

ORDINANCE NO. 185655

Amend previously adopted regulations to Title 33, Planning and Zoning to support implementation and administration of the Citywide Tree Project (Ordinance; amend Ordinance 184524)

The City of Portland Ordains:

Section 1. The Council finds:

**General findings**

1. On April 13, 2011, City Council adopted Amendments to Title 33, Planning and Zoning, and Ladd's addition Conservation District Guidelines as part of the Citywide Tree Policy Review and Regulatory Improvement Project (Citywide Tree Project). Portions of the amendments went into effect on July 1, 2012 while the majority of the amendments were scheduled to become effective February 1, 2013.
2. On August 15, 2011, the Bureau of Development Services and Parks and Recreation jointly hired a Program Coordinator to prepare for and facilitate implementation of the adopted regulations.
3. Between August and December 2011, the Bureaus of Development Services and Parks and Recreation began to create new process and procedures for implementing the new regulations. The bureaus identified a set of minor "housekeeping" amendments needed to facilitate implementation.
4. The scope of the amendments are limited to those refinements necessary to implement the new regulations effectively and to clarify the intent of the regulations, without modifying the policy intent of Council's previous decision regarding the Citywide Tree Project.
5. In February 2012, staff distributed a description of the proposed amendments entitled *Housekeeping Amendments to Title 11, Trees & Title 33, Planning and Zoning* to the Bureaus of Environmental Services, Transportation, Development Services, Urban Forestry, Fire, Water, Multnomah County and the City Attorney's office. Staff also met with the Urban Forestry Commission to provide an update on Tree Code implementation activities and discuss the proposed housekeeping amendments under review by City Bureaus.
6. In March 2012, staff met with the Citywide Land Use Group and the Development Review Advisory Committee and distributed a list of the proposed amendments along with an update on Tree Code implementation activities. No objections or formal comments were received.
7. Staff continued to refine the amendment proposal and in April 2012 published the Proposed Draft for public review. The Proposed Draft was posted on the Bureau of Planning and Sustainability Tree Project website and hard copies were made available at the Bureau of Development Services reception office.

8. On April 13, 2012, notice of two public hearings before the Urban Forestry Commission and Planning and Sustainability Commission hearings were mailed to 820 individuals and organizations on the Bureau of Planning and Sustainability Legislative Mailing List and the Citywide Tree Project Mailing list.
9. On April 19, 2012, staff briefed the Urban Forestry Commission on the proposed amendments and next steps in the process.
10. On May 2, 2012, electronic mail messages were sent to the Citywide Tree Project stakeholder mailing list to inform the approximately 400 individuals and organizations on the project mailing list of the Proposed Amendments and the Urban Forestry Commission and Planning and Sustainability public hearing dates. The electronic mail messages included information on how to comment on the new regulations, where to obtain copies of the proposed draft and information on how to access electronic documents.
11. On May 17, 2012, the Urban Forestry Commission held a public hearing on the Proposed Housekeeping Amendments to Title 11, Trees & Title 33, Planning and Zoning.
12. On May 22, 2012, the Planning and Sustainability Commission held a public hearing on the Proposed Housekeeping Amendments to Title 11, Trees & Title 33, Planning and Zoning.
13. Two people testified at the Urban Forestry Commission hearing and three written public comments were received. There was no opposition to the amendments. The Urban Forestry Commission had recommendations that were incorporated into Exhibit B, *Recommended Housekeeping Amendments Title 11, Trees, & Title 33, Planning and Zoning*. Both commissions encouraged staff to conduct comprehensive outreach on the new regulations.
14. The Urban Forestry Commission and Planning and Sustainability Commission recommendations are presented in Exhibit A *Recommended Draft Report to City Council, Housekeeping Amendments to Title 11, Trees & Title 33, Planning and Zoning* along with a description of the public testimony. Exhibit 'A' also includes a description of the recommended amendments and an update on the outreach plan and other implementation activities.
15. On June 21, 2012, City Council approved Ordinance No. 185448 that delays implementation of adopted amendments to Title 33 from February 2013, to July 1, 2013, based on the finding that severe budget constraints and continued strain on the local economy is projected for FY 2012-13, limiting available General Fund dollars and discouraging additional development-related fee increases.

### **Findings on Statewide Planning Goals**

16. 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 goal addressed below is found to apply to this project.

17. Goal 1, Citizen Involvement, requires provisions of opportunities for citizens to be involved in all phases of the planning process. The preparations of these amendments has provided numerous opportunities for public involvement, as describe below:
- a. The Bureau of Planning and Sustainability has maintained the project website throughout the amendments and ongoing implementation of the new regulations. Amendments drafts, descriptions, and hearing information were available to project stakeholders.
  - b. Staff engaged bureau stakeholders and community groups during the initial phases of amendment scoping and development in February and March 2012.
  - c. On April 4, 2012, and again on April 11, 2012 project staff mailed the required notice of the Urban Forestry Commission and Planning Commission Hearings to interested agencies, organizations and individuals.
  - d. On April 10, 2012, staff mailed the Department of Land Conservation and Development notice of the proposed amendments. This notification was received within the required time frame, 35-days prior to the first evidentiary hearing.
  - e. On May 2, 2012, project staff sent additional email notifications to community stakeholders on the project mailing list who were involved in the Citywide Tree Project. The notifications provided information on how to comment on the new regulations, where to obtain copies of the proposed draft and information on how to access electronic documents.
  - f. On May 17, 2012, the Urban Forestry Commission held a public hearing on the proposed amendments.
  - g. On May 22, 2012, the Planning and Sustainability Commission held a public hearing on the proposed amendments.

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

18. Only the Comprehensive Plan goal addressed below is found to apply to this project:
19. 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 Procedures. 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 input from community stakeholders during amendment development and public hearings held by the Urban Forestry Commission and Planning and Sustainability Commission.
20. NOW, THEREFORE, the Council directs:

- a. Adopt Exhibit A *Recommended Draft Report to City Council Housekeeping Amendments to Title 11, Trees & Title 33, Planning and Zoning* dated September 2012.
- b. Amend Title 33, Planning and Zoning as recommended per Exhibit B *Housekeeping Amendments, Title 11 Trees, & Title 33, Planning and Zoning* dated September 2012.
- c. Adopt the commentary in Exhibit B, *Recommended Housekeeping Amendments, Title 11 Trees & Title 33, Planning and Zoning*, which provide additional documentation and legislative intent.

Section 2. This ordinance shall be in force and become effective on July 1, 2013 in conjunction with the corresponding ordinance to Title 11, Trees.

Section 3. If any section, subsection, clause of 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: **SEP 26 2012**

Commissioner of Public Works: Nick Fish  
Commissioner of Public Affairs: Dan Saltzman  
Prepared by: Mieke Keenan,  
Bureau of Development Services  
Date Prepared: September 19, 2012

LaVonne Griffin-Valade

Auditor of the City of Portland

By  Deputy

~~1033~~ 1097

Agenda No.  
**ORDINANCE NO. 185655**  
Title

Amend previously adopted regulations to Title 33, Planning and Zoning to support implementation and administration of the Citywide Tree Project (Ordinance: amends Ordinance 184524)

<p><b>INTRODUCED BY</b> Commissioner/Auditor: <b>Commissioner Fish</b> <b>Commissioner Saltzman</b></p> <p><b>COMMISSIONER APPROVAL</b></p> <p>Mayor—Finance and Administration - Adams</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Leonard</p> <p><b>BUREAU APPROVAL</b></p> <p>Bureau: Paul L. Scarlett &amp; Mike Abbate Bureau Head: Directors, Bureau of Development Services and Portland Parks and Recreation</p> <p>Prepared by: Leanne Torgerson Date Prepared: 9/6/12</p> <p>Financial Impact &amp; 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>Council Meeting Date <b>9/19/12, 9:30 TC</b></p> <p><b>City Attorney Approval</b> <i>K. Braun</i></p>	<p>CLERK USE: DATE FILED <b>SEP 14 2012</b></p> <p style="text-align: center;">LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <i>Susan Parsons</i> Deputy</p> <p><b>ACTION TAKEN:</b></p> <p style="text-align: center;"><b>SEP 19 2012 PASSED TO SECOND READING SEP 26 2012 9:30 A.M.</b></p>
---	---

<b>AGENDA</b>
<p><b>TIME CERTAIN</b> <input checked="" type="checkbox"/></p> <p>Start time: <b>9:30 a.m.</b></p> <p><b>Total amount of time needed: 45 minutes</b> (for presentation, testimony and discussion)</p>
<p><b>CONSENT</b> <input type="checkbox"/></p>
<p><b>REGULAR</b> <input checked="" type="checkbox"/></p> <p><b>Total amount of time needed: 45 minutes</b> (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. Leonard	4. Leonard	✓	
Adams	Adams	✓	