural environment, decreasing carbon emissions and mitigating the effects of climate change.

- **Action Item:** Revise Development Code and other relevant standards to protect trees while balancing housing affordability and natural resource preservation

Council heard community concerns around the loss of trees and formed a temporary committee to explore ways to preserve more trees when new development occurs, while not creating a barrier to building needed housing.



Summary of the Tree Regulation Update Advisory Committee (TRUAC) Process



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City Council Scope for TRUAC

1. Provide consistency between **BMC Chapter 16.10**, Clearing, Grading, and Erosion Control on Construction Sites, **BDC Chapter 3.2**, Landscaping, Street Trees, Fences and Walls and City of Bend **Standards and Specifications Chapter 12**, Landscape Architecture and Irrigation Systems.
2. Provide clear and objective tree preservation standards for the development of housing, including needed housing, and include an optional discretionary process for applicants for development.
3. Consider preservation standards for larger trees similar to the Southeast Area Plan.
4. Consider alternatives to preserving trees, including tree replacement and a fee-in-lieu of preservation for the purpose of developing and protecting the City's urban tree canopy.
5. Identify tree inventory programs to support preserving and expanding Bend's urban tree canopy.



Tree Regulation Update Advisory Committee (TRUAC)

TRUAC included 15 community volunteers:

- Members of the Human Rights & Equity Commission, Environmental & Climate Committee, and Affordable Housing Advisory Committee
- Neighborhood Associations members
- Arborists
- Developers, architects and engineers of affordable and production housing
- Landscape architect
- Community members
- Central Oregon Builders Association
- Central Oregon LandWatch



TRUAC Meeting Summaries

TRUAC held nine public meetings:

- Reviewed tree preservation codes from other cities.
- Reviewed tree preservation plans from 8 recent applications and compared them to possible options for how many trees should be preserved.
- Discussed options which first encourage the preservation of Priority Trees (20" or larger) and then provide flexibility by allowing an option to preserve a percent of the overall diameter at breast height (DBH) of trees six inches or larger.
- Discussed options for mitigation.
- Discussed exempting smaller sites from preservation but still requiring mitigation.
- Discussed that larger sites should preserve at least some trees on a site before opting to mitigate, or possibly applying for a discretionary approval path with mitigation.



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Clear and Objective Standards for Housing

Cities must have a “**clear and objective**” approval path for housing developments.

Example: At least 20% of the trees must be preserved.

Cities can also adopt an optional, “**discretionary**” approval path.

Example: Less than 20% of the trees may be preserved if some constraint exists that makes it infeasible to comply with the objective criteria.

The Bend Development Code uses both review paths for many development standards:

- Clear and objective path
- Discretionary path

Regardless of the review path, an applicant must demonstrate how the applicable standards are being met.



Highlights of Proposed Amendments



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Proposed BDC Amendments

- **Chapter 1.2, Definitions:** New and Revised Definitions
- **Chapter 1.3, Enforcement:** Reorganized and updated enforcement for removal of landscaping and Regulated Trees
- **Chapter 2.7, Special Planned Districts, Refinement Plans, Area Plans and Master Plans:** Updated for consistency with proposed tree preservation amendments
- **Chapter 3.1, Lot, Parcel and Block Design, Access and Circulation:** Allow street trees to be planted a minimum of 5' from a driveway or alley
- **Chapter 3.2, Landscaping, Street Trees, Fences and Walls (renamed chapter):** Updated tree preservation standards and street tree requirements and added new requirements for water efficient planter strip landscaping



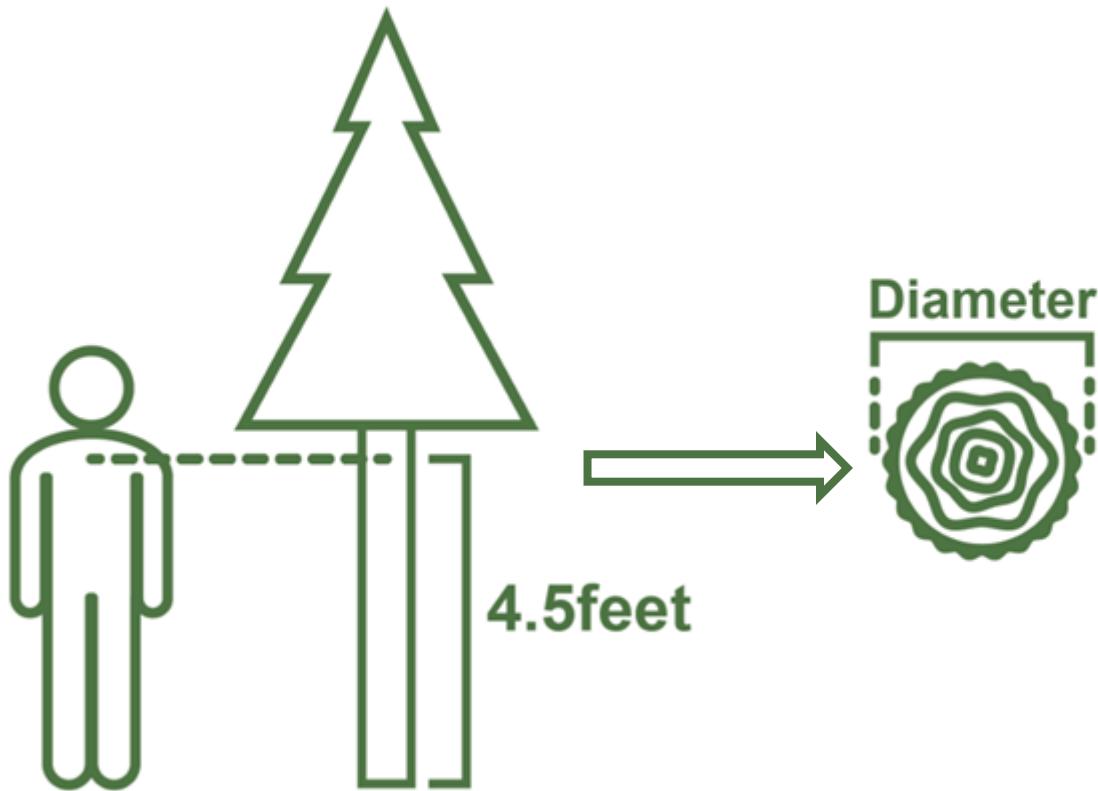
Proposed BDC Amendments (continued)

- **Chapter 4.2, Minimum Development Standards (MDS) Review, Site Plan Review and Design Standards:**
 - Updated submittal requirements for landscaping and tree preservation
 - Added requirements for MDS street trees, planter strip landscaping and tree preservation
- **Chapter 4.3, Land Divisions and Property Line Adjustments:** Updated submittal requirements for tree preservation, street trees and planter strip landscaping
- **Chapter 4.5, Master Plans:** Clarified that the tree preservation standards cannot be modified by a master plan application or modification of an existing master plan



What is **DBH?**

**Diameter at
Breast
Height**



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Current Bend Development Code (BDC) Requirements



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What is Currently Required?

What trees are regulated?

- Deciduous trees measuring 6" or larger at DBH
- Coniferous trees measuring 10" or larger at DBH

What projects do the current standards apply to?

- Land Divisions
- Site Plan Review
 - Building Expansions greater than 5,000 square feet
 - New Developments (e.g., Multi-Unit, Mixed-Use, Commercial & Industrial)

What is currently required?

- 6" and 10" trees must be mapped & protected during construction unless approved for removal.

Trees can be removed if they prevent the development of:

- Public streets, public utilities, housing, or other permitted uses.



Proposed Amendments with TRUAC Recommendations



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TRUAC Recommendations

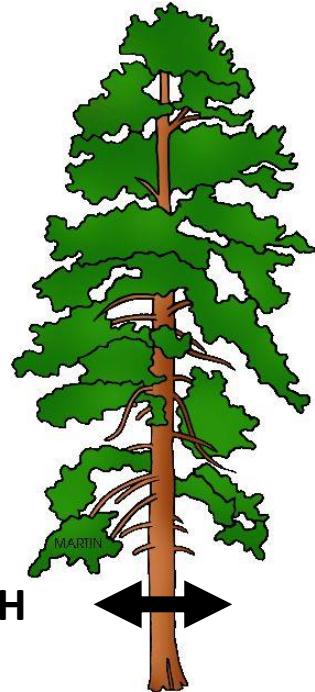
- **Minimum Site Size:** One acre
- **Applicable Projects:** Land Divisions & Site Plan Review
- **Trees to be Inventoried and Mapped:** Regulated Trees (6" DBH or larger)
- **Preservation Options for Regulated (6" DBH or larger) & Priority Trees (20" DBH or larger)**
 - Clear and Objective Options and a Discretionary Path
- **Mitigation Options:** On-site Tree Replacement & Payment in Lieu



What is a Regulated Tree and a Priority Tree?

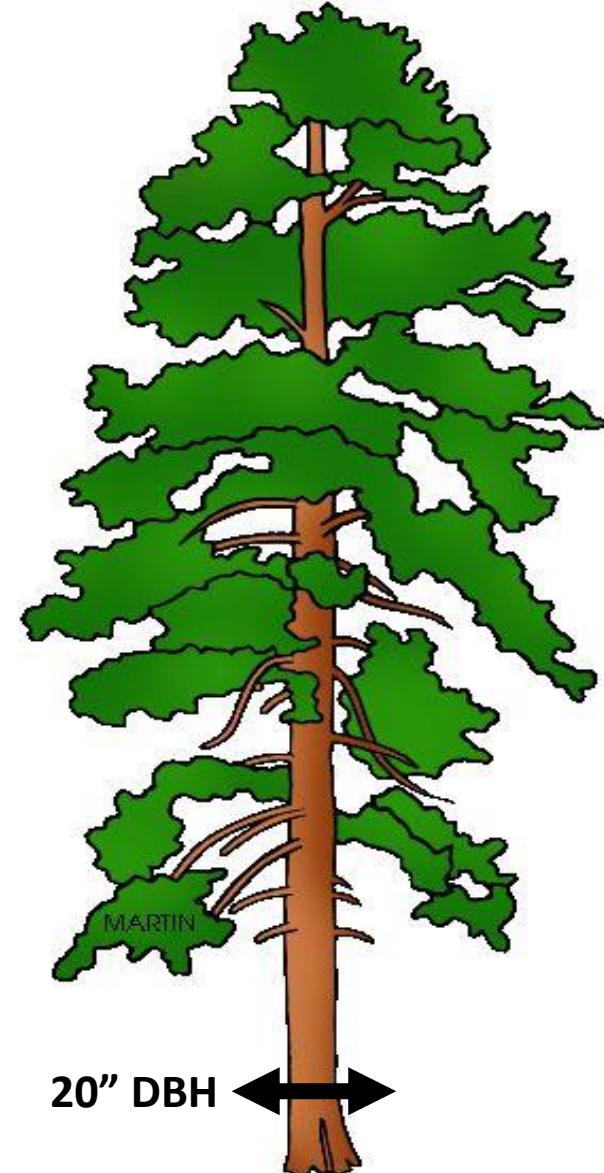
Regulated Tree

A tree with a trunk diameter of 6" or larger measured at DBH.



Priority Tree

A tree with a trunk diameter of 20" or larger measured at DBH.



Applicability & Exceptions to Standards

What projects would the new standards apply to?

- Land division application.
- Site Plan Review application.
- Applications for developments on sites larger than one acre for a single-unit detached dwelling, townhome, accessory dwelling unit, duplex, triplex, quadplex, single room occupancy with six or fewer units or a cottage cluster development.

➤ **Exceptions.**

- Land division and Site Plan Review applications on sites one acre or smaller may either comply with the tree preservation requirements or provide mitigation.
- A site with three or fewer Regulated Trees may either comply with the tree preservation requirements or provide mitigation.



BDC 3.2.200(B) Submittal Requirements

- **Tree Inventory Table for Regulated Trees**
 - Include a number for each tree, type, size and proposed tree status
 - An applicant can propose to exempt poor or very poor or dead trees from inventory with supporting documentation of an ISA Certified Arborist
- **Tree Preservation Site Plan**
 - Location of improvements, location of Regulated Trees, tree status, and protection fencing
- **Tree Preservation Calculations**
 - Provide calculations that demonstrate the percent of Priority Trees proposed to be preserved on-site and the percent of the total DBH of all Regulated Trees proposed to be preserved on-site. Trees with trunks that straddle a property line at ground level with another property are not included as part of the tree preservation calculations.
- **Tree Replacement Calculations**
 - When 20% of the Priority Trees or 25% of the DBH of Regulated Trees will not be preserved, provide calculations that demonstrate the number of required replacement trees to be planted on-site or that will require a payment in lieu of tree preservation.



Preservation Options

What are the Clear and Objective Options?

Option 1. At least 20% of the Priority Trees (20" or larger)

Option 2. At least 25% of the DBH of all Regulated Trees (6" or larger)

Option 3. At least 5% of the DBH of all Regulated Trees, with mitigation

What if the proposed development has some existing constraints that makes it infeasible to provide at least 5% of total DBH?

A developer can apply for a **Discretionary Approval Track**, with mitigation.



BDC 3.2.200(C)(2) Discretionary Track

An applicant may request that less than 5% of the total DBH of all Regulated Trees on-site be preserved if they demonstrate it is necessary due to one or more of the following:

- i. **Block Length and Perimeter Standards.** The removal is necessary to construct and/or extend a connected network of local streets needed to meet block length or perimeter requirements.
- ii. **Connectivity.** The removal is necessary for streets, alleys or multi-use path extensions required to meet BDC standards.
- iii. **Arterials and Collector Streets.** The removal is necessary to construct the planned alignment of an arterial or collector street identified in the Transportation System Plan (TSP).
- iv. **Utilities.** The removal is necessary due to existing or proposed utilities that cannot be relocated to an alternative location.
- v. **Site Topography.** The removal is necessary due to topography of the site and the tree(s) is located within or abutting areas of cuts or fills that are deemed threatening to the life of the tree, as determined by an ISA Certified Arborist. In addition, supporting documentation from an arborist must indicate that these trees will not be viable with slight modifications to the proposed grading or the utilization of shallow tree wells or root borders.



BDC 3.2.300(D) Tree Preservation Incentives

The Review Authority may allow one or more of the following incentives when more than 20% of the Priority Trees are preserved or when more than 25% of the total DBH of all Regulated Trees is preserved on-site:

- Reduction of setback requirement up to 30% on a lot or parcel with a tree identified for preservation.
- Increased lot coverage requirement up to 20% on a lot or parcel with a tree identified for preservation.
- Reduced landscape coverage requirement up to 10% on a lot or parcel with a tree identified for preservation.
- Reduction to lot or parcel dimensions, including size, by up to 10% when part of a land division.

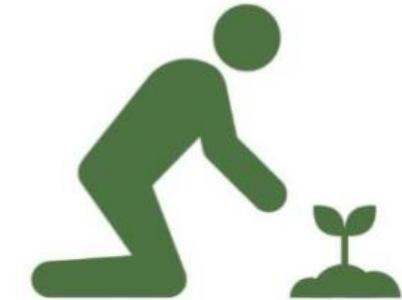


BDC 3.2.200(E) Mitigation Options

Tree Replacement On-Site:

Mitigation trees are required on-site to make up for anything less than the required 25% DBH. The number of mitigation trees is based on the largest tree(s) proposed for removal that equal or exceed the required DBH that should have been preserved, using the following ratios:

- 6" to 9.9" DBH: One Tree
- 10" to 19.9" DBH: Two Trees
- 20" DBH or larger: Four Trees

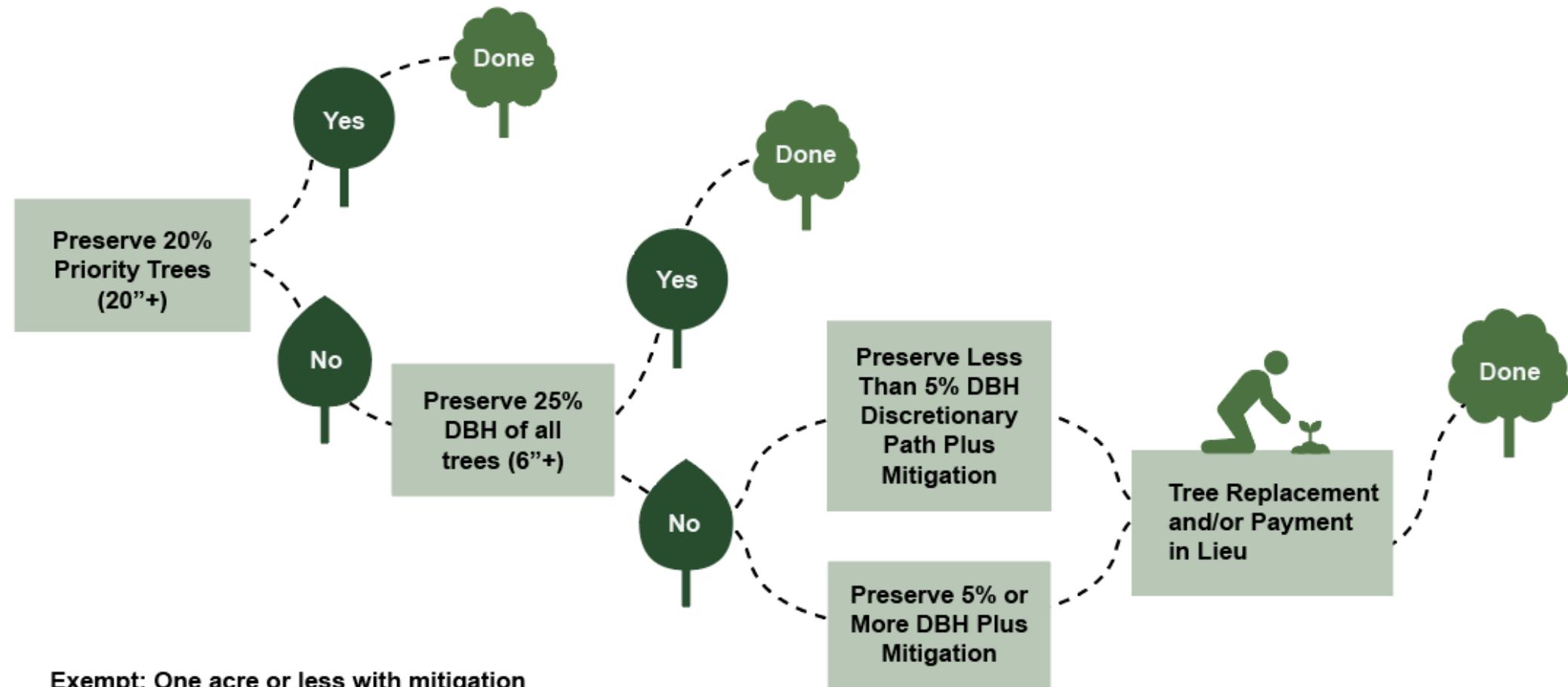


Payment In-Lieu of Tree Preservation:

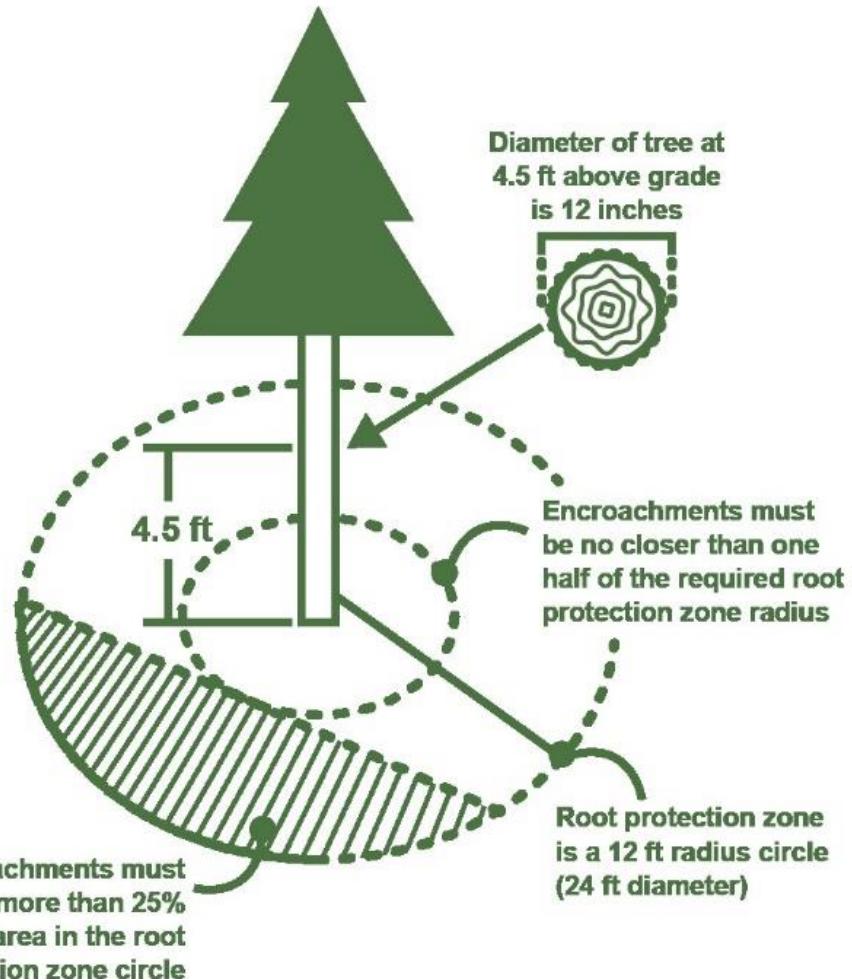
A fee can be paid for each replacement tree not planted on-site. The fee amount and allowed uses for the fees collected will be established by Council.



Tree Preservation Flow Chart for More than One Acre



BDC 3.2.200(F) Root Protection Zone (RPZ) Requirements



BDC 3.2.200(G) Tree Preservation Conditions of Approval

- ***Trees Identified for Preservation.*** As a condition of land use approval that runs with the land, trees identified and required for preservation are the responsibility of the property owner and must be preserved for a minimum of 3 years from the date of land division final plat approval or building final inspection, whichever occurs first.
- ***Replacement Trees.*** Maintenance of replacement trees are the responsibility of the property owner. If the replacement tree fails to survive within 3 years from the date of building final inspection, the property owner must replace it with an equivalent specimen.
- ***Tract or Easement.*** An applicant may delineate and show the preserved trees or replacement trees in a tract or easement.



Street Trees and Planter Strip Landscaping Requirements



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Additional Proposed Amendments to the BDC

Street Trees

- Requires street trees for single-unit detached dwellings, townhomes, duplexes, triplexes, quadplexes, single room occupancies with six or fewer units and cottage cluster developments when there is existing sidewalk or a sidewalk is required with the development.
- Updates and expands list of allowable street trees based on planter strip width.
- Relocates the City of Bend Approved Street Tree List from the BDC to Appendix D of the City of Bend Standards and Specifications.

Landscaping in the Planter Strip (Effective 11/01/24)

- Meets requirements of the 2021 Water Conservation and Management Plan and Council goals.
- Requires planter strip landscaping for developments with a new sidewalk and planter strip, or with the planting of street trees in an existing planter strip.
- Planter strip must be landscaped with ornamental grasses, shrubs, and plants from the City of Bend Approved Plant List (Appendix E of the City of Bend Standards and Specifications).
- Prohibits the installation of turf and inefficient spray irrigation in the ROW.



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Public Outreach



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Public Outreach

- April 19, 2023 - Webpage created for the Tree Code Update
- June through December 2023 - TRUAC held nine public meetings
- March 7, 2024, and March 12, 2024 - Hybrid informational sessions
- May 3, 2024 - Staff emailed the proposed amendments and hearing dates to over 300 people who have expressed an interest in the amendments, to the BDC Update Group and to the Neighborhood Association Land Use Chairs
- Proposed water efficient planter strip landscaping requirements were shared with the Utility Public Advisory Group (UPAG), Oregon Landscape Contractor Association (OLCA), Central Oregon Builders Association (COBA), Harmony Farms, Avion Water, the Bend Development Code Update Group and local nurseries.



Additional Amendments

Ch. 1.2, Definitions

- Clearing means the cutting or removal of vegetation, *including trees*.
- Regulated tree means an individual tree with a trunk diameter of six inches *s DBH* or larger. Regulated trees include priority trees. See BDC 3.2.200, Tree Preservation.

Section 3.2.200 Landscape Conservation Tree Preservation.

Make it clear that activities like clearing, grading, etc. will be allowed in the RPZ to build approved encroachments (new structures, impervious surface and utilities).

Section 3.2.300, New Landscaping

(E)(1)(b)(v). Trees must be located in a continuous trench and include three or more continuous trees, except where planting a tree would conflict with existing trees, retaining walls, utilities and similar physical barriers. ~~A tree planted in a disconnected individual planter does not count towards the canopy requirements.~~

4.2.300 Submittal Requirements.

b. Irrigation plans. An irrigation plan identifying the materials, size, and location of all components of the irrigation system.



4.5.100 Master Plan General Provisions

Amend two sections since tree preservation will be reviewed at time of land division or SPR.

E. ***Submittal Requirements.*** The following information must be submitted as deemed applicable by the Community and Economic Development Director based on the size, scale, and complexity of the master plan:

1. ***Existing Conditions Submittal Requirements.***

b. ***Existing Site Conditions Map.***

ii. The existing site conditions map must include the following information on site

(A) The location of existing structures, parking, loading and service areas, and pavement. Existing aerial photos may be used; and

(B) The location, size and species of ~~trees and other vegetation having a caliper (diameter) of six inches or greater at four feet above grade~~ Regulated Trees ~~or existing aerial photos may be submitted.~~

2. ***Proposed Master Plan Submittal Requirements.***

b. Scaled maps or diagrams that include the following information (as applicable):

vii. ~~Conceptual~~ Landscape concept ~~plan and tree preservation plan~~ in accordance with BDC Chapter 3.2, Landscaping, Street Trees ~~Tree Preservation~~, Fences and Walls.

G. Master plan applications may propose tree preservation in open space areas to meet the requirements of BDC 3.2.200, Tree Preservation on a community wide basis.



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Next Steps



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Next Steps

- Planning Commission Hearing – June 10
- City Council Hearing and 1st Reading – June 20
- City Council 2nd Reading – July 17
- Effective Date – August 16



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Options for Providing Public Testimony

Written public testimony can also be shared at public hearings before the Planning Commission or Bend City Council, or via email to:

- councilall@bendoregon.gov
- cityplanningcommissionall@bendoregon.gov

Add phardie@bendoregon.gov in the cc line of those emails

For more information, scan this code or visit:

bendoregon.gov/tree-code



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Questions for Staff



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Accommodation Information for People with Disabilities



To obtain this information in an alternate format such as Braille, large print, electronic formats, etc. please contact Pauline Hardie at phardie@bendoregon or 541-693-2153; Relay Users Dial 7-1-1.



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