



City of Tigard Memorandum

To: Tigard City Council
From: Marissa Daniels, Associate Planner
Re: Urban Forestry Code Revisions
Date: ~~October 1, 2012~~ October 23, 2012

On October 23, 2012, City Council will continue discussion on the Urban Forestry Code Revisions. At the September 11, 2012, public hearing, staff presented a list of 47 “issues of interest” to capture Council feedback. At that time, Council gave direction to staff to categorize and simplify the list of issues to be discussed. The result of that process is included on page 3 of this memo (Discussion Guide). Issues from the September matrix have been condensed and categorized, then sorted into the following types:

Policy Issues are items where Council has indicated a desire to look at potential changes to Planning Commission’s recommendation. Discussion on October 23, 2012, will center on these items and staff will be asking Council to provide direction on each issue.

Appendix A details each of the policy issues and provides a staff response. Most notable are the few areas where staff has provided options to consider, based on your prior discussions. This includes alternatives to:

- Exempt single family residential trees on private property (i.e. backyard trees) from maintenance and permit requirements.
- Revise the Administrative Rules during their (separate) adoption process. Specific items to address at that time could include:
 - Should the tree lists be amended?
 - Should the administrative rules be simplified?
- Revise the proposed code to clarify that hazard trees are required to be removed only after complaints are verified using industry standard methods.

Issues for Clarification are informational in nature, and Appendix B includes staff response. While some of these questions may be answered by the staff presentation, we do not plan to run through each item individually. If there is an item in this category you’d like to raise for group discussion, please do so during the October 23, 2012, meeting.

Future issues will not be considered in the adoption of the code at this time. For example, if Council wishes to amend certain administrative rules in the Urban Forestry Manual, then that

can be addressed during the upcoming administrative rules adoption process. Solar access is another example of an issue Council identified as a future work item.

Resolved indicates issues discussed on September 11, 2012 with some resolution.

Please note that time for public testimony will be provided. Staff from AKS, the firm that completed the Peer Review, will also be on hand.

Background

Council took the approach of first studying community values and existing conditions to set the framework for addressing the code. This began with the Comprehensive Plan process which established broad, 20 year goals and policies through the new Urban Forest Section of the Comprehensive Plan. From the Comprehensive Plan, council then directed the Urban Forestry Master Plan which expanded upon the Comprehensive Plan goals and policies and studied the issues in much greater detail. While the long term goal in the Master Plan is to increase citywide tree canopy from the current 25% up to 40%, the short term action items are to revise the city's urban forestry codes and funding streams in support of that goal. We're now here on the ground implementing the action items in the Urban Forestry Master Plan:

- Revising the land use and non land use elements of the code,
- Creating the Urban Forestry Manual to administer the code, and
- Updating the Master Fees and Charges Schedule to reflect fees associated with the recommended code.

The City Attorney advised staff to separate the land use vs. non land use elements of the code on council agendas because they have different process requirements. The Urban Forestry Standards for Development and Tree Grove Preservation Incentives apply during development and so are categorized as land use elements, and the Tree Permit Requirements, Hazard Trees and Urban Forestry Manual represent the non land use elements of the code. The Urban Forestry Manual consists of administrative rules that implement the details of the land use and non land use elements of the code.

Discussion Guide

Urban Forestry Code Revision Issues of Interest – September 11, 2012

Category	Issue	Type			
		Policy	Clarification	Future	Resolved
Standards for Development	5. Is the canopy approach appropriate as a regulatory tool?	P1			
	10. How will the requirements apply to large subdivisions vs. small infill (i.e. partitions) and redevelopment sites?	P2			
	11. Should developers be required to maintain trees for two years after planting to ensure establishment?	P3			
	7. Are the canopy requirements a regulatory taking?				<input checked="" type="checkbox"/>
Administrative Rules - Details	32. Are the tree planting, removal and thinning standards internally consistent?			<input checked="" type="checkbox"/>	
	33. What is the “built environment” (e.g. trees are allowed to be removed if their roots damage the “built environment”)?			<input checked="" type="checkbox"/>	
	35. Are there some inappropriate trees on the lists such as London Plane Tree?			<input checked="" type="checkbox"/>	
	36. How was the nuisance tree list developed?			<input checked="" type="checkbox"/>	
	39. Should there be spacing standards between trees and from buildings?			<input checked="" type="checkbox"/>	
	40. Why are there different standards for planting open grown vs. stand grown trees?			<input checked="" type="checkbox"/>	
	44. Why is it necessary to specify sheet size and scale for development plans?			<input checked="" type="checkbox"/>	
	45. Is it necessary for the city to have hard copies submittals of development plans?			<input checked="" type="checkbox"/>	
	46. Is requiring tree protection inspections by arborists/landscape architects twice monthly during development excessive?			<input checked="" type="checkbox"/>	
Administrative Rules – Tree Lists	48. Complexity of requirements to draw plans.			<input checked="" type="checkbox"/>	
	34. Do the tree lists provide enough options?			<input checked="" type="checkbox"/>	
	35. Are there some inappropriate trees on the lists such as London Plane Tree?			<input checked="" type="checkbox"/>	
	36. How was the nuisance tree list developed?			<input checked="" type="checkbox"/>	
	37. Is there a federal definition of a nuisance tree that can be used to develop the list?			<input checked="" type="checkbox"/>	
	38. Should Norway Maple be removed from the nuisance tree list?			<input checked="" type="checkbox"/>	
Tree Permit Requirements	43. Are there trees on the list that will cause damage to underground pipes and utilities?			<input checked="" type="checkbox"/>	
	22. Should a permit be required to remove trees that were planted or preserved with development?	P4			
	21. Should permits continue to be required to remove trees on private property?				
	20. Are the proposed permit requirements more restrictive than the existing permit requirements?		C1		
	23. Who will serve on the board or committee that makes decisions regarding removing healthy, protected trees?		C2		
Hazard Trees	25. Why does the code allow the removal and replacement of trees that die within three years of planting (e.g.8.12.040)?		C3		
	28. Should hazard trees be prohibited in Tigard?	P5			
	27. How do the hazard tree requirements relate to insurance requirements?	P6			
	26. Will the hazard tree requirements be effective in requiring removal of hazard trees when there are disputes?		C4		
Administrative Rules - General	29. Are there conflicts between the hazard tree requirements and the recently adopted nuisance code?		C5		
	16/30. Should the Administrative Rules (Urban Forestry Manual) be eliminated and the elements moved into the Code?	P7			
	*Does the proposal increase the cost of development due to the tree canopy plan and soil volume plan requirements?	P8			
	14. Do the administrative rules that implement the development code meet state land use law?		C6		
	15. Will the use of administrative rules lead to more appeals of development projects?		C7		
	17. Do the administrative rules for the development code need to be so detailed?			<input checked="" type="checkbox"/>	
Soil Volumes	31. Are the administrative rules a solution in search of a problem?			<input checked="" type="checkbox"/>	
	9/13. Will the cost of development increase due to the tree canopy plan and soil volume plan requirements?		C8		
Funding	*Should parking lot canopy (and associated soil volume) be required, since it could lead to increased development costs?		C9		
	*How will funding of the Urban Forestry Program be affected by the proposal?		C10		
Proposal Development Process	1. Was there a balance of viewpoint when developing the proposal?				<input checked="" type="checkbox"/>
	2. Is there a disconnect between where we started (i.e. Comp Plan and Urban Forestry Master Plan) and where we ended?				<input checked="" type="checkbox"/>
	3. Do Tigard residents support a 40% long term canopy goal?				<input checked="" type="checkbox"/>
	4. Is the 40% canopy goal for all private property or is it citywide?		C11		
	19. Should there be a review period after adoption?		C12		
	36. How was the nuisance tree list developed?		C13		
Future Work Items	8. Will the canopy requirements prevent solar access?			<input checked="" type="checkbox"/>	
	24. Should people have the right to significant view corridors such as Mt. Hood views?			<input checked="" type="checkbox"/>	
	41. Should there be limits on tree heights in order to preserve significant view corridors such as Mt. Hood views?			<input checked="" type="checkbox"/>	
	42. Should there be restrictions on planting evergreen trees on the south side of streets (due to winter shade/ice issues)?			<input checked="" type="checkbox"/>	

* Denotes issues raised on September 11, 2012

Policy Issues

Standards for Development

P1	Issue of Interest: Is the canopy approach an appropriate regulatory tool?
	<p>Staff Response: Many cities and counties throughout the country, particularly in the southeastern United States, have adopted tree canopy ordinances. The CAC and Planning Commission felt the approach was right for Tigard for three main reasons:</p> <ul style="list-style-type: none"> • The canopy approach allows maximum flexibility for the project designer to meet code requirements. • The canopy approach is more consistent with urban forest science and the city’s long-term urban forestry goals. It encourages large stature, appropriately spaced trees, which have the highest benefit/cost ratios. • The canopy approach requires the project designer to consider future canopy growth, which helps ensure that trees are properly placed within a site to become long-term amenities. It encourages appropriate tree spacing and setbacks from buildings by highlighting mature canopy growth. <p>The CAC and Planning Commission supported the development of a tiered approach to the canopy requirements, recognizing that, for example, more tree canopy is desirable and achievable in residential zones than in industrial zones. Staff and consultants then extensively tested the tiered tree canopy requirements on a wide range of development projects and made adjustments as needed based on CAC and Planning Commission input. The goal of the CAC and Planning Commission was to ensure the requirements are achievable, result in a reasonable balance between trees and development, and do not force typical development projects to pay a fee in lieu of canopy or utilize the discretionary review option.</p> <p>If the canopy requirements are modified significantly, staff recommends additional testing to determine the implications of the modifications. For example, if the canopy requirements are reduced by half, they may be achieved with small stature street trees only and result in less tree canopy in new development than currently exists in the same zones.</p> <p>For more detailed information about why a tree canopy approach was selected over tree count (i.e. tree density or number of trees) please see Volume V, page 6.</p>
	<p>Staff Recommendation: Staff recommends adopting the proposed canopy approach and tiered canopy requirements because they have been extensively tested and supported through the Citizen Advisory Committee, public involvement, and Planning Commission processes. If significant modifications are made, staff will need more time to rework the proposal and recommends additional testing of the results.</p>

P2	Issue of Interest: How will the requirements apply to small infill sites vs. larger subdivisions, planned developments and redevelopment sites?																
	<p>Staff Response: Taking into consideration future development trends, the Planning Commission recommended continuing to apply the draft code standards to Minor Land Partitions (when lots are divided to create two or three lots). These small infill sites represent a significant portion of potential future development. The draft code standards are also applicable to larger projects such as residential Subdivisions and Planned Developments, and redevelopment projects that require Conditional Use Permits, Downtown Design Reviews and Site Development Reviews.</p> <p>Independent peer review by AKS Engineering and Forestry (See Volume II, pages 187-217) demonstrated that the proposed effective tree canopy requirements were achievable on the range of sites that were tested, including three residential sites with smaller lots from the following zones:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;"><u>Zoning</u></th> <th style="text-align: center;"><u>Tier¹</u></th> <th style="text-align: center;"><u>Minimum Lot Size</u></th> <th style="text-align: center;"><u>Effective Tree Canopy Provided</u></th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">R-4.5</td> <td style="text-align: center;">Tier 1</td> <td style="text-align: center;">7,500 sq. ft.</td> <td style="text-align: center;">45%</td> </tr> <tr> <td style="text-align: center;">R-7</td> <td style="text-align: center;">Tier 1</td> <td style="text-align: center;">5,000 sq. ft.</td> <td style="text-align: center;">215%</td> </tr> <tr> <td style="text-align: center;">R-25</td> <td style="text-align: center;">Tier 2</td> <td style="text-align: center;"><3,000 sq. ft.</td> <td style="text-align: center;">35%</td> </tr> </tbody> </table> <p>The Planning Commission approved two changes to the proposal, specifically addressing sites with smaller or more constrained lots:</p> <ul style="list-style-type: none"> • Recognizing that small lots may have limited street frontage for street trees, the commission reduced the per lot minimum from 20% to 15% for Tier 1 sites, and eliminated the per lot minimum for Tier 2 and 3 sites. • The commission voted to move the R-12 district from Tier 1 to Tier 2 to be conservative since an R-12 site was not tested through the peer review. <p>Staff Recommendation: Retain the Planning Commission recommendations. As described in P1, the tiered canopy requirements were carefully tested and adjusted by Planning Commission before forwarding their recommendation to Council. They found that proposed requirements achieve the desired balance between trees and development on small infill sites as well as larger subdivisions, planned developments, and redevelopment sites. Additional testing would be beneficial to determine the implications of significant modifications to the proposed canopy requirements.</p>	<u>Zoning</u>	<u>Tier¹</u>	<u>Minimum Lot Size</u>	<u>Effective Tree Canopy Provided</u>	R-4.5	Tier 1	7,500 sq. ft.	45%	R-7	Tier 1	5,000 sq. ft.	215%	R-25	Tier 2	<3,000 sq. ft.	35%
<u>Zoning</u>	<u>Tier¹</u>	<u>Minimum Lot Size</u>	<u>Effective Tree Canopy Provided</u>														
R-4.5	Tier 1	7,500 sq. ft.	45%														
R-7	Tier 1	5,000 sq. ft.	215%														
R-25	Tier 2	<3,000 sq. ft.	35%														

P3	Issue of Interest: Should developers be required to maintain trees for two years after planting to ensure establishment?
	<p>Staff Response: In the existing code, the City requires developers to guarantee mitigation tree survival during a two year establishment period. Guarantees are not</p>

¹ Tier 1 (40% effective canopy) - R-1, R-2, R-3.5, R-4.5 and R-7 zones
Tier 2 (33% effective canopy) - R-12, R-25, R-40, C-N, C-C, C-G, C-P, MUE, MUE-1, MUE-2, MUC, MUR, and I-P zones
Tier 3 (25% effective canopy) - MU-CBD, MUC-1, I-L, I-H, and schools (18.130.050(j)) zones

	<p>currently required for the establishment of street trees, parking lot trees, and other required landscape trees. The UFCR CAC recommended and the Planning Commission concurred that the city should require a guarantee period for all required trees (street trees, parking lot trees, etc.) not just mitigation trees. Often these other required trees have more difficulty becoming established because they are planted in more challenging locations such as along streets and within parking lots.</p> <p>The proposal requires bonding for 2 years after planting for all required trees to ensure early establishment.</p> <p>Note: There is a separate provision in Title 8 of the Municipal Code that allows the removal and replacement of required trees that die within three years after planting (further explained in C3 below). This provision has been reviewed by staff and does not conflict with the provision in Title 18 that requires developers to maintain trees for two years after planting. The reason the provisions do not conflict is that the Title 8 requirement does not apply during development and the Title 18 provision only applies during periods of active development.</p> <p>Staff Recommendation: Maintain the Planning Commission recommended requirement for a two year early establishment period.</p> <p>Options to consider, based on your discussions, include an alternative to remove the maintenance period for single family residential trees on private property (i.e. backyard trees). If planted in desirable locations, these residential trees may have a higher likelihood of survival because of the care they receive from homeowners. At the same time, this alternative would allow owners more flexibility in managing their residential landscapes. However if homes do not sell soon after being built, these trees may not survive if not maintained by the builder/developer.</p>
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Tree Permit Requirements

P4	Issue of Interest: Should a permit be required to remove trees that were planted or preserved with development?
	<p>Staff Response: Trees that were required to be planted or preserved as part of past development projects are part of the approved land use permit for that development. This includes mature trees that were preserved and incorporated into development plans, as well as newly planted trees such as parking lot shade trees.</p> <p>Because there is no permit process in the existing code to address the removal and replacement of healthy trees that were required with development, applicants must amend their prior land use permits to legally remove these trees. This process is overly time consuming and expensive with fees into the thousands of dollars.</p> <p>There are many legitimate reasons as to why owners may want to remove healthy trees that were required with development. These reasons include trees with roots that have</p>

	<p>begun damaging pavement and trees that have grown tall enough to obscure significant views.</p> <p>In order to provide more flexibility and reduce or eliminate costs, the CAC recommended, and the Planning Commission concurred with establishing a tree removal permit process for trees that were required with development in the proposed Title 8.</p>
	<p>Staff Recommendation: Retain the Planning Commission recommendation. Requiring tree permits for trees planted or preserved with development has been supported through the Citizens Advisory Committee, public involvement, and Planning Commission process.</p> <p>Options to consider, based on Council discussions, include removing this requirement for private single family residential trees. If planted or preserved in desirable locations, these residential trees may have a low probability of being removed by homeowners. At the same time, this would allow owners more flexibility in managing their residential landscapes. However, particularly with past development projects, neighbors may have an expectation that certain trees will continue to be preserved or maintained if it was required as part of that project. Also, in the proposed code, trees planted or preserved to meet the requirements receive from 100% to 200% canopy credit. Council will need to decide whether planted and/or preserved trees used to meet canopy requirements should continue to be maintained after development is complete.</p>

Hazard Trees

P5	Issue of Interest: Should hazard trees be prohibited in Tigard?
	<p>Staff Response: Hazard trees are prohibited in both the current and the proposed Tigard Municipal Code. This is similar to other code prohibitions against nuisances such as tall weeds and grass. In the proposal the definition of “hazard tree” is now consistent with the standardized rating system developed by the International Society of Arboriculture. This helps to remove subjectivity during the hazard tree evaluation process by using industry standard methods and terminology. The overall risk rating of a tree is determined by three main factors: probability of failure, size of defective part, and the target area (i.e. how often the site is occupied and the value of the target). Using this methodology, a dead tree in a natural area is unlikely to be considered a hazard because the target rating would be very low, whereas the same tree on Durham Road may be considered a hazard because there are many high value targets. The Tree Risk Assessment Form, which has been adapted from the ISA form, can be found in Volume III pages 61-65.</p> <p>As recommended by the CAC and supported by the Planning Commission, if a tree on an adjacent property is a hazard, Chapter 8.08 would allow people to file a claim with the city. The city would then utilize a third party arborist to evaluate the tree. If the</p>

	<p>arborist determines there is a hazard, abatement would be required. The city could, after obtaining a warrant, enter a property, abate a hazard tree and recover costs in cases where an owner is uncooperative. The city could abate tree hazards without a warrant when there is an imminent threat to public health or safety as is currently allowed by the existing code.</p> <p>The intent of the proposed code is to establish an objective and efficient process for the abatement of hazard trees only after complaints are verified. The intent is not to cause the wide spread removal of all trees that may or may not be hazards. Consistent with current code enforcement practices, the city would only take action in response to written complaints.</p>
	<p>Staff Recommendation: Maintain the Planning Commission recommendation.</p> <p>One policy option to consider, based on Council discussions, is to revise the proposed code to clarify that hazard trees are required to be removed only after complaints are verified using industry standard methods.</p>

P6	<p>Issue of Interest: Should the hazard tree standards be amended to address personal liability insurance requirements?</p>
	<p>Staff Response: Staff will work with Council to further clarify the impact of the code on personal liability insurance requirements.</p>
	<p>Policy Options: Maintain the Planning Commission recommendation. Policy alternative: Council direction to address requirements.</p>

Administrative Rules

P7	<p>Issue of Interest: Should the Administrative Rules be eliminated and the elements moved into the Code?</p>
	<p>Staff Response: Administrative rules were developed for the Urban Forestry Code Revisions project to clearly document and communicate most of the city’s current administrative practices without making the code excessively long. For example, administrative items such as planting specifications, tree lists and methods for calculating tree canopy are more efficient when placed within an administrative manual rather than in the development code. Also when administrative changes are required such as adding or subtracting trees from the tree lists, the amendment process for administrative rules is more efficient while at the same time providing for adequate public notice and the opportunity for public participation.</p>
	<p>Staff Recommendation: Maintain the format of the Planning Commission recommendation, separating the Code elements from the administrative procedures. In developing the proposal, public input from the range of viewpoints involved wanted the specificity that the proposed administrative rules provide.</p>

	<p>Due to the lack of specificity in the existing code, there are numerous staff interpretations and conditions of approval required to implement the code when approving development applications. The intent of the proposed administrative rules is to minimize staff discretion when implementing the code thereby increasing certainty for applicants and the public.</p> <p>Options to consider, based on Council discussions, include an opportunity to revise the Administrative Rules during the administrative rulemaking process. According to Municipal Code section 2.04.070 (Administrative Rulemaking Procedure), council shall be notified 14 days prior to public notice of any proposed administrative rules. At any time during that 14 day period, any councilmember may put the administrative rules for discussion on the next available council agenda.</p> <p>For this project, if council authorizes administrative rules when adopting the UFCR on November 27, 2012, staff anticipates formally notifying council of the administrative rules on December 13, 2012 and sending public notice of administrative rules on December 27, 2012. Therefore, any councilmember may decide between December 13 through December 27, 2012 to put the administrative rules for discussion as part of the next available council agenda. Of course, if council informs staff on October 23, 2012 that they anticipate further discussion of administrative rules, staff will begin finding time on council's early 2013 agenda for administrative rules.</p> <p>Specific items to address during the administrative rule adoption could include:</p> <ul style="list-style-type: none"> • Should the tree lists be amended? • Should the administrative rules be simplified? <p>Another option to consider is whether to eliminate the administrative rules all together. For the reasons stated above, staff does not recommend this option. However, if council does direct staff to eliminate the administrative rules, staff will need time to further amend the code. This is because as drafted, the code includes numerous cross references to administrative rules in the Urban Forestry Manual such as canopy requirements and how to calculate those requirements. If the administrative rules are eliminated, those details will need to be moved into the code.</p>
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P8	Issue of Interest: Does the proposal increase the cost of development due to the tree canopy plan and soil volume plan requirements?
	Staff Response: The proposed code places a high value on the role of urban forestry professionals in designing and implementing the conditions for sustainable urban tree canopy, which include providing adequate soil volumes. Staff acknowledges that requiring urban forestry professionals adds costs to projects, but it is consistent with the goals of the Urban Forestry Code Revisions: to distribute development costs more equitably (rather than only requiring arborists for projects with existing trees) and to focus on establishing healthy future canopy (rather than only penalties for removal).

As an example, based on interviews with local arborists the current estimated cost to develop and implement a tree plan for a Minor Land Partition is between \$4,000 and \$5,000 (this includes inventory field work, site plan, arborist report, revisions based on city review, implementation and twice monthly inspections). However, costs associated with the existing code for tree removal mitigation alone can reach \$30,000 for a Minor Land Partition (this is in addition to the cost of developing and implementing a tree plan).

The Planning Commission approved the following change to the proposal in order to lower the potential costs associated with the tree canopy and soil volume plan requirements:

- Landscape architects, in addition to arborists, are allowed to develop urban forestry plans to reduce costs by eliminating the need for hiring two urban forestry professionals.

Staff Recommendation: Maintain the Planning Commission recommendation, including the change to allow landscape architects, in addition to arborists, to develop urban forestry plans.

Soil volume plans are not a requirement, but instead an option if the applicant wishes to maximize impervious surfaces and minimize open soil areas for trees. We're not expecting to see this type of development in typical single family residential neighborhoods since there is usually so much soil space available for tree growth. This option might be utilized at non-residential sites if, for example, an applicant wants to maximize the number of parking stalls in a parking lot and provide trees with necessary soil under paved surfaces. However, applicants would need to evaluate whether it makes economic sense to invest in implementing soil volume plans on a project by project basis.

Issues for Clarification

Tree Permit Requirements

C1	Issue of Interest: Are the proposed permit requirements more restrictive than the existing permit requirements?
	<p>Staff Response: The following categories of trees are currently regulated by the city, in the proposed Title 8, these categories of trees will continue to be regulated, with no expansion of regulations to additional categories. The most notable change in this topic area is the creation of a consolidated permit system to make the permitting process clear, consistent and user friendly.</p> <ul style="list-style-type: none"> • Street and median trees, • Trees in sensitive lands, • Trees that were required with development, • Trees that were planted using the Urban Forestry Fund, and • Heritage trees. <p>In some cases, the proposed permit requirements would be less restrictive than the existing permit requirements. For example, currently if someone wants to remove a healthy tree that was required with development they may only do so by amending the prior land use permit or paying fines. Either option typically costs thousands of dollars. The proposed permit requirements create a low or no fee permit process to remove healthy trees required with development for additional reasons such as if they are causing damage or blocking views. Also, currently permits are required to remove any tree over six inch trunk diameter in sensitive lands and the proposed permit requirements would apply only to native trees over six inch trunk diameter in sensitive lands.</p>
C2	Issue of Interest: Who will serve on the board or committee that makes decisions regarding removing healthy, protected trees?
	<p>Staff Response: Section 8.04.030 authorizes the city manager to designate a city board or committee to make decisions regarding removing healthy, protected trees. This could become part of the charge of an existing board or committee or the city manager could designate a new board or committee. If the charge of an existing board or committee is amended, council would need to approve the change. If a new board or committee is formed, council would need to approve the member composition consistent with the current staff appointment process.</p>
C3	Issue of Interest: Why does the code allow the removal and replacement of trees that die within three years of planting (e.g.8.12.030)?
	<p>Staff Response: It is not uncommon for trees to die within the first three years after planting because their roots have not yet become established. The proposed code recognizes this phenomenon and allows for the removal and replacement of newly planted trees that die without requiring another permit. For example, if a property</p>

	owner receives a permit to remove and replace a street tree, and the replacement street tree dies the first summer during a heat wave, the owner could remove and replace the tree on their own without yet another city permit. This is intended to save property owners and city staff time and paperwork.
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Hazard Trees

C4	Issue of Interest: Will the hazard tree requirements be effective in requiring removal of hazard trees when there are disputes?
	Staff Response: The hazard tree requirements were developed in close collaboration with the city's risk division and attorney, and are expected to be effective in requiring hazard tree removal. If a tree on an adjacent property is disputed to be a hazard, Chapter 8.08 would allow people to file a claim with the city. The city would then utilize a third party arborist to evaluate the tree. If the arborist determines there is a hazard, abatement would be required. The city could, after obtaining a warrant, enter a property, abate a hazard tree and recover costs in cases where an owner is uncooperative. The city could abate tree hazards without a warrant when there is an imminent threat to public health or safety as is currently allowed by the existing code. These requirements would create an efficient and effective framework for addressing hazard trees while not unduly exposing the city to liability.

C5	Issue of Interest: Are there conflicts between the hazard tree requirements and the recently adopted nuisance code?
	Staff Response: Susan Hartnett, former Assistant Community Development Director, and Albert Shields, Program Development Specialist, served on the Technical Advisory Committee (TAC) for the UFCR and confirmed that the hazard tree requirements in Title 8 do not conflict with the recently adopted nuisance code requirements in Title 6. When amending the nuisance code, Code Compliance staff avoided making substantive changes to the hazard tree requirements because they were aware of the upcoming changes that would be made through the UFCR project. When substantive changes were made to the hazard tree requirements in Title 8 (section 8.02.050, Hazard Tree Related Definitions and Chapter 8.06, Hazard Trees) revisions to Title 6 (sections 6.01.020, 6.02.030 and 6.04.040) were made concurrently to ensure consistency. Adoption of Title 8 will not replace the changes that were made to Title 6.

Administrative Rules – General

C6	Issue of Interest: Do the administrative rules (Urban Forestry Manual) that implement the development code meet state land use law?
	Staff Response: The administrative rules that implement the development code were drafted in close collaboration with the City Attorney and are consistent with state land use law. The administrative rules include clear and objective standards such as tree

	<p>planting and preservation requirements which are referenced by the development code. After obtaining land use approval, an applicant must provide plans consistent with these requirements before being issued building permits. This is similar to other administrative requirements such as the pipe diameter for water service lines, and building code requirements, which are referenced by the development code rather than included as part of the code itself. Separating these administrative requirements is intended to prevent the code from becoming excessively long while at the same time providing certainty as to the city's planting and preservation standards.</p>
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C7	<p>Issue of Interest: Will the use of administrative rules lead to more appeals of development projects?</p>
	<p>Staff Response: Staff believes the use of administrative rules will reduce the likelihood of appeals by making the development code requirements more clear and objective. Due to the lack of clarity in the existing code, there are numerous staff interpretations and conditions of approval required to implement the code when approving development projects. If someone disagrees with staff's interpretations or conditions, then they may appeal staff's decision. Decisions as to compliance with the administrative rules are not intended as land use decisions. The intent of the administrative rules is to minimize staff interpretations and conditions thereby increasing certainty for applicants and the public, and reducing the likelihood of appeals.</p>

Soil Volumes

C8	<p>Issue of Interest: Are soil volume standards necessary in residential areas, and do they apply only during development?</p>
	<p>Staff Response: Trees need soil to grow and there is a direct relationship between the amount of soil provided and the mature size of trees. Soil volume standards are proposed for street trees and parking lot trees because these tree types are the most likely to not be provided adequate soil volumes. Since street trees are required as part of residential development (i.e. subdivisions, planned developments and partitions), the soil volume standards would apply in these circumstances.</p> <p>The proposed code applies soil volumes standard only during development since there is the opportunity to design the sites to provide sufficient soils for trees. Soil volumes standards would not apply, for example, in situations where an existing homeowner wants to plant a new street tree.</p> <p>The Home Builders Association (HBA) supported applying soil volume standards to residential development during the CAC process because one of the goals of the UFCR was to focus on healthy future tree canopy rather than the punitive mitigation standards for tree removal in the existing code. Another reason for HBA support was the flexibility allowed in meeting soil volume requirements through traditional, low-cost methods such as increasing the size of planter strips for street trees (see code</p>

	section 18.790.050.C.3). More expensive methods such as the use of engineered soils under pavement is one option for meeting soil volume standards, but not the preferred option in most situations.
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C9	Issue of Interest: Should parking lot canopy (and associated soil volume) be required, since it could lead to increased development costs?
	<p>Staff Response: Soil volume standards are proposed for parking lot trees because, based on a review of past projects, these tree types are often not provided adequate soil volumes to support mature canopy growth. The proposed standards are intended to support Council goals identified through the Urban Forestry Master Plan for increasing tree canopy over parking lots.</p> <p>There is flexibility allowed in meeting soil volume requirements through traditional, low-cost methods such as providing larger landscape islands for parking lot trees. This can be achieved through strategic parking lot design and/or the use of an allowed reduction of up to 20% required parking for planting trees (see code section 18.790.050.C.3). More expensive methods such as the use of engineered soils under pavement is one option for meeting soil volume standards. These engineered methods may be used if the value of parking exceeds the cost of using engineered soil designs.</p>

Funding

C10	Issue of Interest: How will funding of the Urban Forestry Program be affected by the proposal?
	<p>Staff Response: Funding of the Urban Forestry Program is not expected to be significantly affected by the proposal. Based on past Tree City USA reporting data, the staff costs associated with administering the code ranges from approximately \$100,000 to \$150,000 annually depending on the level of development. These staff costs are budgeted by the Community Development Department and supported by the city's General Fund. While the proposed code includes a shift from a tree mitigation to a tree canopy approach, the staff costs associated with administering the code are not expected to change significantly.</p> <p>Staff would like to clarify that in the "Policy Roadmap" matrix from Council's September 11, 2012 meeting, the column heading titled "Additional Cost to Implement?" may have caused some confusion. The column heading more accurately should have read "Ongoing Cost to Implement?" since the intent was to differentiate between one-time project costs versus ongoing program costs. Again, these ongoing program costs are not expected to change significantly from what is already budgeted by the Community Development Department for staff costs associated with administering the code, and we have adequately budgeted for program costs within existing resources.</p>

Proposal Development Process

C11	Issue of Interest: Is the 40% canopy goal for all private property or is it citywide?
	<p>Staff Response: The 40% canopy goal in the Urban Forestry Master Plan is a citywide canopy goal that takes into account parks, natural areas, streets, commercial, and residential areas. The Urban Forestry Master Plan seeks to achieve 40% citywide tree canopy by the year 2047. The current amount of citywide tree canopy is approximately 25% with variable distribution from 46% on City of Tigard property, 30% on private residential property, 9% on streets (public right of way), and 6% in parking lots.</p> <p>The 40% effective canopy goal in the Urban Forestry Code Revisions is for lower density residential property (Tier 1). Due to the various credits and standards for the calculations (e.g. 200% credit for preservation, 125% credit for planting native trees, and full credit for street trees) the actual canopy provided through planting and preservation ranges from 16% to 40% canopy or an of average 28% canopy for lower density residential property. There is also the option of paying a fee in lieu or receiving discretionary approval for green building or development techniques instead of providing trees. The proposed code requirements have been compared with one's effective tax rate versus their actual tax rate.</p>
C12	Issue of Interest: Should there be a review period after adoption?
	<p>Staff Response: Both the CAC and Planning Commission recommended an evaluation of the new regulations within five years of their effective date so that any necessary adjustments can be made in a timely manner. This is intended to avoid the need for a complete overhaul of the regulations which is a challenge for all participants.</p>
C13	Issue of Interest: How was the nuisance tree list developed?
	<p>Staff Response: Morgan Holen, certified arborist and forest biologist, served on the UFCR CAC. Just prior to the development of the City of Tigard's nuisance tree list, Ms. Holen was contracted by the City of Lake Oswego to develop their nuisance tree list for very similar purposes (to exempt certain species from tree permit requirements). In order to benefit from the up to date work of another expert in an adjacent city, staff utilized the City of Lake Oswego's list for the City of Tigard's purposes.</p> <p>Ms. Holen's process began with compiling nuisance tree lists from other local jurisdictions such as Clean Water Services and the City of Portland. She then researched and verified the list of tree species using additional sources such as the Native Plant Society of Oregon and the Plant Conservation Alliance.</p> <p>Finally, Ms. Holen further refined the list by contacting local ISA certified arborists and receiving additional feedback. She identified twelve local tree species as capable of spreading at such a rate that they cause harm to human health, the environment</p>

and/or economy.

These twelve species were peer reviewed and approved by Tigard's UFCR CAC and TAC (both included experts on nuisance tree species), and are proposed for inclusion in the City of Tigard's nuisance tree list.

It is important to note that the purpose of the nuisance tree list is to automatically allow the removal of nuisance trees when requested as part of the tree removal permit process. There is no requirement to remove nuisance trees if an owner wants to retain them.