

Portland Tree Cutting Procedure

Disclaimer:

This is an attempt to summarize the 102 pages of the Tree Code for the typical resident of our Neighborhood. If you are a builder or having major construction done, there are many other rules to comply with that are NOT included here.

No warranty is made or implied that the text here matches the actual city code. Sections that did not seem to apply to residential property owners have been omitted. “Legalese” has been removed as much as possible, hopefully without changing the meaning of the rules.

In summarizing, details have been omitted. Please refer to the actual city code when needing to obtain and processing a Tree Permit.

For the “real scoop”, call 503-823-TREE or email Trees@portlandoregon.gov

Contents

General.....	2
Tree Types.....	3
Tree Permits.....	5
Required Tree Actions.....	8
Prohibited Tree Actions.....	10
Tree Code Violations.....	11
Tree Permit Violation Review.....	12
Standard Enforcement Actions.....	12
Additional Enforcement Actions.....	14

Portland Tree Cutting Procedure

General

General

Where Tree Code Applies

Applies to all trees within the City of Portland.

Except:

- Trees within public rights-of-way that are managed by the State of Oregon.
- Trees located on lands or within utility corridor easements that are owned by State or Federal agencies.
- Trees placed in above-ground containers.

Liability

Every property owner shall be liable to:

- Persons injured or otherwise damaged by reason of the property owner's failure to keep his/her private property, sidewalks, planting strips and trees fronting or upon such private property in a safe condition so as not to be hazardous to public travel.
- The City of Portland for all expenses, including attorney fees, incurred by the City in defense of or paid by the City in settlement or satisfaction of any claim, demand, action or suit brought by reason of that property owner's failure to satisfy the obligations imposed by this Title.

Portland Tree Cutting Procedure

Tree Types

Tree Types

City Trees

City Trees are trees within City limits that is on property owned or managed by the City. A tree that straddles a property line between private property and City-owned or –managed property is a Private Tree, shared by the City and adjacent property owner. A tree on a property line between City-owned or managed property and the street is a Street Tree.

Dangerous Trees

Dangerous Tress are trees where the condition of the tree presents a foreseeable danger of inflicting damage that cannot be alleviated by treatment or pruning. A tree may be dangerous because it is likely to injure people or damage vehicles, structures, or development, such as sidewalks or utilities.

Dead Trees

Dead Trees are trees that are dead or have been damaged beyond repair or where not enough live tissue, green leaves, limbs, or branches exist to sustain life as determined by an arborist.

Dying Trees

Dying Trees are trees in an advanced state of decline because it is diseased, infested by insects or rotting and cannot be saved by reasonable treatment or pruning, or must be removed to prevent spread of the infestation or disease to other trees or is imminently likely to become a danger or die.

Dead, Dying, and Dangerous Trees

Dead, Dying, or Dangerous Trees must be so designated by the City Forester or a private arborist. These trees are required to be removed to safeguard people or property. The City may require a replacement tree at the property owner's expense. Snags may be allowed to remain if they are not a nuisance or safety hazard.

Heritage Trees

Heritage Trees are trees that because of their age, size, type, historical association or horticultural value, are of special importance to the City and have been designated as a Historic Landmark Tree, a Historic Tree, or a Heritage Tree.

Except:

- Tree species that are on the Nuisance Plant List.
- Trees on private property without the consent of the property owner;
Note: the consent of a property owner will bind all successors, heirs, and assigns and shall be recorded on the property deed.

The Urban Forestry Commission (UFC) makes a recommendation to City Council as to whether a tree should be designated as a Heritage Tree.

Portland Tree Cutting Procedure

Tree Types

Heritage Trees may be removed only with the consent of the UFC. Consent is not required if the tree becomes a threat to public safety.

Heritage Trees may be pruned only by the City Forester. In an emergency, when the City Forester is unavailable, pruning only what is necessary to abate an immediate danger may be performed without authorization by the City Forester.

Native Trees

Native Trees are trees of a species that are listed on the "Portland Plant List" as native to the Willamette Valley.

Non-Native Non-Nuisance Trees

Non-Native Non-Nuisance Trees are trees of a species that are not listed on the Portland Plant List as a native species or a nuisance trees.

Nuisance Trees

Nuisance Trees are tree of a species that are listed on the "Nuisance Plant List".

Protected Trees

Protected Trees are trees that shall be retained and protected because of a condition of approval on a land use review, a tree plan, or because it is a Heritage Tree.

Private Trees

Private Trees are trees on property that is not owned or managed by the City. A tree that straddles a property line between private property and City-owned or –managed property is a Private Tree, shared by the City and adjacent property owner. A tree that straddles a private property line and the street is a Street Tree.

Street Trees

Street Trees are any trees growing in or upon any city managed street. In some cases, property lines lie several feet behind the sidewalk or edge of road pavement. Where a street is not fully improved with curbs or sidewalks but is paved, a tree may be considered a Street Tree if it is located within 15 feet of the edge of pavement, unless a survey by a licensed surveyor or property boundaries can clearly establish otherwise. For completely unimproved streets, the actual property line will be used to demarcate between Private Trees and Street Trees. A tree that straddles a private property line and the street is a Street Tree.

Portland Tree Cutting Procedure

Tree Permits

Tree Permits

When a Tree Permit IS Required

Tree Permits are required for tree-related activities on trees that fall within the jurisdiction of the Tree Code (see “Where Tree Code Applies”, on page 2) NOT associated with:

- Heritage Trees
- Tree-activities that require a Development Permit

Based in the Tree Type, additional criteria determines when a Tree Permit is needed.

Street Trees

Tree Permits are required for Street trees of any size, unless:

- Pruning branches or roots <1/4”;
- Removing street trees that are sucker shoots, self-sown trees < 1/4”.

Removing the trees of any size in a conservation and protection overlay zones “c” & “p” will require a permit.

City Trees

Tree Permits are required for City trees 3 or more inches in diameter (when measured 4.5’ from the ground)

Private Trees

Tree Permits are required for Private trees 12 or more inches in diameter (when measured 4.5’ from the ground).

Removing the trees 6 or more inches in diameter (when measured 4.5’ from the ground) in a conservation and protection overlay zones “c” & “p” will require a permit.

Note: Trees required to be preserved by a condition of a land use review may be subject to other requirements.

Emergencies

Emergency pruning or removal of trees is regulated as follows:

- If an emergency exists because the condition or location of a tree **presents such a clear and present danger** to structures or the public that there is insufficient time to obtain a tree permit, the hazardous portion of the tree may be removed without first obtaining a required tree permit.
- Any **person who prunes or removes a tree without the needed permit** shall, within 7 days of such action, apply for a Type A tree permit. The application shall include photographs or other documentation to prove that an emergency existed. The City Forester will evaluate the information to determine whether an emergency existed. Failure to submit an application or provide information documenting the emergency nature of the event may be pursued as a violation.

Portland Tree Cutting Procedure

Tree Permits

When a Tree Permit is NOT Required:

- The City Forester may plant, prune or remove Street Trees without obtaining the authorization of the adjacent property owner.
- Public agencies operating under the conditions of a Programmatic Tree Permit are not required to obtain the adjacent owner's consent for tree-related work on streets.

Who Can Apply for a Tree Permit

City Trees

Only the Bureau that owns the site or assigned to manage or care for trees, or the Property Owner may submit the application.

Street Trees

The following persons/agencies can apply for the Tree Permit:

- The owner of the adjacent property where the Street Tree will be planted, pruned, or removed.
- The Bureau of Environmental Services for Street Trees in greenstreet facilities.
- The Bureau of Transportation for Street Trees in center medians.

Private Trees

The following persons/agencies can apply for the Tree Permit:

- The Tree is completely on the owner's property, the owner of property where the tree is located can apply for the Tree Permit.
- The trees that straddle property lines, the owners of all properties where the tree is located shall authorize the application.
- The trees are on commonly held tracts such as open space or private street tracts, the application shall be submitted by the agent or parties authorized to represent the shared ownership interest in the tract. It is the applicant's responsibility to obtain the appropriate consent for tree permit applications.

Trees within Easements, or Addressed by Deed Restrictions or Other Agreements

ALL trees within easements, or addressed by deed restrictions or other agreements must comply with the Tree Code and obtain the appropriate permit.

The owner of a servient tenement, the grantor of a deed restriction or other person who by agreement has authorized another to possess, occupy or use property owned by the person is authorized to apply for permits or approvals required by this Title.

The presence of an easement, deed restriction or other agreement does not change the type of tree. A tree remains either a City Tree, a Street Tree or a Private Tree.

Portland Tree Cutting Procedure

Tree Permits

Permit Types

When a Tree Permit application is applied for, the city will determine whether the application will be processed as a Type A or a Type B Tree Permit.

Type A Tree Permits will be issued when the application provides clear evidence of the situation that will allow the city staff to know that all the rules are being followed.

Type B Tree Permits will be issued when an inspection is required to determine which rules apply or if a mitigation plan is required.

Criteria for Public Notice and Appeals

The need for public notice and the ability to appeal the Tree Permit findings are determined by Table 1

Table 1

Permit Type	Proposal	Tree Type	Public Notice/Appeal? ¹
A	Any Type A request	City/Street/ Private	No
	Up to four healthy < 20" diameter nuisance and non-nuisance species trees	City/Street	No
B	≥ 20" diameter, healthy nuisance or non-nuisance species tree	City/Street	Yes
	More than four healthy ≥ 12" diameter nuisance and non-nuisance species trees		
	≥ 20" diameter, healthy non-nuisance species tree ²	Private	
	More than four healthy ≥ 12" diameter non-nuisance species trees		

¹ The applicant may appeal any Type A or B permit decision

² No public notice or opportunity for public appeal is required for removal of one healthy non-nuisance species tree >20" diameter per lot per calendar year in any residential zone.

Portland Tree Cutting Procedure

Required Tree Actions

Required Tree Actions

General Tree Maintenance

It is the duty of every owner of property to maintain trees located on the property or on the adjacent street planting area. The owner shall be responsible for all costs associated with such maintenance, removal and any required tree replacement.

Dutch Elm Disease Prevention and Eradication

All species and varieties of elm trees (genus *Ulmus*) infected with the fungus known as Dutch elm disease (*Ophiostoma ulmi* or *Ophiostoma novo-ulmi*) as determined by laboratory analysis are declared to be a public nuisance. It is the duty of any owner of a lot or parcel where infected elmwood is present to promptly remove any such elm tree or dead elmwood under the supervision and direction of the City Forester.

Pruning restrictions.

Pruning any species or varieties of elm trees between April 15 and October 15 is prohibited. This prohibition may be waived when such pruning is necessary to remove hazard limbs or for other causes as deemed necessary by the City Forester. In cases where the City Forester has allowed pruning to occur during the pruning prohibition period, the responsible party shall properly dispose of removed elm wood within 24 hours.

Authority to inspect.

The City Forester is hereby authorized to enter upon any lot or parcel during business hours for the purposes of:

- inspecting any elm tree or dead elmwood,
- obtaining specimens for the purpose of laboratory analysis or
- to determine whether such tree because it is dead or substantially dead may serve as a breeding place for the European or native elm bark beetle (genus *Scolytus*).

If the City Forester determines that the tree may serve as a breeding place for the European or native elm bark beetle, the City Forester may declare the elm tree or dead elmwood a public nuisance.

Determination and action.

If, based on analysis of specimens removed from any elm tree, it is determined that such tree is infected, or the City Forester determines that any dead or substantially dead elm trees or dead elmwood may harbor the elm bark beetle, the City Forester will serve a written notice requiring the property owner or responsible party to remove, destroy and properly dispose of such trees or dead Elmwood located on the property or on the adjacent street planting area.

If the property owner or responsible party fails, neglects or refuses to remove and destroy, or properly dispose of, such elm tree or dead elmwood within 15 days after service of such notice, the City Forester may cite the owner in violation and take the appropriate action to remove the nuisance

Portland Tree Cutting Procedure

Required Tree Actions

Maintain Clearances

The property owner is required to prune or remove, if necessary, any tree located on the property or on the abutting street planting area when said trees are not maintained to meet the branch clearances as set forth below:

- **Sidewalk clearance.** Branches of trees extending over sidewalks may not be less than 7½ feet above the sidewalk.
- **Roadway clearance.** Branches of trees extending into any public or private roadway may not be less than 11 feet above the pavement. Moreover, on any street designated as a Regional Trafficway, Major City Traffic Street, District Collector, or a one-way street where parking has been prohibited, branches shall be trimmed to a height of 14 feet above the crown of the street.
- **Overhead powerline clearance.** Branches of any tree may not interfere with any light, pole, or overhead powerline used in connection with or as a part of the City or Public Utility system. In addition to the authority granted to the City to prune or direct property owners to prune trees in violation of this section, a Public Utility operating pursuant to an approved Programmatic Permit may also prune any tree which interferes with the safe operation of the utility system.

Maintain Visibility

The owner or responsible party shall keep trees located on the property or on the adjacent street planting area from completely or partially obstructing visibility as follows:

- Visibility of traffic control devices such as directional and informational signs as defined by the Manual of Uniform Traffic Control Devices;
- Visibility for drivers, bicyclists, or pedestrians; or
- In any way that presents an unreasonable hazard to the travelling public.

Maintain Sidewalks and curbs

Obstructions.

The property owner shall keep the sidewalk adjacent to the owner's property clear of branches, leaves, flowers, fruit or other organic matter that may obstruct or render the passage of persons unsafe.

Repairs.

When the curb or sidewalk, or both, abutting any property become damaged or in a state of disrepair because of a tree maintained by the property owner, the repair of the curb or sidewalk, or both, will be treated as other curb or sidewalk repairs in accordance with the provisions of Public Improvement Code (Title 17). The removal of any tree or portion thereof, as the Responsible Engineer in consultation with the City Forester may determine necessary, will be granted through the appropriate tree permit (Type A or B). The City may require alternative construction methods be used in order to retain the tree. If the tree is removed, the City Forester may require that the removed tree be replaced in accordance with the required permit.

Portland Tree Cutting Procedure

Prohibited Tree Actions

Public waterlines, storm sewers, and sanitary sewers

Damage from Roots

Whenever the Responsible Engineer finds that roots of any tree have entered any sewer, drain or waterline in the street or City-owned easement, and are stopping, restricting, retarding the flow of sewage or drainage, or causing waterline leakage or believes that removal of the tree is necessary to reasonably prevent future root entry into the sewage, drainage, or water facility, the Responsible Engineer may refer the condition to the City Forester.

Remedies

In addition to the remedies described in Tree Code, the City Forester may remedy the violation by directing the property owner or responsible party to prune the roots or remove the tree. If the City Forester believes that the required amount of root pruning will irreparably damage or destroy the tree, the City Forester will notify the owner and require removal and replacement of the tree. Nothing in this Subsection will be construed to limit the Responsible Engineer's authority to separately invoke abatement proceedings.

Prohibited Tree Actions

Any of the following actions constitute violations of the Tree Code:

- Failure to properly maintain trees, including landscape trees and trees necessary to meet tree density standards. Any such trees that die shall be replaced.
- Conducting regulated activities without a tree permit. It is unlawful for any person to plant, place, prune, alter, remove, destroy, cut, break, or injure any tree without first obtaining a tree permit for said action, except as provided in the Tree Code.
- Non-compliance with terms and conditions of a tree permit.
- Non-compliance with terms and conditions of a development permit.
- Topping and excessive pruning.
- Attachments to City or Street Tree of any signs, ropes, wires, chains or other devices whatsoever, when such devices are determined to threaten the viability of the tree or are likely to create a hazard are prohibited. Any attachments to City or Street Trees are subject to obtaining a tree permit from the City Forester.
- Interfere, damage, removal or otherwise misuse of tree grates and tree guards.

Portland Tree Cutting Procedure

Tree Code Violations

Tree Code Violations

When a Prohibited Action has occurred:

- City Forester shall notify the property owner to prune, remove or take any other action as necessary to correct the violations.
- The BDS Director or City Forester shall set time limits in which the violations of this Title are to be corrected
- Acceptable Remedies:

Minor Infractions

For minor infractions that do not result in damage to a tree, the City will first seek to correct the violation without penalties.

Damaged Trees

For trees that are damaged but were not removed and where the City Forester concurs that the tree may still be viable, the violation will not be considered an "illegal tree removal" provided:

- The property owner contracts for the services of an arborist to assess the damage and prescribe a treatment regimen;
- The property owner enters into a contract with his/her arborist to complete the treatment regimen. The treatment and associated monitoring period shall be at least 1 year, but may be longer; and
- The arborist shall provide the City with updates on the services performed, when they were performed, and the status of the tree's condition at intervals determined by the original treatment regimen. If the tree dies at any time during the treatment and monitoring period, the property owner or responsible party shall remove and replace the trees.
- In lieu of the treatment regimen and monitoring period, the City Forester may instead accept a performance guarantee³ sufficient to cover the cost of removing the tree plus the cost of tree replacement. When the property owner selects this option, death of the tree within the 3 year timeframe may be deemed prima facie evidence that the damage was the sole cause of the tree's death.

Tree Replacement and Payment in Lieu.

The City may require replacement for any trees removed illegally. The City may require greater than tree-for-tree replacement, but may not require greater than inch-for-inch replacement. The amount of replacement trees will be determined by the volume of removed tree canopy. For each tree that the City positively determines was dead, dying, or dangerous, the replacement will be limited to one tree. The responsible party shall enter into a replanting and maintenance plan agreement approved by the City. When the responsible party is unable to accommodate the required replacement planting on the site or adjacent street, the balance of required inches may be paid as a fee in lieu of planting to the Tree Planting and Preservation Fund.

³The amount of the performance guarantee shall be equal to at least 110 percent of the estimated cost.

Portland Tree Cutting Procedure

Tree Permit Violation Review

Payment into the City's Urban Forestry Fund

The City may require any person to pay into the City's Urban Forestry Fund a restoration fee for the damaged or removed tree according to the City's adopted fee schedule. The restoration fee may be doubled if any of the following apply:

- The person has been convicted of a previous violation of this Title;
- The tree is a Heritage tree; or
- The tree was subject to the protection requirements of a Tree Plan.

Judgments

The City will have the right to obtain, in any court of competent jurisdiction, a judgment against any person removing or causing damage to any City tree or Street Tree in violation of this Title. In any such action, the measure of damages is the actual replacement value of the damaged or destroyed trees as well as any other consequential damage to other public facilities within the street.

Tree Plan Infractions

When the BDS Director determines that a violation of this Title has occurred involving a Private Tree shown to be protected on a Tree Plan, the BDS Director may require the property owner or responsible party to correct the violation using any of the following remedies.

- Tree Protection Re-inspection Fee.
- Tree Plan Revision.

Tree Permit Violation Review

The City may require any person who cuts, removes, or damages any tree without a permit as required by this Title or is in non-compliance with any term, condition, limitation or requirement of a tree permit or Tree Plan, to submit an application for a Tree Permit Violation Review.

Tree Permit Violation Applications are processed as Type B permits, and are subject to public notice but not the public appeal procedures. The purpose of this review is to establish appropriate replacement requirements and notify interested parties. Failure to abide by the conditions of the approval will be treated as a repeat offense.

Standard Enforcement Actions

Civil penalties.

The City Forester may issue a complaint to any person who cuts, removes, prunes or harms any tree without a permit as required by this Title or is otherwise in noncompliance with any term, condition, limitation or requirement of an approval granted under this Title, and require payment of a civil penalty up to \$1,000 per day. Each tree constitutes a separate violation, and each day that the person fails to obtain a permit or remains in noncompliance with a permit or tree plan may also constitute a separate violation.

Portland Tree Cutting Procedure

Standard Enforcement Actions

Initiating a proceeding before the Code Hearings Officer.

The City Forester is authorized to initiate proceedings before the Code Hearings Officer to enforce the provisions of this Section when the responsible person fails to respond to the City Forester's complaint. The Hearings Officer may order any party to:

- Abate or remove any nuisance;
- Install any equipment or plant trees necessary to achieve compliance;
- Pay to the City of Portland a civil penalty of up to \$1,000 per day.
- Undertake any other action reasonably necessary to correct or mitigate the violation.

Delayed intake of applications for development permits or land use reviews.

When a violation of this Title has occurred on a site, the BDS Director may refuse land use or development permit applications until the violation has been satisfactorily resolved.

Abatement.

Whenever a property owner conducts a prohibited action, the City may pursue abatement proceedings to remove the nuisance. Whenever the City has declared that such nuisance exists, the property owner will be directed to abate the nuisance.

Stop Work Orders.

When any work is being conducted in violation of this Title, and public health or safety is threatened, the City Forester may issue a stop work order.

Enforcement penalty.

The City may charge a penalty in the form of a monthly enforcement penalty for each property found in violation of this Title that meets the following conditions:

- The property has been issued a notice of violation;
- 30 days has passed since the effective date of the initial notice of violation; and
- The property remains out of compliance.

Properties in violation for 3 months from the initial notice of violation will be assessed an enforcement penalty that is twice the amount as listed in the Enforcement Fee and Penalty Schedule. Once monthly enforcement penalties begin, they will continue until all violations have been corrected, inspected and approved

Whenever the owner believes that all violations have been corrected, they shall notify the Director. The Director will then promptly schedule an inspection of the property and notify the owner if any violations remain uncorrected.

When a property meets the conditions for charging an enforcement penalty as described in this Section, the Director will notify the City Auditor. The Auditor will:

- Notify the property owner of the assessment of enforcement penalties;
- Record a property lien in the Docket of City Liens;

Portland Tree Cutting Procedure

Additional Enforcement Actions

- Bill the property owner monthly for the full amount of enforcement penalties owing, plus additional charges to cover administrative costs of the City Auditor; and
- Maintain lien records until the lien and all associated interest, penalties, and costs are paid in full; and the BDS Director certifies that all violations listed in the original or any subsequent notice of violation have been corrected.

Additional Enforcement Actions

For City and Street Tree Violations, the City Forester may impose the following additional actions:

Criminal penalties.

The court may require that any responsible party violating any provision of this Title will, upon conviction, be fined a sum not exceeding \$1,000 or will be imprisoned for a term not exceeding 6 months.

Institution of legal proceedings.

In addition, the City Attorney, may maintain an action or proceeding to compel compliance with or restrain by injunction the violation of any provision of this Title.