

ORDINANCE No. 190200 As Amended

Amend Trees In Development Situations Code to remove zone exemptions from tree preservation and tree density and amend regulations for preservation of private trees (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 Bureau of Development Services (BDS) Director, together with the City Forester, administers Portland City Code (PCC) Title 11, Trees. The Bureau of Planning and Sustainability (BPS) is responsible for economic planning and analysis to maintain the City's compliance with Statewide Land Use Planning Goal 9, Economic Development.
3. Portland City Code (PCC) Chapter 11.50, Trees in Development Situations, regulates, in part, tree removal, tree preservation, and tree planting associated with development projects including when tree preservation or tree planting is required, and what mitigation is required when certain trees are not preserved or not planted.
4. Title 11 was adopted on April 13, 2011 (Ordinance No. 184522) and was amended by Ordinance Nos. 185448, 185654, and 186053 before it was effective. Title 11 was effective January 1, 2015.
5. On January 8, 2020, through Resolution 37473, the Portland City Council directed the Bureau of Development Services (BDS), together with the Bureau of Planning and Sustainability (BPS), and Portland Parks & Recreation (PP&R) to conduct an analysis, legal review and stakeholder engagement process of the Title 11 (Tree Code) amendments recommended by the PSC and UFC through a previous project that resulted in adoption of Ordinance 189795, effective December 12, 2019.
6. In fulfillment of the directives in Resolution 37473, staff from the three bureaus conducted analysis, stakeholder engagement and legal review regarding removing existing exemptions from the tree preservation and tree density standards in Heavy Industrial (IH), General Industrial 1 (IG1), EX (Central Employment), and CX (Central Commercial) zones on private and City-owned/managed property, reducing the threshold for required preservation of trees on private property from 36 inches to 20 inches in diameter at breast height

(dbh) wherever tree preservation is required, and reducing the threshold for inch-per-inch fee in lieu of preservation for trees on private property, from 36 inches dbh to 20 inches dbh. The scope of the project pertains to tree regulations that apply in development situations.

7. In March, 2020, individual interviews were held with stakeholders representing a variety of organizations and interests to gather feedback on the directives in Resolution 37473 and the Tree Code in general. Participants and results of the interviews are described in the staff proposal and staff proposal appendices in Exhibits F and G.
8. A community survey was open from April 14, through May 15, 2020 to gauge community values and priorities. Participation statistics and results of the survey are described in the staff proposal and staff proposal appendices in Exhibits F and G.
9. On July 15, 2020 a draft staff proposal was published on the BDS website and distributed electronically through various channels with a comment period through August 5, 2020.
10. An online community forum was held from July 15, 2020 through August 3, 2020 to present the draft staff proposal, general information, and gather community input. Participation and input on the draft staff proposal is described in the staff proposal and staff proposal appendices in Exhibits F and G.
11. Staff updated and sought input from Development Review Advisory Committee (DRAC) on January 16, 2020 and May 21, 2020. All electronic notices of project updates were sent to DRAC members. A member of DRAC also participated in the individual stakeholder interviews.
12. On August 7, 2020 notice of joint public hearing with the Planning and Sustainability Commission and Urban Forestry Commission was mailed to the recipients required by the notification requirements of Title 11. On August 9, 2020, notice of the joint hearing was published in the *Oregonian* as required by Title 11. Additional notices were published in the *Oregonian* and the *Daily Journal of Commerce*. Notice of the joint public hearing was also posted on the BDS website and distributed electronically through various channels.
13. The staff analysis, including community engagement is discussed in the staff proposal and appendices to the staff proposal. The staff proposal, dated August 14, 2020, was published on the on the BDS website on August 17, 2020, and distributed electronically through various channels. The staff proposal is attached as Exhibit F. Appendices to the staff proposal are attached as Exhibit G.
14. On August 20, 2020, staff briefed the Urban Forestry Commission on the staff proposal.

15. On August 25, 2020, staff briefed the Planning and Sustainability Commission on the staff proposal.
16. On September 8, 2020, the Planning and Sustainability Commission and Urban Forestry Commission held a joint hearing and invited oral and written testimony. The record for Planning and Sustainability Commission was held open until September 11, 2020. The Urban Forestry Commission hearing was continued until September 17, 2020.
17. On September 17, 2020, the Urban Forestry Commission continued its hearing, closed the record, and voted on a recommendation. The recommendation is consistent with the staff proposal in Exhibit F, except that the commission recommends to remove the exemptions from Tree Preservation and Tree Density in the IH, Heavy Industrial Zone. The recommendation is attached as Exhibit D.
18. On September 22, 2020, the Planning and Sustainability Commission voted on a recommendation. The recommendation is consistent with the staff proposal in Exhibit F. The Planning and Sustainability Commission also recommends that City Council direct, via ordinance, the Bureau of Planning and Sustainability to evaluate the Title 11 tree preservation and density exemptions for IH as part of the Economic Opportunities Analysis (EOA) update, consistent with City goals including those related to tree canopy, climate change and urban heat islands. The EOA should also consider equitable public health and environmental outcomes for BIPOC communities living adjacent to or employed within IH zone. This recommendation is attached as Exhibit E.
19. The city of Portland is landlocked. Current Statewide Planning Goal 9 requiring a perpetual twenty-year supply of available Industrial Lands is unsustainable. Unlike residential and commercial development that can add density by building up and Portland has successfully done so, industrial uses rely on surface development.
20. There are two code change options associated with this ordinance. Exhibit A reflects the Planning and Sustainability Commission's recommendation. Exhibit B reflects the Urban Forestry Commission's recommendation.
21. The recommendations of the Planning and Sustainability Commission and Urban Forestry Commission related to the amendment to reduce the existing threshold for certain tree preservation regulations for private trees from 36" dbh to 20" dbh requires a change to the Parks & Recreation Urban Forestry Title 11, Trees Fee Schedule, shown in Exhibit C.
22. In accordance with the notification requirements of Title 11, on October 15, 2020, notice of the City Council hearing was mailed to those who testified at the Planning and Sustainability Commission and Urban Forestry Commission hearing, either in person or in writing, and those who requested such notice. On the same date, notice of the City Council hearing was published *The Oregonian*

and the *Daily Journal of Commerce* in accordance with the notification requirements of Title 11.

23. Due to COVID-19 budget constraints, the bureaus have lacked staffing to complete the third directive of Resolution 37473 to formulate by December 7, 2020 a Scope of Work for comprehensive review of Title 11. The directive stated, BE IT FURTHER RESOLVED, BDS and PP&R shall coordinate with BPS to develop a scope of work for additional updates to strengthen Title 11. BDS and PP&R shall bring a scope for Council for review no later than December 7, 2020.

NOW, THEREFORE, the Council directs:

- a. Chapter 11.50, Trees in Development Situations, is amended as shown in Exhibit A, as amended.
- b. The Bureau of Planning and Sustainability will evaluate the Title 11 tree preservation and density exemptions for IH as part of the Economic Opportunities Analysis (EOA) update, consistent with City goals including those related to tree canopy, environmental health, climate change, and urban heat islands. The EOA shall also analyze equitable public health and environmental justice, especially for those who are essential workers, those who are Black, Indigenous, and People of Color, and community members working in or living adjacent to the IH zone. The Bureau of Planning and Sustainability, Bureau of Development Services, and Portland Parks & Recreation shall also bring to Council viable strategies to reduce the urban heat island effect and create and maintain a healthy urban tree canopy within the IH zone concurrent with completion of the updated EOA. The EOA update must be expedited as a priority for BPS.
- c. Portland Parks & Recreation and affected bureaus are directed to complete Task 3 of Resolution 37473 by March 31, 2021. The Council will consider funding for the Scope of Work defined for the Title 11 update during the FY 2021-22 City Budget process.
- d. The Portland Parks & Recreation Urban Forestry Title 11 Fee Schedule is amended as shown in Exhibit C.

Passed by the Council: November 12, 2020

Commissioner Dan Ryan
Prepared by: Emily Sandy, BDS
Date Prepared: November 12, 2020

Mary Hull Caballero

Auditor of the City of Portland

By *Keelan McClymont*
Deputy

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Title

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<p style="text-align: center;">INTRODUCED BY Commissioner/Auditor: Commissioner Dan Ryan</p>	<p>CLERK USE: DATE FILED <u>October 20, 2020</u></p>
<p style="text-align: center;">COMMISSIONER APPROVAL</p>	<p style="text-align: center;">Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u>Keelan McClymont</u> <small>Digitally signed by Keelan McClymont Date: 2020.10.20 12:40:20 -07'00'</small> Deputy</p> <p>ACTION TAKEN: October 29, 2020 Passed to Second Reading November 4, 2020 at 9:30 a.m. As Amended November 4, 2020 Passed to Second Reading November 12, 2020 at 9:30 a.m. As Amended</p>
<p>Mayor—Finance & Administration - Wheeler</p>	
<p>Position 1/Utilities - Fritz</p>	
<p>Position 2/Works - Ryan <small>Mark Bond Digitally signed by Mark Bond Date: 2020.10.20 10:40:44 -07'00'</small></p>	
<p>Position 3/Affairs - Hardesty</p>	
<p>Position 4/Safety - Eudaly</p>	
<p style="text-align: center;">BUREAU APPROVAL</p>	
<p>Bureau: Development Services Bureau Head: <u>Rebecca Esau</u> <small>Digitally signed by Rebecca Esau Date: 2020.10.15 10:57:58 -07'00'</small></p>	
<p>Prepared by: <u>Leanne Torgerson</u> Date Prepared: <u>10/15/2020</u></p>	
<p>Impact 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 DB</p>	
<p>City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter <u>LFR</u> <small>Digitally signed by Lily F. Rees Date: 2020.10.15 14:48:40 -07'00'</small></p>	
<p>Council Meeting Date <u>October 29, 2020</u></p>	

AGENDA

TIME CERTAIN
Start time: 2:00 pm
Total amount of time needed: 3 hours
(for presentation, testimony and discussion)

CONSENT

REGULAR

Total amount of time needed: _____
(for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	✓	
2. Ryan	✓	
3. Hardesty	✓	
4. Eudaly	✓	
Wheeler	✓	