

ORDINANCE No. 187675 As Amended

Strengthen regulations for tree preservation in development situations (Ordinance; amend Code Chapter 11.50)

The City of Portland Ordains:

Section 1: The Council finds:

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. The City Forester and BDS Director administer Portland City Code (PCC) Title 11, Trees.
3. PCC Chapter 11.50, Trees in Development Situations, regulates, in part, tree removal and tree preservation associated with development projects including when tree removal is allowed, when tree preservation is required, and what mitigation is required for certain tree removal.
4. Title 11 was adopted on May 13, 2011 (Ordinance No. 184522) and was amended by Ordinance Nos. 185448, 185654, and 186053. Title 11 was effective January 1, 2015.
5. PCC 11.50, Trees in Development Situations allows that 1/3 of non-exempt trees on a development site be preserved. Removal of any tree(s) subject to the 1/3 preservation requirement necessitates a mitigation fee in-lieu equal to the cost of planting and maintaining 2 replacement trees for a period of 2 years as specified by the adopted fee schedule for Title 11. No notification is required for any tree removal in development situations.
6. After implementation of Title 11, public concern developed regarding the removal of large sized trees associated with development projects as allowed by Title 11.
7. Collected data indicated that 18 trees 45 inches in diameter or larger were removed through the first 3 quarters of 2015 in association with development permits on private property, as allowed by Title 11. Refinement of data indicated as many as 9 of the 18 trees may have been exempt from tree preservation requirements due to health or other exemptions specified in Title 11.
8. In response to public concern, the City Forester was directed to develop a code amendment proposal to strengthen regulations for tree protection of especially large

trees in development situations as an interim measure until such time a more comprehensive evaluation and amendment of Title 11 including regulations for tree preservation in development situations can be undertaken.

9. On November 3, 2015, the City Forester proposed amendments to strengthen regulations for tree protection of especially large trees in development situations. This proposal (Parks Proposal) was shared with the Tree Code Oversight Advisory Committee on November 9, 2015 and the Development Review Advisory Committee on November 19, 2015.
10. On December 11, 2015, BDS also proposed amendments to strengthen regulations for tree protection of especially large trees in development situations. This proposal (BDS Proposal) was developed after review by the Bureau of Planning and Sustainability, Portland Water Bureau, Bureau of Environmental Services, and Bureau of Transportation. This proposal was shared with the Development Review Advisory Committee on December 17, 2015.
11. On December 11, 2015 notice of public hearing with the Planning and Sustainability Commission was sent to 900 parties on the project mailing list and Bureau of Planning and Sustainability legislative project mailing list and in accordance with the notification requirements of Title 11. Notice directed interested parties to the Portland Trees website and BDS website or project staff for the complete Parks proposal and BDS proposal.
12. On December 22, 2015 notice of public hearing with the Urban Forestry Commission was sent to 898 parties on the project mailing list and Bureau of Planning and Sustainability legislative project mailing list and in accordance with the notification requirements of Title 11. Notice directed interested parties to the Portland Trees website and BDS website or project staff for the complete Parks Proposal and BDS Proposal.
13. On January 12, 2015 the Planning and Sustainability Commission held a hearing and invited oral and written testimony and voted on a recommendation. The Planning and Sustainability Commission's recommendation, dated January 20, 2015, consists of a combination of elements of the Parks proposal and the BDS proposal. The Planning and Sustainability Commission also recommended that a more comprehensive evaluation and amendment of Title 11, including regulations for tree preservation in development situations be undertaken at a future date. Attached as Exhibit B.
14. On January 21, 2015 the Urban Forestry Commission held a hearing and invited oral and written testimony and voted on a recommendation. The Urban Forestry Commission's recommendation, dated January 29, 2015, consists of a combination of elements of the Parks proposal and the BDS proposal. The Urban Forestry Commission also recommended that a more comprehensive evaluation and amendment of Title 11, including regulations for tree preservation in development situations be undertaken at a future date. Attached as Exhibit C.

15. On February 12, 2015 notice of City Council hearing was sent to parties required by Title 11 and the project e-mail list. Notice directed interested parties to the Portland Trees website and BDS website or project staff for the complete project proposals.
16. On February 18, 2015 a proposal co-sponsored by Commissioner Amanda Fritz and Commissioner Dan Saltzman (Fritz-Saltzman Proposal) was published on the Portland Trees website and BDS website. In addition, the proposal was e-mailed to the project e-mail list. Attached as Exhibit D.
17. The Fritz-Saltzman proposal consists of a combination of elements from the Parks proposal, the BDS proposal, the Planning and Sustainability Commission recommendation and the Urban Forestry Commission recommendation. The Fritz-Saltzman proposal institutes a tiered mitigation fee in-lieu schedule for trees up to 50 inches in diameter and then institutes an inch-per-inch mitigation fee in-lieu for trees 50 inches or larger in diameter. The proposal requires that all trees 36 inches or greater, regardless of the 1/3 preservation standard is subject to preservation or mitigation fee in-lieu of preservation. The proposal requires public notice for the removal of all trees 36 inches or greater. The proposal applies to Private Trees, and does not apply to City Trees or Street Trees. The proposal has a sunset date of December 31, 2019.
18. The amendments in Exhibit A reflect the Fritz-Saltzman proposal.

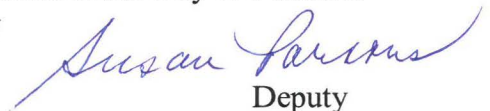
NOW, THEREFORE, the Council directs:

- a. Chapter 11.50, Trees in Development Situations, is amended as shown in Exhibit A.

Passed by the Council: APR 13 2016

Commissioner Amanda Fritz
 Commissioner Dan Saltzman
 Prepared by: Emily Sandy, BDS
 Date Prepared: March 3, 2016

Mary Hull Caballero
 Auditor of the City of Portland
 By


 Deputy

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Agenda No.
ORDINANCE NO. 187675 As Amended
Title

Amend Chapter 11.50 (Trees in Development Situations) to strengthen regulations for tree preservation in development situations (Ordinance; amend Code Chapter 11.50)

<p>INTRODUCED BY Commissioner/Auditor: Commissioner Amanda Fritz Commissioner Dan Saltzman</p> <p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Hales</p> <p>Position 1/Utilities - Fritz <i>Amanda Fritz</i></p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman <i>Dan Saltzman</i></p> <p>Position 4/Safety - Novick</p> <p>BUREAU APPROVAL</p> <p>Bureaus: Bureau of Development Services and Parks & Recreation Bureau Head: Paul L. Scarlett <i>P. L. Scarlett</i> Acting Bureau Head: Warren Jimenez <i>W. Jimenez</i></p> <p>Prepared by: Leanne Torgerson Date Prepared: 2/22/16</p> <p>Financial Impact & Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p> <p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>City Auditor Office Approval: required for Code Ordinances <i>Tori</i></p> <p>City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter <i>JA</i></p> <p>Council Meeting Date 3/3/16, 2:00 TC</p>	<p>CLERK USE: DATE FILED <u>FEB 23 2016</u></p> <p style="text-align: right;">Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p> <p>ACTION TAKEN:</p> <p>MAR 03 2016 PASSED TO SECOND READING As Amended MAR 16 2016 9:30 A.M.</p> <p>MAR 16 2016 CONTINUED TO MAR 30 2016 2 P.M. TIME CERTAIN</p> <p>MAR 30 2016 PASSED TO SECOND READING APR 06 2016 9:30 A.M. As Amended</p> <p>APR 06 2016 PASSED TO SECOND READING As Amended APR 13 2016 9:30 A.M.</p>
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AGENDA
<p>TIME CERTAIN <input checked="" type="checkbox"/></p> <p>Start time: <u>2:00</u></p> <p>Total amount of time needed: <u>2hrs</u> (for presentation, testimony and discussion)</p>
<p>CONSENT <input checked="" type="checkbox"/></p>
<p>REGULAR <input type="checkbox"/></p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	✓	
4. Novick	4. Novick	✓	✓
Hales	Hales	✓	