



CITY OF BEND

TREE REGULATION UPDATE ADVISORY COMMITTEE (TRUAC) MEMO

Meeting Date: December 5, 2023

File Number: PLTEXT20230178

Staff Member: Pauline Hardie, AICP, Senior Code Planner

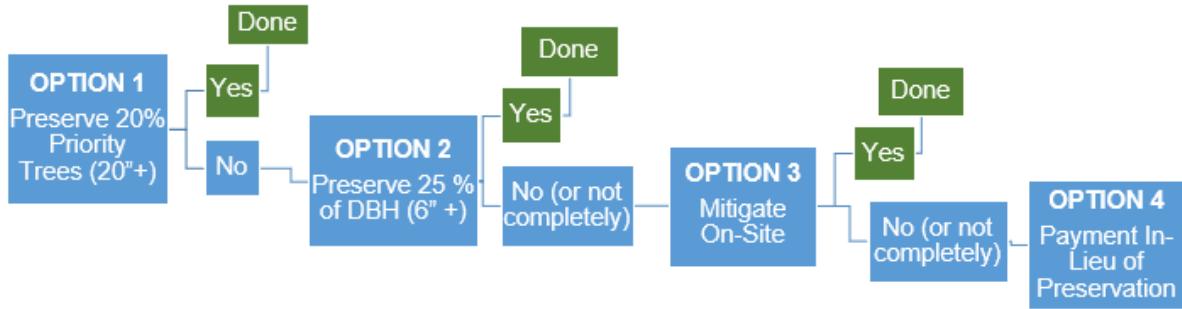
SUBJECT: Recommendations to the Planning Commission and City Council

On May 3, 2023, the City Council approved a resolution forming the Tree Regulation Update Advisory Committee (TRUAC) to make recommendations to Council on necessary amendments to the City's tree preservation regulations. According to the Project Charter of Resolution 3323, the amendments must:

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.

TRUAC has held eight meetings to discuss objective code amendments to help preserve trees during new development while balancing the need for housing in the community. See Attachment A for a summary of each of the meetings.

TRUAC's discussions have led to a flow chart of 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. There are also options for mitigation including on-site tree replacement and payment in lieu of preservation.



In addition to the options above, TRUAC discussed exempting smaller sites (e.g., one-half acre or one acre or smaller) from the preservation standards but still requiring mitigation. Lastly, TRUAC discussed that larger sites should preserve at least 5% (the minimum or “floor”) of the DBH on a site before opting to mitigate, or possibly applying for a discretionary approval path with mitigation to preserve less than 5% of the total DBH on a site.

Based on the discussions and initial input (with preliminary voting for direction to staff) provided by TRUAC to date, the following are the proposed tree preservation standards included in the final package of recommendations that TRUAC will be considering (also included as Attachment B for easy reference). TRUAC will not be revisiting each of the issues that it has already addressed but will instead be considering the package of proposed standards based on TRUAC’s work to date. If consensus cannot be reached, a concurrence by majority vote of TRUAC members present is required to decide any issue.

- A. **Size of Regulated Trees to be Inventoried and Mapped:** 6" or larger (Deciduous & Coniferous)
- B. **Size of Priority Trees:** 20" or larger (Deciduous & Coniferous)
- C. **Sites Exempted from Preserving Trees On-site:** *Committee members split on one-half acre vs. one acre.* When a site is exempt, mitigation will still be required.
- D. **Minimum Lot Size:** Sites larger than an exempted site must preserve at least 5% of the DBH on a site before opting for the mitigation path or apply for a discretionary approval path with mitigation.
- E. **Preservation and Mitigation Options:**
 - Option 1. Percent of Priority Trees to be Preserved:** 20%
 - Option 2. Percent of Regulated Trees to be Preserved:** 25% of the total diameter at breast height (DBH)

Option 3. On-Site Tree Replacement Ratio. Mitigation trees are required on-site to make up for anything less than the 25% DBH required in Option 2. The mitigation required to meet the standard is based on the largest tree or trees proposed for removal that equal or exceed the required DBH. The following is the tree replacement ratios:

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

Option 4. Payment In-Lieu of Tree Preservation. Staff will establish a program & payment amount.

To help clarify how the recommendations above would be incorporated into the BDC, see Attachment C which provides a high-level draft outline.

Following TRUAC's final vote on recommended amendments to the most significant aspects of the City's updated tree preservation regulations, staff will draft the code amendments and begin the public process for adoption which will include outreach to the community and work sessions and public hearings before the Planning Commission and City Council.

Attachments:

- A - Meeting Summaries
- B - Recommended Tree Preservation Standards
- C- Draft Bend Development Code Outline

Attachment A
Meeting Summaries

Meeting #1 (June 28, 2023) - Reviewed the project scope and current tree preservation standards in the Bend Code (BC) and Bend Development Code (BDC). The following is how the BDC currently defines “significant trees” as measured four feet above the ground (known as DBH, “diameter at breast height”):

- **Deciduous Trees: 6” DBH or larger**
- **Coniferous Trees: 10” DBH or larger**

Meeting #2 (July 11, 2023) - Reviewed tree preservation standards from cities in Oregon, Washington, Idaho, and Texas including how they define a “significant tree”.

Meeting #3 (July 27, 2023) – Reviewed proposed tree preservation plans from five different land use applications in Bend including a residential land division, a cottage development, a mixed-use development, and two multi-unit developments. Following discussion, a majority of TRUAC made the following recommendation on what size trees should be mapped and inventoried on a development site (“regulated trees”) and what size tree should be considered a “priority tree” for preservation:

- **Regulated Trees: 6” DBH or larger (Deciduous & Coniferous)**
- **Priority Trees: 20” DBH or larger (Deciduous & Coniferous)**

Meeting #4 (August 17, 2023) - Reviewed proposed tree preservation plans from eight land use applications in Bend including a residential land division, a cottage development, a mixed-use development, two master plans and three multi-unit developments and compared them to possible options for how many “regulated” and/or “priority trees” should be preserved on a development site. If regulated trees between 6” and 20” are also considered for preservation, it could provide additional flexibility.

Meeting #5 (August 30, 2023) - Continued discussion on potential preservation standards and reviewed mitigation options including on-site tree replacement standards and a fee in-lieu of tree preservation. Prior to making any recommendations on tree preservation standards and mitigation, TRUAC requested a check-in with City Council about whether they can recommend preservation standards for trees smaller than the “priority trees” given the following project scope from the Council Resolution:

“Consider preservation standards for larger trees similar to the Southeast Area Plan”.

Meeting #6 (October 4, 2023) - Continued discussion on potential preservation standards and a majority recommended the following preservation options:

- 20% of priority trees would need to be preserved; or
- 25% of the total diameter at breast height (DBH) on a site would need to be preserved.

Meeting #7 (October 18, 2023) - Reviewed different on-site tree replacement ratios. TRUAC discussed that having a larger replacement ratio for trees 20" or greater may help incentive their preservation. Following discussion, a majority of TRUAC recommended the following ratios:

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

Meeting #8 (November 8, 2023) - Discussed whether there should be a minimum lot size that should be exempt from "a floor" requirement. A majority of TRUAC recommended having a minimum 5% floor and they were supportive of a discretionary approval path for projects that cannot meet it. A majority of the committee supported exempting smaller sites from preserving trees on-site; however, the recommendation was tied (6-6) between exempting sites that are either one-half acre or one acre or smaller. A majority also recommended that the exempt sites would still be required to provide mitigation.

Attachment B
Recommended Tree Preservation Standards

- A. Size of Regulated Trees to be Inventoried and Mapped:** 6" or larger (Deciduous & Coniferous)
- B. Size of Priority Trees:** 20" or larger (Deciduous & Coniferous)
- C. Sites Exempted from Preserving Trees On-site:** *Committee members split on one-half acre vs. one acre.* When a site is exempt, mitigation will still be required.
- D. Minimum Lot Size:** Sites larger than an exempted site must preserve at least 5% of the DBH on a site before opting for the mitigation path or apply for a discretionary approval path with mitigation.
- E. Preservation and Mitigation Options:**

Option 1. Percent of Priority Trees to be Preserved: 20%

Option 2. Percent of Regulated Trees to be Preserved: 25% of the total diameter at breast height (DBH)

Option 3. On-Site Tree Replacement Ratio. Mitigation trees are required on-site to make up for anything less than the 25% DBH required in Option 2. The mitigation required to meet the standard is based on the largest tree or trees proposed for removal that equal or exceed the required DBH. The following is the tree replacement ratios:

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

Option 4. Payment In-Lieu of Tree Preservation. Staff will establish a program & payment amount.

Attachment C

Draft Bend Development Code Outline

This is intended to serve as a very high-level summary of draft regulations based on initial City Council direction and TRUAC recommendations to date. The actual BDC amendments will be more complete in terms of application submittal items, review process, definitions, etc.

A. Applicability. The standards in this section apply to all development sites containing regulated trees, as defined below, subject to Site Plan Review¹ or Land Divisions.

Regulated Tree. A Regulated Tree is a tree with a trunk diameter of 6" or larger as measured four-and-one-half feet above the ground (known as DBH, "diameter at breast height").

Priority Tree. A Priority Tree is a tree with a trunk diameter of 20" DBH or larger.

B. Preservation Standards. In general, the following trees preservation standards are required for all development sites subject to these regulations.

- At least 20% of all Priority Trees on a development site must be preserved; or
- At least 25% of the total DBH of Regulated Trees must be preserved.

C. Special Standards for Large Sites. On development sites totaling more than [Committee members split on one-half acre vs. one acre]:

1. A developer must preserve at least 5% of the total DBH of Regulated Trees before opting to mitigate in D., below, or request a discretionary approval path to preserve less than 5% of the total DBH of Regulated Trees on site.

D. Mitigation Options. If the preservation standards in B., above cannot be fully met, the following mitigation options are available.

1. **On-Site Tree Replacement.** Replacement trees must be planted on-site to make up for anything less than the 25% DBH required in B., above. The ratios below identify the number of replacement trees required based on the DBH of the trees removed. To determine the number of required replacement trees, use the DBH of the largest tree or trees proposed for removal that will cumulatively equal or exceed the DBH required to meet the 25% preservation standard.

- 6" to 9.9" DBH tree removed: One replacement tree
- 10" to 19.9" DBH tree removed: Two replacement trees
- 20" or larger DBH tree removed: Four replacement trees

2. **Payment In-Lieu of Tree Preservation.** TBD (Staff will establish a program and recommended fee amount).

¹ Per BDC 4.2.400, Site Plan Review is required for: multi-unit residential (5+ units), new buildings more than 5,000 square feet; expansion of existing buildings, outdoor use or parking of more than 50% or 5,000 square feet.; or stand-alone commercial use more than 250 square feet.