

**SUBSTITUTE**

**184524**

**ORDINANCE No.**

**As Amended**

Encourage integration of quality tree preservation and tree planting in early site design, land divisions, and certain land use reviews; improve consistency and effectiveness of tree regulations in specified overlay zones and plan districts; update definitions and amend the Ladd's Addition Conservation District Guidelines to clarify that planting trees on the Nuisance Plants List is prohibited on City property and City rights-of-way (Ordinance introduced by Mayor Adams; amend Title 33)

The City of Portland Ordains:

Section 1. The Council finds:

**General findings**

1. Portland's urban forest is a unique community asset, providing a broad array of valuable ecological, social, and economic benefit, including cleaner air and water, reduced stormwater runoff, reduced landslide and flood impacts, carbon sequestration, neighborhood beauty and walkable streets, public health benefits, and enhanced property values.
2. Almost half the tree canopy in Portland shades City owned or managed property, while slightly more than half the canopy shades privately owned property. The Bureau of Parks and Recreation estimates that City's street and park trees generate aesthetic and ecological benefits worth \$21 million annually, and that the rate of return for maintaining these trees is almost \$4 for every dollar invested. Parks and Recreation also projects that the total replacement value of trees in Portland is roughly \$5 billion.
3. In 2004 the City updated its Urban Forest Management Plan, confirming goals to protect and enhance the urban forest (including reaching 33 percent tree canopy averaged over the city), establish and maintain resources to manage the urban forest, and ensure that the benefits of the urban forest are distributed so that they are enjoyed by all Portland residents. The Urban Forest Management Plan provides the main policy basis for the Citywide Tree Policy Review and Regulatory Improvement Project, although the project also supports the goals of the Comprehensive Plan (1980), Portland Watershed Management Plan (2006) and the City's Climate Action Plan (2009), all of which call for enhancement of the Urban Forest.
4. The project originates in a grassroots push for reform of Portland's tree regulations. In 2005 the Southwest Neighborhoods Inc. (SWNI) Tree Committee published a report calling for reform of the City's tree regulations, and presented this report to the Urban Forestry Commission and members of the City Council. The report identified the need for stronger tree preservation requirements, stronger enforcement, and improved access to information about tree policies, programs, and requirements.
5. In 2006 the Bureau of Parks and Recreation led a multi-bureau effort to produce an action strategy to achieve the goals of the 2004 Urban Forestry Management Plan. The City Council

adopted the Urban Forestry Management Plan Action Plan (UFAP) in March 15, 2007. The UFAP assigned a high priority to actions involving review and update of the City's tree-related policies, regulations, and associated procedures. Desired outcomes include the creation of a consistent, cohesive regulatory framework for trees, and that such framework will enhance the urban forest through development and redevelopment. This framework is detailed in the Recommended Draft Report to City Council, December 2010 (Recommended Draft Report).

6. In fall 2007 the City Council launched the Citywide Tree Policy Review and Regulatory Improvement Project, directing the Bureau of Planning and Sustainability (BPS), then Bureau of Planning, to lead the effort with City Bureaus including Parks and Recreation, Development Services, and Environmental Services.
7. In fall 2007 BPS convened an interbureau project team that sponsored a collaborative project scoping process. The process involved interviewing community stakeholders, briefing local groups, and researching the tree policies and regulations of other cities in the region and across the country.
8. In spring 2008 BPS convened a 23-member Stakeholder Discussion Group (SDG) comprised of representatives from east-side and west-side neighborhoods, residential, commercial/industrial, and institutional development communities, the arborist community, and the environmental community, including Friends of Trees and the Audubon Society of Portland.
9. The SDG met with the project team regularly for almost a year, systematically reviewing a series of issue papers produced by project staff. The SDG expressed diverse views on the complexity, inconsistency, and gaps in existing City tree regulations, erratic and confusing tree preservation requirements and tree permit system, and the effectiveness of City tree inspections and enforcement. The SDG also provided comments and suggestions for potential solutions.
10. In early 2009, project staff vetted a set of initial proposals that emerged from the SDG process. The initial proposals were presented to the Portland Planning Commission, Urban Forestry Commission, Sustainable Development Commission, Development Review Advisory Committee, Citywide Land Use Group, neighborhood organizations and watershed councils, and the Planning and Development Bureau Directors.
11. The initial proposals received general support from the various reviewers, including strong support for consolidating City tree regulations into a single comprehensive code title, stronger requirements for tree preservation, planting, protection during development, and enforcement, and customer service improvements, including a single point of contact, a 24-hour tree hotline, and a community tree manual. Reviewers generally supported a more standardized tree permit system, but cautioned staff to be mindful of impacts on homeowners. Reviewers also advised staff to avoid unduly increasing the cost of development.
12. Staff refined the proposals based on input from the vetting process, and in February 2010 published the Proposed Draft for public review and hearings before the Portland Planning Commission and Urban Forestry Commission.
13. On January 6, 2010, a notice of the Citywide Tree Policy proposal and first evidentiary hearing

(dated January 8, 2010) was sent to the Oregon Department of Land Conservation and Development (DLCD) in compliance with the post-acknowledgement review process required by OAR 660-18-020. DLCD provided a confirmation of notice on January 7, 2010.

14. On February 12, 2010, notice of the public hearing was mailed to 621 individuals and organizations on the project mailing list and Bureau of Planning and Sustainability legislative project mailing list. Two public workshops were held on March 9, 2010 and March 16, 2010, at the Multnomah Art Center and Floyd Light Middle School, respectively. Project staff also provided briefings to other interested groups during this period, including the City's Development Review Advisory Committee and the Citywide Land Use Chairs Group. Outreach conducted for the project is outlined in Appendix D of the Recommended Draft Report.
15. The Planning Commission (PC) and Urban Forestry Commission (UFC) held a joint public hearing that began on March 23, 2010. The commissions held the hearing open and invited comments at three joint work sessions on April 13, April 26, and May 11, and additional separate work sessions on June 8 (PC) and June 17 (UFC). The Planning Commission closed the public hearing on June 8, 2010. The Urban Forestry Commission accepted public testimony until June 17, 2010. Final work sessions were held on July 27 (PC) and July 29, 2010 (UFC).
16. Staff sent electronic mail messages on March 15, May 26, and July 15 to inform the approximately 450 individuals and organizations on the project mailing list of Planning Commission and Urban Forestry Commission public hearing/work session dates. These messages also noted that up-to-date summaries of the Planning Commission's and Forestry Commission's deliberations and directions to staff had been posted on the project website.
17. The commissions received testimony from 71 organizations and individuals. Most testifiers expressed strong support for consolidating regulations into a single tree code title, stronger tree preservation and planting requirements in development situations, a standardized tree permit system, more effective enforcement, and implementation of customer service improvements. A number of people recommended that tree size thresholds be reduced so that the proposed regulations would address smaller trees. Several representatives of the development community expressed strong concerns about the potential impact of proposed development standards on the cost of development and housing affordability. Several people opposed the proposed prohibition on planting trees on the City's Nuisance Plants List because it would prohibit future planting of Norway maple, which is an abundant street tree in Portland and is called for specifically in the Ladd's Addition Conservation District Guidelines. Some expressed concern about the impact of the proposed tree permit system on homeowners. A number of testifiers, including City bureaus, stated that the proposal was overly complex and costly. The written record of testimony submitted during this hearing is provided in Appendix B of the Recommended Draft Report.
18. On July 27, 2010 the Portland Planning Commission unanimously approved the proposed draft with specific directions to revise the Proposed Draft for public review and a hearing before the City Council. On July 29, 2010 the Urban Forestry Commission unanimously followed suit.
19. The commissions approved revisions designed to simplify and reduce the cost of the proposal while maintaining projected tree canopy benefits to the extent possible. For the Title 33 amendments, the Planning Commission and Urban Forestry Commission approved

recommendations to streamline the proposed provisions to address tree preservation in specified land use reviews.

20. The Recommended Draft features:

- a. The Recommended Draft Report, which documents the project purpose, process, and proposal in its entirety, and appendices.
- b. Consolidation of City tree regulations into a new code Title 11, Trees, which includes the City's Urban Forestry Program and Urban Forestry Commission, an updated, standardized citywide tree permit system, new tree development standards, enforcement procedures, technical specifications, and definitions. Title 11 is being established through a separate ordinance. Also addressed in this separate ordinance are related amendments to other code titles primarily where existing regulations were moved into Title 11, and a set of non-regulatory customer service improvements including a single point of contact for public inquiries, upgrades to the City's tree permit tracking system, a community tree manual, and neighborhood tree plans. The amendments include additional enhancement of other City titles to ensure that trees are considered as part of other reviews.
- c. Amendments to the existing Intergovernmental Agreement to Transfer Land Use Planning Responsibilities between the City of Portland and Multnomah County, to address the administration of tree-regulations that apply in situations requiring a development permit. These amendments are the subject of a separate ordinance.
- d. Amendments to Title 33, Planning and Zoning, as specified in Exhibit A and which is the focus of this ordinance. Title 33 amendments:
  - i) Establish flexible development standards to encourage tree preservation, including allowing limited reductions in required parking spaces and housing density, increased flexibility to meander pedestrian pathways and locate required outdoor areas, and adding a bonus housing density option
  - ii) Update the existing numeric tree preservation standards and adding new qualitative criteria in land divisions to 1) improve the quality of tree preservation and 2) allow consideration of site-specific opportunities and constraints
  - iii) Require tree preservation plans approved through land divisions to be recorded with the final plat, and establishing a time limit after which such tree preservation requirements expire
  - iv) Add tree preservation as one of the factors to consider in Design Reviews and specified Conditional Use Reviews
  - v) Establish consistent tree replacement requirements for trees in environmental and other resource overlay zones, including non-native trees and trees in transition areas.
  - vi) Update the provisions of certain overlay zones and plan districts to improve consistency and increase tree removal allowances in conjunction with certain activities
  - vii) Update definitions to ensure consistent application of stream and wetland

setback standards to protect riparian trees and vegetation in existing overlay zones, and to include additional tree terms

- e. Amendments to the Ladd's Addition Conservation District Guidelines to clarify that the prohibition on planting nuisance species trees applies and that the street plan guidelines will inform the selection of species to replace nuisance species street trees in the future. These amendments are specified in Exhibit B of this ordinance.
21. On December 23, 2010 a notice of Portland City Council Hearing and the availability of a the December 2010 Recommended Draft to City Council was mailed electronically to 566 individuals and organizations on the Citywide Tree Project mailing list. On January 18, 2011 a notice of Portland City Council Hearing for the Citywide Tree Project was mailed to 756 individuals and organizations on the project mailing list and the Bureau of Planning and Sustainability's Legislative Master Mailing List, along with a follow up electronic mailing.
22. On January 19, 2011, a public open house was held to answer questions on the Recommended Draft to Council. Twenty-six residents and organization representatives attended the open house.
23. On February 2, 2010, the City Council held a public hearing on the December 2010 Recommended Draft. Forty individuals and organizations submitted oral testimony and Council received 58 pieces of written testimony on or before the February 2<sup>nd</sup> hearing. City Council members and staff introduced a number of amendments to the Recommended Draft.
24. The City Council directed the Bureau of Planning and Sustainability to work with the Bureaus of Development Services, Parks and Recreation, and Environmental Services, and other bureaus to address remaining bureau concerns. The Council directed the bureaus to identify areas of agreement and issues in which there were different viewpoints, along with the pros and cons of the different choices. The bureaus developed lists of issues and options and held a work session on February 16, 2011. The directors of the Bureaus of Development Services, Parks and Recreation, Environmental Services, and the Bureau of Planning and Sustainability met on February 25, 2011 and agreed on a set of potential amendments to bring to the City Council for consideration. A memorandum to Council with attachments, including potential amendments, was posted for public review, and announced via electronic mail to an updated list of 664 recipients on March 4, 2011.
25. On March 9, 2011 the City Council continued the public hearing and invited public testimony on the potential amendments. Twenty individuals and organizational representatives gave oral testimony at that hearing. Council provided direction on the amendments and invited additional written testimony on the amendments through March 16, 2011. More than 30 and organizations submitted written testimony between February 2 and March 16, 2011. The City Council directed staff to develop any additional code language needed to carry out their direction on the amendments. Amendments to the Recommended Draft to Council are presented in Exhibit E.
26. Amendments to Title 33 are projected to improve the quantity, quality, and distribution of tree canopy through a combination of improved tree preservation and planting on

development sites (see Exhibit C), while providing increased flexibility and opportunities to consider and address site specific constraints, and supporting City goals for neighborhood livability, equity and economic development. The amendments will also ensure tree replacement requirements are applied to non-native trees in environmental resource overlay zones and trees in existing environmental zone transition areas, and will improve consistency of protection for riparian trees along Portland's streams and wetlands within existing overlay zones.

27. Some of the amendments to Title 33 are cost-neutral and can be implemented with existing staff resources. However additional staffing will be needed to administer the amended provisions for land divisions and specified land use reviews. The estimated costs to implement the Title 33 amendments are presented in Exhibits C, Tree Canopy Benefits, Financial Impacts and Budget Proposal and D, Financial Impact Statement, and are expected to be covered on an ongoing basis through modest increases in land use review fees. (Note: Exhibits C and D have been amended and substitute for corresponding exhibits in Volumes 3 and 4 of the Recommended Draft to Council, December 2010.) However, because it will take some time for fee revenues to accrue, it is projected that the Bureau of Development Services will need initial one time general funding to begin implementing certain of the proposed amendments.
28. The amendments to Title 33 will be implemented within Portland City limits and in unincorporated pockets of Multnomah County within the Urban Service Boundary through an existing Intergovernmental Agreement between the City of Portland and Multnomah County.
29. The Ladd's Addition Conservation District Guidelines are amended to clarify that planting trees on the Nuisance Plants List portion of the Portland Plant List is prohibited on City property and City rights-of-way, as set forth in Title 11, Trees. The amendments will also address the existing Ladd's Addition street tree plan guideline which currently mentions several nuisance tree species. This amendment will clarify that the Title 11 prohibition on planting nuisance tree species applies and affirm the historic character of the streetscape that should be maintained through the selection of suitable non-nuisance species that have similar attributes as the tree species mentioned in the plan.
30. The project will be implemented in phases. The first phase will take place in FY 2011-12, and will involve implementation of a first set of Title 33 amendments (Exhibit A) and activities to prepare procedures, materials, systems, and users for implementing Title 11 and the second set of Title 33 amendments. The second phase will take place in FY 2012-13 and will involve hiring and training staff to administer and enforce Title 11 and the second set of Title 33 amendments and the single point of contact. These code changes will become effective as described, pending approval of necessary staffing and funding for administration. Amendments to the Ladd's Addition Conservation District Guidelines will also become effective in February 2013 or when Title 11, Trees becomes effective, whichever is later. Funding requests for the first two years is expected to be for one-time general fund allocations or alternate fund sources. Starting in FY 2013-2014, it is projected that the one time funding source will shift to development fee supported revenues. The phased implementation and projected budget requirements are outlined in Exhibit C, Tree Canopy

Benefits, Financial Impacts and Budget Proposal and Exhibit D, Financial Impact Statement.

31. The Citywide Tree Project is a listed component of Portland's strategy to comply with Metro's Title 13, Nature in Neighborhoods Program, and as an anticipated accomplishment for FY 2010-11 in the City's annual NPDES and Stormwater Program compliance reports to the Oregon Department of Environmental Quality.

### Findings on Statewide Planning Goals

32. State of Oregon planning statutes require Oregon cities and counties to adopt and amend comprehensive plans and land use regulations in compliance with statewide land use planning goals. Only the state goals addressed below are found to apply to this project.
33. **Goal 1, Citizen Involvement**, requires provision of opportunities for citizens to be involved in all phases of the planning process. The preparation of these amendments has provided numerous opportunities for public involvement, as described below:
  - a. The Bureau of Planning and Sustainability has maintained a project website and electronic mailbox (email) throughout the project.
  - b. The Bureau of Planning and Sustainability engaged numerous individuals and organizations in the project scoping process. Interviews and briefings with developers, arborists and neighborhood activists and associations were held in late 2007 and early 2008 to identify key issues the project would address. Project staff invited comments on a draft written project scope during this period.
  - c. Project staff convened a broad-based Stakeholder Discussion Group (SDG) for 14 half-day work sessions between March and November 2008. The SDG reviewed and discussed a series of issue papers that staff developed to structure the evaluation of current City policies, regulations and associated procedures. The SDG also provided input on potential solution concepts.
  - d. In early 2009 project staff vetted a set of initial project proposals that emanated from the SDG process. The initial proposals were presented to the Portland Planning Commission, Urban Forestry Commission, Sustainable Development Commission, and the Development Review Advisory Commission, the Citywide Land Use Group, Citywide Parks Group, neighborhood associations and watershed councils.
  - e. On February 12, 2010 the Bureau of Planning and Sustainability mailed a notice of the upcoming public hearings to 621 individuals and organizations on the project mailing list and bureau's legislative project master mailing list. The bureau also sent out media alerts to local newspapers.
  - f. Project staff held two public workshops on March 9, 2010 and March 16, 2010. The workshops were held at the Multnomah Art Center and Floyd Light Middle School to encourage attendance by residents of the west and east sides of the city. Staff also continued to meet with organizations and groups including the Development Review Advisory Committee, the Citywide Land Use Group, the Multnomah County Drainage District, and the Port of Portland.

- g. Project staff sent electronic mails to the project mailing list on March 15, May 26, and July 15, 2010 to inform interested parties of the status of the Planning Commission and Urban Forestry Commission hearing and the commissions' deliberations and direction to staff. The emails explained that the public hearing remained open and that public testimony was welcome.
- h. The Planning Commission and Urban Forestry Commission invited public testimony at the initial hearing on March 23 and again at subsequent joint meetings on April 13 and 26, and May 11. The Planning Commission invited public testimony at a meeting on June 17, after which they closed the Planning Commission hearing. The Urban Forestry Commission accepted comments through its regularly scheduled meeting on June 17, 2010. Staff also briefed the Portland Design Commission and Historic Landmarks Commission on September 13, 2010.
- i. On December 23, 2010 a notice of Portland City Council Hearing and the availability of a the December 2010 Recommended Draft to City Council was mailed electronically to 566 individuals and organizations on the Citywide Tree Project mailing list. On January 18, 2011 a notice of Portland City Council Hearing for the Citywide Tree Project was mailed to 756 individuals and organizations on the project mailing list and the Bureau of Planning and Sustainability's Legislative Master Mailing List, along with a follow up electronic mailing.
- j. On January 19, 2011, a public open house was held to answer questions on the Recommended Draft to Council. Twenty-six residents and organization representatives attended the open house.
- k. On February 2, 2010, the City Council held a public hearing on the December 2010 Recommended Draft. Forty individuals and organization representatives submitted oral testimony and about 60 provided written testimony on or before the February 2<sup>nd</sup> hearing. City Council members and staff introduced a number of amendments to the Recommended Draft.
- l. The City Council directed the Bureau of Planning and Sustainability to work with the Bureaus of Development Services, Parks and Recreation, and Environmental Services, and other bureaus to address remaining bureau concerns. The Council directed the bureaus to identify areas of agreement and issues in which there were different viewpoints, along with the pros and cons of the different choices. The bureaus developed lists of issues and options and held a work session on February 16, 2011. The directors of the Bureaus of Development Services, Parks and Recreation, Environmental Services, and the Bureau of Planning and Sustainability met on February 25, 2011 and agreed on a set of potential amendments to bring to the City Council for consideration. A memorandum to Council with attachments, including potential amendments, was posted for public review, and announced via electronic mail to an updated list of 664 recipients on March 4, 2011.
- m. On March 9, 2011 the City Council continued the public hearing and invited public testimony on the potential amendments. Council provided direction on the amendments and invited additional written testimony on the amendments through March 16, 2011. Twenty individuals and organizations testified at the hearing and more than 30 submitted written testimony between February 2 and March 16, 2011. The City Council directed staff to



develop any additional code language needed to carry out their direction on the amendments, and to return to them for action on the amendments on April 6, 2011. Amendments to the Recommended Draft to Council are provided in Exhibit E.

34. **Goal 2, Land Use Planning**, requires the development of a process and policy framework that acts as a basis for all land use decisions and assures that decisions and actions are based on an understanding of the facts relevant to the decision. This goal is met through implementation of the provisions of PCC Chapter 33.740, Legislative Procedure, which establishes a process for adopting and amending City policies and has been followed in developing these code amendments and presenting them to the Planning Commission and City Council. The proposed amendments to Title 33 will assure that regulations to help achieve Portland's urban forest goals are incorporated into existing City land use regulations and procedures. The amended regulations provide clarity and identify those situations in which land use reviews are required for tree removal and replacement. Staff reports submitted to support the amendments to Title 33 and testimony submitted during the proceedings (Appendices A and B of the Recommended Draft Report, respectively) further informed the process and provide the factual basis for the amendments as required by Goal 2.
35. **Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces**, addresses the conservation of open space and the protection of natural and scenic resources. Trees are an important component of Portland's natural resource areas, scenic resource areas, historic areas, and open spaces. They provide critical habitat for wildlife and provide important watershed functions. Trees also contribute to the beauty and character of the City, including identified Scenic and Historic Areas.

The amendments support this goal by addressing tree protection and replacement in environmental and Pleasant Valley natural resource overlay zones which were established in large part to comply with Goal 5. The amendments require tree replacement when non-native, non-nuisance trees and trees in environmental zone transition areas are removed. It is intended that these replacement standards will not trigger a review and applicants may choose to pay a fee into the City's revegetation fund in lieu of meeting the standards. The Bureau of Environmental Services administers this fund, using the money to remove invasive plants and plant native vegetation on City property or private property with consent from willing owners. Typically these funds are expended in areas that are protected through public ownership or existing environmental zoning. The amendments also require that removal of nuisance trees in environmental zones must obtain a Title 11 permit to ensure that these trees are replaced with native trees. An amendment to Title 33 definitions will ensure that stream and wetland setbacks are applied consistently in existing environmental and other resource overlay zones. This will result in more consistent avoidance and mitigation of development-related impacts on trees in riparian corridors within existing environmental overlay zones.

The amendments also address a conflict in regulations by adding an exemption for tree removal to protect designated view corridors in environmental overlay zones.

The amendments to the Ladd's Addition Conservation District Guidelines are consistent with Goal 5 requirements to protect historic resources, to the extent that the goal is applicable. First, the amendments support this goal by aligning the Ladd's Addition guidelines with the City's

prohibition on planting nuisance species trees on city streets. This will help prevent the spread of Norway maples in Portland's watersheds, including areas identified in Portland's Goal 5 inventories and protection plans. Second, these amendments are consistent with Goal 5 requirements, to the extent that the goal is applicable, since it is the tree-lined streetscape, not the particular species of trees, which is an important element of the historic district nomination for the Ladd's Addition Conservation District. Although Norway maple and other species are mentioned in the application for the National Register of Historic Places, maintaining those particular species is not required to protect the streetscape. According to the Oregon State Historic Preservation Office, the street trees in Ladd's Addition are "a character defining feature of the historic district," and "the existence of street trees is important and the large scale, size, and over-arching shape and size of the tree canopies are important. Those are the things that matter in the eyes of the National Register with regard to the trees in Ladd's Addition....the best approach for replacing dead or diseased trees in a historic landscape is to replace with trees that have comparable characteristics: shape, size, canopy etc. so that they produce the same visual effects as the original plantings....Any replacement choices should be made very, very, carefully..." (Curran, November 18, 2010).

The amendments will direct the use of the existing street plan guideline to inform the future selection of trees to replace Norway maple and other nuisance species street trees as these trees age and become diseased or die. Following this direction will maintain the historic character of the streetscape that was important to the nomination of Ladd's Addition as a historic district, while avoiding inequitable, ecologically damaging, and economically costly conflicts in City policy regarding management of invasive species.

The City requires a Title 11 permit to remove, replace or plant any trees in City rights-of-way. The City Forester is authorized to require or prevent the planting of specific species, and to require removal of trees planted in violation of these rules. The provisions of Title 11, Trees require the City Forester to consider adopted historic guidelines in approving permits to plant trees. These procedures are sufficient to ensure protection of the historic character and associated Goal 5 resources in Ladd's Addition.

36. **Goal 6, Air, Water, and Land Resource Quality**, requires the maintenance and improvement of the quality of air, water, and land resources. Trees help cool and clean the air and water by capturing particulates, shading streams and impervious surfaces such as rooftops and streets, intercepting precipitation and reducing and filtering urban stormwater runoff, and adding nutrients to the soil from leaf litter and decomposing bark and wood.

The amendments support this goal by increasing the quality and quantity of Portland's trees and tree canopy over time. Updated land division standards and criteria improve the quality of tree preservation when land is divided. The amendments also add tree preservation as a factor to consider in design reviews and specified conditional use reviews. This will prompt consideration of existing trees as a site design element or as means to reduce impacts and maintain compatibility with neighboring uses.

New flexible standards allow a limited reduction in required parking or housing density, a shift in the location of required outdoor area, or an increase in the length of pedestrian pathways if such modifications will allow trees to be preserved. In addition, the amendments allow the award of a housing density bonus if additional trees are preserved.

These amendments will provide additional air, water, and land resources benefits on developed sites. In addition, the amendments support this goal by addressing tree protection and replacement in environmental and Pleasant Valley natural resource overlay zones which were established in large part to comply with Goal 5. The amendments require tree replacement when non-native non-nuisance trees and trees in environmental zone transition areas are removed. The amendments also indicate removal of nuisance trees in environmental zones must obtain a Title 11 permit to ensure that these trees are replaced with native trees. An amendment to Title 33 definitions will ensure that stream and wetland setbacks are applied consistently in existing environmental and other resource overlay zones. This will result in more consistent avoidance and mitigation of development-related impacts on trees in riparian corridors within existing environmental overlay zones.

37. **Goal 7, Areas Subject to Natural Hazards**, requires the protection of people and property from natural hazards. The amendments support this goal because they will encourage the preservation of trees, particularly larger healthy trees, tree groves, and trees in riparian corridors which help stabilize slopes and streambanks, prevent erosion, and reduce landslide risk. Trees also help reduce stormwater runoff, thereby reducing risks and impacts of flooding. The amendments include a new exemption for limited tree pruning in environmental and Pleasant Valley natural resource overlay zones. These overlay zones overlap with much of the City's Wildfire Hazard Zone. The new exemption will facilitate vegetation management to reduce the risk and impacts of wildfire in fire prone areas.

38. **Goal 8, Recreational Needs**, requires satisfaction of the recreational needs of residents and visitors to the state. The amendments support this goal by encouraging preservation of large healthy trees and groves, and planting new trees that contribute to the beauty and environmental quality of Portland's neighborhoods, parks, and natural areas where Portlanders and visitors live, work, and play. Trees also contribute to Portland's identity as a "green city" and a desirable destination for visitors. Trees make Portland's streets more pedestrian-friendly and encourage walking for recreation.

39. **Goal 9, Economic Development**, requires provision of adequate opportunities for a variety of economic activities vital to public health, welfare, and prosperity.

The amendments are consistent with this goal because urban trees provide valuable benefits and have positive economic effects. Studies in Portland show a positive correlation between street trees and neighborhood trees and residential property values. Other studies have shown that street trees can affect positively local business districts by encouraging pedestrian activity and longer visits to business areas.

The amendments also support this goal by providing applicants for land use reviews and development permits more flexibility to meet development requirements when preserving trees. This flexibility can keep avoid additional cost while encouraging retention of tree amenities that can raise property rental and resale values. The amendments will not adversely affect opportunities for Portlanders to access a variety of economic activities, and In addition, there may

provide additional employment opportunities for qualified arborists to help facilitate and ensure tree preservation through development.

Specifically, the amendments provide flexible development standards to make it easier for developers to incorporate existing trees into their project designs without triggering costly reviews to adjust the standards.

Further, adding tree preservation as a factor to consider in Design Reviews and Conditional Use Reviews will also encourage tree preservation when appropriate to the site and when the trees will enhance the project design or enhance compatibility with surrounding properties.

Amendments to the existing land division tree preservation standards continue to provide applicants with choices to meet the requirements. New approval criteria prioritize preservation of large healthy trees and groves, while also calling explicitly for the consideration of site-specific conditions and the anticipated uses of the property when evaluating tree preservation. In addition, the amendments will allow applicants to count trees on property lines toward meeting the requirements as long as the tree roots are protected during development. This provides applicants more options to meet the requirements, and trees on property lines may be easier and less costly to preserve than trees located in the interior of a site. Mitigation is required if tree preservation standards are not met, but the mitigation planting requirements or in lieu fees are designed to provide flexibility. Mitigation, when required, is directly related and proportional to the level of impact resulting from the proposed development. The overall result is that the amendments will provide applicants more flexibility and provide higher quality tree preservation for the investment, than the existing tree preservation requirements.

Amendments to City environmental overlay zone regulations require that regulated non-native trees and trees in transition areas be replaced when removed. Applicants may choose to pay into an existing revegetation fund in lieu of meeting the tree replacement standards on-site. The Bureau of Environmental Services uses the fund to remove invasive plants and plant native vegetation on City property or other public land, or on private property with consent of willing owners. Typically these funds are expended in areas that are protected through public ownership or existing environmental zoning. As such, these provisions will help maintain tree-related amenities without limiting opportunities for development or affecting industrial, employment, or commercial land supply. An amendment to the Title 33 definition of "identified streams, wetlands and waterbodies" clarifies the City's intention to apply the current stream and wetland setbacks consistently within existing overlay zones. These setbacks are intended to encourage development to provide a minimum buffer, preferably vegetated with trees and other riparian vegetation, to preserve shade, microclimate, habitat, erosion control, and other functions along waterways and wetlands. However, development in the setback may be allowed through a review if no practicable alternative exists that would have less detrimental impact on the resource.

40. **Goal 14, Urbanization**, requires provision of an orderly and efficient transition of rural lands to urban use. The amendments support this goal by supporting and helping maintain the capacity and functionality of Portland's local infrastructure, including both built and natural systems. Specifically, the amendments will strengthen requirements to preserve or mitigate for the loss of large healthy trees and tree groves, thereby improve the quality and function of the City's streams and stormwater conveyance and treatment facilities. Trees help prevent erosion, filter pollutants, and reduce or delay local stormwater runoff peaks that cause the sewer system to backup into

basements in certain parts of the city. The amendments to the land division regulations also support goal by addressing the not only the quantity of tree preservation but also the quality of trees to be preserved, taking into consideration site characteristics and constraints, and development objectives.

41. **Goal 15, Willamette River Greenway**, requires protection, conservation, enhancement and maintenance of the natural, scenic, historic, agricultural, economic, and recreational qualities of lands along the Willamette River.

The amendments will encourage and improve the quantity and quality of tree preservation and tree planting in the Greenway. Improving tree preservation and planting in the greenway will contribute directly to the values and function of natural resources in the greenway, including wildlife habitat, microclimate and shade, contributions to the food web and nutrient cycling, water quality, and riverbank stabilization and erosion control.

Maintaining and enhancing tree canopy will also help maintain and restore the scenic and historic character of the greenway, whether looking riverward or landward from the river itself.

Updates to Title 33 standards and criteria applied to land divisions and development support both conservation and economic objectives of this goal by improving the quality of tree preservation while still providing applicants with more flexibility than existing requirements.

Specifically, the amendments provide new flexible development standards to make it easier for developers to incorporate existing trees into their project designs without triggering a review or adjustment to the standards.

Adding tree preservation as a factor to consider in Design Reviews and Conditional Use Reviews will also encourage tree preservation when appropriate to the site and when the trees will improve the project design or enhance compatibility with surrounding properties.

New land division approval criteria prioritize preservation of large healthy trees and groves, while also explicitly calling for consideration of site-specific conditions and anticipated uses of the property when evaluating tree preservation. In addition, the amendments will allow applicants to count trees on property lines toward meeting the requirements so long as the tree roots are protected during development. Preserving trees on property lines may be easier and less costly to preserve than trees located in the interior of a site. Mitigation is required if tree preservation standards are not met, but the mitigation planting requirements or in lieu fees are designed to be reasonable and not onerous. Mitigation, when required, is directly related and proportional to the level of impact resulting from the proposed development.

### **Findings on Metro Urban Growth Management Functional Plan**

42. State land use planning statutes require cities and counties within the Metropolitan Service District boundary to amend comprehensive plans and land use regulations in compliance with the relevant provisions of the Urban Growth Management Functional Plan (UGMFP). Only the provisions addressed below are found to apply to this project.

43. **Title 1, Requirements for Housing and Employment Accommodation**, requires that each jurisdiction contribute its fair share to increase the development capacity of land within the Urban Growth Boundary. The amendments are consistent with this goal because they will not affect development capacity.

Specifically, the amendments provide new flexible development standards to make it easier for developers to incorporate existing trees into their project designs without triggering a review or adjustment to the standards. In multi-dwelling residential zones the amendments would allow limited reductions in minimum density equivalent to existing density reductions that can be requested in conjunction with land divisions in these zones when preserving trees. The amendments also allow limited increases in maximum density through a bonus if additional trees at least 12 inches in diameter are preserved. Given that the amendments allow both increases and decreases in density, and that the modifications would be limited, the effect on housing accommodation will be neutral.

The City established tree preservation requirements in 2001 through a comprehensive rewrite of the City's land division regulations (effective July 2002). That action established numeric standards that did not foster preservation of healthy, quality trees, and provided little flexibility to consider site conditions and constraints. Developers participating in the Citywide Tree Project Stakeholder Discussion Group noted that the existing standards are overly rigid and often result in costs to preserve low quality trees. Amendments to the tree preservation standards continue to provide applicants choices in meeting the minimum quantitative requirements. New approval criteria prioritize preservation of large healthy trees and groves, and also include the consideration of site-specific conditions and anticipated uses of the property when evaluating tree preservation. In addition, the amendments will allow applicants to count trees on property lines toward meeting the requirements so long as the tree roots are protected during development. This provides applicants more options to meet the requirements and trees on property lines may be easier and less costly to preserve than trees located in the interior of a site. The overall result is that the amendments will provide applicants more flexibility and be more cost-effective than the existing tree preservation requirements.

Amendments to regulations affecting City environmental overlay zones require replacement of non-native trees and trees in transition areas which will enhance tree canopy without limiting opportunities for development, including housing. An amendment to the Title 33 definition of "identified streams, wetlands and waterbodies" clarifies the City's intention to apply the current stream and wetland setbacks consistently within existing overlay zones. These setbacks are intended to encourage development to provide a minimum buffer for the resource, however development in the setback may be allowed through a review if no practicable alternative exists that would have less detrimental impact on the resource.

44. **Title 3, Water Quality, Flood Management and Fish and Wildlife Conservation**, establishes requirements that Metro-area cities and counties must meet to reduce flood and landslide hazards, control soil erosion and protect water quality. Title 3 specifically implements the Statewide Land Use Goals 6, Air, Water and Land Resource Quality and 7, Areas Subject to Natural Hazards. The findings for Goals 6 and 7 provided in this ordinance support this finding that the amendments are generally consistent with Title 3.

Maintaining a vegetated corridor in the Title 3 Water Quality Resource Area is a primary goal of Title 3's water quality requirements. The City's compliance with Title 3 water quality requirements is based on the existing Environmental Overlay Zones and the Greenway Overlay Zones. The amendments provide for more consistent tree protection and replacement within these overlay zones, including replacement for non-native trees and trees in the environmental overlay zone transition area. Applicants may choose to pay into an existing revegetation fund in lieu of meeting these standards onsite. The Portland Bureau of Environmental Services uses these funds to remove invasive plants and plant native vegetation on City property, other public land, or private land with consent of willing owners. Typically these funds are expended in areas that are protected through public ownership or existing environmental zoning. An amendment to the Title 33 definition of "identified streams, wetlands and waterbodies" clarifies the City's intention to apply the current stream and wetland setbacks consistently within existing overlay zones. These setbacks are intended to encourage development to provide a minimum buffer for the resource, and to help prevent impacts on riparian corridor trees and vegetation that help protect water quality. However, development in the setback may be allowed through a review if no practicable alternative exists that would have less detrimental impact on the resource.

The amendments will also complement Portland's Title 10 erosion control requirements, and Title 24 floodplain provisions, which the City adopted to comply with Title 3. The amendments will encourage and improve the quality of tree preservation and mitigation for tree loss, with a focus on preserving large healthy trees and groves than help prevent erosion on slopes and streambanks, and that can help reduce the risk and impacts of flooding.

45. **Title 6, Regional Accessibility**, recommends street design and connectivity standards that better serve pedestrian, bicycle, and transit travel, and that support the 2040 Growth Concept. The amendments are consistent with this goal in that they require consideration of existing trees and space for street tree planting when evaluating public and private street design and connectivity in land divisions. The intent is to encourage project designs that meet both street design and connectivity goals and urban forest management goals where practicable, so that streets are both functional and attractive to pedestrian and other users.
48. **Title 8, Compliance Procedures**, establishes requirements and timelines for cities and counties to comply with the Urban Growth Management Functional Plan (UGMFP). Adopting these amendments is consistent with and will advance the City's compliance with this Title. Title 8 of the UGMFP requires local jurisdictions to comply with Title 13, Nature in Neighborhoods within 2 years of acknowledgement by the Oregon Department of Land Conservation and Development (DLCD). DLCD acknowledged Title 13 in compliance with Statewide Land Use Goals 5, Natural Resources, Scenic and Historic Areas, and Open Spaces, and 6, Air, Water and Land Resource Quality in January of 2007, making the deadline for local compliance January 2009. In January 2009, the Portland Bureau of Planning and Sustainability submitted a request that Metro extend the Title 13 compliance deadline as allowed by Title 8. Metro approved a one-year extension in November 2009. Portland's extension request included a phased compliance strategy which includes adoption of updated tree regulations through the Citywide Tree Policy Review and Regulatory Improvement Project.

47. **Title 13, Nature in Neighborhoods**, establishes requirements to conserve, protect, and restore a continuous ecologically viable streamside corridor system that is integrated with upland wildlife habitat and the surrounding urban landscape. These amendments are consistent with and will advance the City's compliance with the requirements of this Title. Title 13 identifies high value riparian corridors and wildlife habitat areas in the City of Portland and the rest of the region. Trees and vegetation are identified as significant resources where they exist within Habitat Conservation Areas (HCAs).

Metro requires that area cities and counties demonstrate that they have established programs to ensure that adverse impacts on the values and functions of the HCAs are avoided, minimized, and mitigated. Values and functions include streamflow moderation and flood storage, bank stabilization and erosion control, microclimate and shade, channel dynamics, organic inputs and wildlife habitat.

Metro provides several approaches that cities and counties may use individually or in combination to demonstrate compliance with Title 13. Options include regulations and non-regulatory tools to protect, conserve, and restore the HCAs, as well as establishment of tree ordinances.

These amendments will strengthen tree preservation standards and criteria associated with land divisions, and will provide additional encouragement and flexibility to preserve existing trees in conjunction with Design Reviews, Conditional Use Reviews and other types of development.

In addition, the amendments will ensure that trees are addressed more consistently in the City's environmental overlay zones and other resource overlay zones, and specified plan districts. For example, the amendments will expand the tree replacement requirements to apply to non-native trees in environmental and Pleasant Valley natural resources overlay zones, and to trees that are removed from environmental overlay transition areas. Applicants may choose to pay into an existing revegetation fund in lieu of meeting these standards onsite. The Portland Bureau of Environmental Services uses these funds to remove invasive plants and plant native vegetation on City property, other public land, or private land with consent of willing owners. Typically these funds are expended in areas that are protected through public ownership or existing environmental zoning. In addition, an amendment to the Title 33 definition of "identified streams, wetlands and waterbodies" clarifies the City's intention to apply the current stream and wetland setbacks consistently within existing overlay zones. These setbacks are intended to encourage development to provide a minimum buffer for the resource, however development in the setback may be allowed through a review if no practicable alternative exists that would have less detrimental impact on the resource. These amendments are particularly relevant to Title 13 since much of the HCAs are located within existing City resource overlay zones. For HCAs outside existing resource overlay zones, the amended land division tree preservation criteria emphasize retention of buffers near natural resources.

### **Findings on Portland's Comprehensive Plan Goals**

48. Only the Comprehensive Plan goals addressed below are found to apply to this project.



49. **Goal 1, Metropolitan Coordination**, calls for the Comprehensive Plan to be coordinated with federal and state law and to support regional goals, objectives and plans. The amendments support this goal as follows:

- a. The City's Comprehensive Plan was adopted by the Portland City Council on October 16, 1980, and was acknowledged as being in conformance with the statewide planning goals by the Land Conservation and Development Commission (LCDC) on May 1, 1981. On May 26, 1995, and again on January 25, 2000, the LCDC completed its review of the City's final local periodic review order and periodic review work program, and reaffirmed the plan's compliance with the Statewide Planning Goals. The City is currently under a new Periodic Review order and is pursuing compliance in accordance with a DLCD-approved work plan.
- b. This ordinance amends portions of Title 33, Planning and Zoning pertaining to

**BASE ZONES**

- 100 Open Space Zone
- 110 Single-Dwelling Residential Zones
- 120 Multi-Dwelling Residential Zones
- 130 Commercial Zones
- 140 Employment and Industrial Zones

**ADDITIONAL USE & DEVELOPMENT REGULATIONS**

- 248 Landscaping and Screening
- 258 Nonconforming Situations
- 266 Parking and Loading

**OVERLAY ZONES**

- 430 Environmental Zone
- 440 Greenway Overlay Zones
- 465 Pleasant Valley Natural Resources Overlay Zone
- 480 Scenic Resource Zone

**PLAN DISTRICTS**

- 508 Cascade Station/Portland International Center (CS/PIC) Plan District
- 515 Columbia South Shore Plan District
- 537 Johnson Creek Basin Plan District
- 570 Rocky Butte Plan District
- 580 South Auditorium Plan District

**LAND DIVISIONS AND PLANNED DEVELOPMENTS**

- 630 Tree Preservation
- 635 Clearing and Grading and Land Suitability
- 654 Rights-of-Way
- 660 Review in OS & R Zones
- 662 Review in C, E, & I Zones
- 663 Final Plats
- 664 Review on Large Sites in I Zones
- 665 Planned Development Review

**ADMINISTRATION AND PROCEDURES**

- 700 Administration and Enforcement
- 730 Quasi-Judicial Procedures

**LAND USE REVIEWS**

- 815 Conditional Uses
- 820 Conditional Use Master Plans
- 825 Design Review

**GENERAL TERMS**

910 Definitions

930 Measurements

- c. The amendments implement, but do not change, the Comprehensive Plan. The amendments do not change the City's comprehensive plan map or the official zoning maps. Recommendations to better address City urban forestry goals and policies during the Portland Plan project and imminent Comprehensive Plan update are provided in the Recommended Draft Report.
- d. During the course of public hearings, the Bureau of Planning and Sustainability, the Planning Commission, Urban Forestry Commission, and the City Council provided interested parties opportunities to identify, either orally or in writing, any other Comprehensive Plan goal, policy or objective that might apply to the amendments. No additional provisions were identified. Therefore, the amendments satisfy the applicable existing Comprehensive Plan goals, policies and objectives for the reasons stated below.

50. **Policy 1.4, Intergovernmental Coordination**, requires continuous participation in intergovernmental affairs, emphasizing the importance of working with public agencies to coordinate metropolitan planning and project development, and to maximize the efficient use of public funds. The amendments support this policy because the City consulted and coordinated with a number of public agencies and other entities during the course of the project, including Metro, Multnomah County, the Cities of Tigard, Beaverton, Gresham, Lake Oswego, and Vancouver, Port of Portland, Multnomah County Drainage District, the East and West Multnomah County Soil and Water Conservation Districts, and the Johnson Creek, Columbia Slough, and Tryon Creek Watershed Councils. These organizations were also notified of opportunities to comment on the amendments during hearings before the Portland Planning Commission, Urban Forestry Commission and City Council. The City also shared information and invited input on the project during the 2009 Arbor Day Foundation National Partners in Community Forestry Conference which was attended by numerous local and state agencies from Oregon and across the United States.

51. **Goal 2, Urban Development**, calls for maintaining Portland's role as the major regional employment and population center by expanding opportunities for housing and jobs, while retaining the character of established residential neighborhoods and business centers. The amendments support this goal because they are designed to improve the quantity and quality of tree preservation, planting and protection in the City while also recognizing and supporting the needs of development for certainty, flexibility, and reasonable costs. The amendments are also intended to help the City meet its adopted tree canopy targets which will help maintain Portland's reputation as a desirable place to live, work and play.

52. **Goal 3, Neighborhoods**, calls for the preservation and reinforcement of the stability and diversity of the City's neighborhoods while allowing for increased density. The Title 33 amendments support this goal because they update or establish standards and criteria intended to

improve tree preservation and tree replacement associated with land divisions and specified other land use reviews, and in the City's environmental and other resource overlay zones and specified plan districts. New flexible development standards are designed to encourage preservation of larger healthy trees without adversely affecting neighborhood character. Improved tree preservation and planting will enhance the quality and livability of Portland's neighborhoods by providing cleaner cooler air, shade, habitat for birds, and enhanced aesthetic and property values.

Improved tree preservation and planting on development sites will help ensure that tree related benefits are maintained in the areas where development is occurring.

Amendments to the Ladd's Addition Conservation District Guidelines are consistent with this goal for the reasons stated in the findings addressing Statewide Planning Goal 5. The amendments clarify that the Title 11 prohibition on planting trees on the City's Nuisance Plants List on City property or rights-of-way applies in Ladd's Addition, but directs the use of the existing street tree plan (which includes several nuisance tree species) as a guide in the selection of future street trees to maintain the historic character of the streetscape. These amendments are reinforced by Title 11 provisions requiring the City Forester to consider adopted historic guidelines in approving tree replacement or planting through the tree permit process.

53. **Goal 4, Housing**, calls for enhancing Portland's vitality as a community at the center of the region's housing market by providing housing of different types, density, sizes, costs and locations that accommodates the needs, preferences, and financial capabilities of current and future households. The amendments are consistent with this goal because they will not affect the City's ability to offer diverse housing opportunities to Portlanders. See findings for Statewide Planning Goal, Goal 10, Housing and for Metro Title 1 for explanation.
54. **Goal 5, Economic Development**, calls for the promotion of a strong and diverse economy that provides a full range of employment and economic choices for individuals and families in all parts of the city. The amendments are consistent with this goal because they will not adversely affect the range of employment opportunities and economic choices for individual and families in Portland. In addition, there may be an increase in demand for qualified arborists to help facilitate and ensure tree preservation through development. See findings for Statewide Planning Goal, Goal 9, Economic Development for additional discussion and explanation.
55. **Goal 8, Environment**, calls for the maintenance and improvement of the quality of Portland's air, water, and land resources, as well as the protection of neighborhoods and business centers from noise pollution. The amendments support this goal because they continue and advance existing associated City policies and programs to conserve and protect significant natural resources as identified in City-adopted natural resource inventories, protection plans, the Environmental Overlay Zone regulations, and the Greenway Overlay Zone regulations. These associated policies include Policy 8.10, Drainageways; Policy 8.11, Special Areas; Policy 8.14, Natural Resources; Policy 8.15 Wetlands/Riparian/Water Bodies protection; Policy 8.16, Uplands Protection; and Policy 8.17, Wildlife.

The amendments include updated and new standards, criteria and other provisions intended to encourage and improve the quantity and quality of tree preservation and planting in conjunction

with land divisions, specified land use reviews, and development generally. In addition, the amendments improve tree protection and replacement in the City's most environmentally sensitive areas. The amendments expand the tree replacement requirements to apply to non-native trees in the environmental and Pleasant Valley natural resources overlay zones, and to trees that are removed from environmental overlay transition areas. The amendments also reduce the minimum size of trees required to be planted in the overlay zones. This reduces the cost of restoration projects while increasing the survival rate of the trees planted. In addition, an amendment to the Title 33 definition of "identified streams, wetlands and waterbodies" clarifies the City's intention to apply the current stream and wetland setbacks consistently within existing overlay zones. These setbacks provide a minimum buffer for the resource, however development in the setback may be allowed through a review if no practicable alternative exists that would have less detrimental impact on the resource.

56. **Goal 9, Citizen Involvement**, calls for improved methods and ongoing opportunities for citizen involvement in the land use decision-making process, and the implementation, review, and amendment of the Comprehensive Plan. This project followed the process and requirements specified in Chapter 33.740, Legislative Procedure. The amendments support this goal for the reasons found in the findings for Statewide Planning Goal 1, Citizen Involvement. The amendments support this goal as they reflect extensive input from community stakeholders during initial project scoping, from a diverse Stakeholder Discussion Group, from the Planning Commission, Urban Forestry Commission and many other committees and organizations during the vetting of initial project proposals, and from other agencies, organizations and Portland residents and businesses during public hearings before the Planning Commission, Urban Forestry Commission, and City Council.
57. **Goal 10, Plan Review and Administration**, calls for periodic review of the Comprehensive Plan, for implementation of the Plan, and addresses amendments to the Plan, to the Plan Map, and to the Zoning Code and Zoning Map. The amendments support this goal because they will further support and help implement the existing Comprehensive Plan policies. No changed will be made to the Plan Map or the Zoning Map.
58. **Policy 10.10, Amendments to the Zoning and Subdivision Regulations**, requires amendments to the zoning and subdivision regulations to be clear, concise, and applicable to the broad range of development situations faced by a growing, urban city. The amendments support this policy by updating standards and criteria in the City Zoning Code to address tree preservation and replacement more effectively through a range of development situations including land division reviews, design reviews, and specified conditional use reviews, and other types of development. The amendments add flexibility to encourage tree preservation in development situations, while also taking other factors and criteria into consideration. The amendments include new approval criteria for land divisions that consider the expected use and intensity of the site, access and service requirements and other site constraints, along with goals for preserving trees. In conditional use and design reviews, tree preservation will be considered as a factor to improve compatibility and/or the project design, along with other factors important for the specific development proposal. Within overlay zones and plan districts, the amendments provide more

consistent regulation of like situations and will help streamline the development process by including new allowances for tree removal for activities that commonly trigger land use reviews.

59. **Goal 11 F, Parks and Recreation**, calls for maximizing the quality, safety and usability of parklands and facilities. The amendments support this goal because they encourage and improve the quality of tree preservation and replacement, including requiring replacement of non-native trees in the environmental and Pleasant Valley natural resources overlay zones, and replacement of trees in environmental overlay zone transition areas. This will ensure more consistent replenishment of the tree canopy in a number of City parks, golf courses, and natural areas.

### **PUBLIC SAFETY GOALS & POLICIES**

60. **Goal 11 G, Fire**, calls for development and maintenance of facilities that adequately respond to the fire protection needs of Portland. The amendments support this goal because they add a new exemption for tree pruning in the environmental and Pleasant Valley natural resources overlay zones, subject to a permit from the City Forester. This will streamline the process required for pruning trees, which will help reduce the risks and impacts of wildfire.
61. **Goal 11 I, Schools**, calls for enhancing the educational opportunities of Portland's citizens. The amendments support this goal because they provide additional opportunities to educate Portlanders, including property owners, developers, and arborists, about the value and benefits provided by trees, and opportunities to incorporate them into development project design.
62. **Goal 12, Urban Design**, calls for enhancing Portland as a livable city, attractive in its setting and dynamic in its urban character by preserving its history and building a substantial legacy of quality private developments and public improvements for future generations. The amendments support this goal because they will help sustain and enhance Portland's urban forest through private developments and public improvements. They will encourage preservation of large healthy trees and groves that contribute to the aesthetic value and identity of Portland's neighborhoods, while providing additional flexibility that will support development goals, and maintenance of view corridors.

### **NOW, THEREFORE, the Council directs:**

- a. Adopt the *Citywide Tree Policy Review and Regulatory Improvement Project - Recommended Draft Report to City Council*, dated December 2010, and Bureau of Planning and Sustainability staff memoranda (and attachments) to City Council dated March 4, 2011 and March 31, 2011 which provide supplemental documentation of legislative history and intent.
- b. Amend Title 33, Planning and Zoning, as specified in Exhibit A, as amended per Exhibit E.

- c. Adopt the commentary in Exhibit A, as amended per Exhibit E, as legislative intent and supplemental findings.
- d. Amend the Ladd's Addition Conservation District Guidelines as specified in Exhibit B.
- e. Adopt Exhibit E, including code amendments, and amended commentary and descriptions which provide additional documentation of legislative intent.
- f. Direct the bureau of Development Services and Parks and Recreation to report to Council during the budget processes for FY 2011-12, FY 2012-13 and 2013-14 on proposed implementation and funding to administer these amendments as informed by Exhibit C, Tree Canopy Benefits, Financial Impacts and Budget Proposal and Exhibit D, Financial Impact Statement.
- g. Direct the Director of the Bureau of Planning and Sustainability to include the information contained in Table 630-1 (Significant Trees) of the zoning code into the Portland Plant List by initiating a change to the List within 180 days of the date this ordinance is adopted.
- h. Council directs that the City Forester, Bureau of Environmental Services, and Bureau of Planning and Sustainability, with support from the Office of Neighborhood Involvement and in consultation with the Urban Forestry Commission, work with Ladd's Addition residents and property owners, the Hosford-Abernathy Neighborhood Development (HAND) and Save Our Elms to update the Open Space Guidelines for the street trees in the Ladd's Addition Conservation District Guidelines for Development and Preservation.

Section 2. To provide time for the City to establish systems and procedures to implement many of the Title 33 amendments, to conduct public outreach to raise community awareness of the changes, and in recognition of current budget constraints and the economic downturn, this ordinance shall be in force and become effective on February 1, 2013, except for the list of Title 33 amendments in Exhibit A that are identified to become effective on July 1, 2011.

Section 3. If any section, subsection, clause or phrase of this Ordinance, or the code amendments it adopts, is for any reason held to be invalid or unconstitutional, that shall not affect the validity of the remaining portions of the Portland City Code and other identified documents. Council declares that it would have passed the Portland City Code and other identified documents, and each section, subsection, sentence, clause, and phrase thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, or phrases of this Ordinance, may be found to be invalid or unconstitutional.

Passed by the Council: APR 13 2011

Commissioner: Mayor Sam Adams

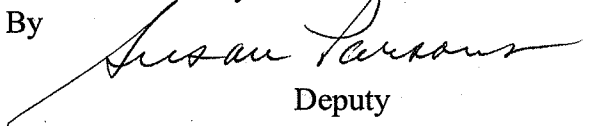
Prepared by: Roberta Jortner

Date Prepared: March 31, 2011

**LaVonne Griffin-Valade**

Auditor of the City of Portland

By



Deputy