

**ORDINANCE No. 189795 As Amended**

\*Amend Trees In Development Situations Code to extend sunset date for certain tree preservation regulations in development situations on private property (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.
3. Portland City Code (PCC) Chapter 11.50, Trees in Development Situations, regulates, in part, tree removal and tree preservation associated with development projects including when tree preservation is required, and what mitigation is required when certain trees are not preserved.
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. After implementation of Title 11, public concern developed regarding the removal of large diameter sized trees associated with development projects as allowed by Title 11.
6. In response to public concern, the City Forester was directed to develop a code amendment proposal to strengthen regulations for to 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 could be undertaken.
7. After public notice, hearings by the Planning and Sustainability Commission, Urban Forestry Commission, and City Council, certain amendments (Ord. 187675, effective May 13, 2016) regarding tree preservation on private property in development situations were adopted with a sunset date of December 31, 2019.
8. The amendments adopted in Ordinance 187675 included a tiered mitigation fee in-lieu of preservation schedule for trees up to 36 inches in diameter and then

institutes an inch-per-inch mitigation fee in-lieu for trees 36 inches in diameter and greater. The amendments required that all trees 36 inches or greater, regardless of the 1/3 preservation standard are subject to preservation or mitigation fee in lieu of preservation. The amendments required public notice for the removal of all trees 36 inches in diameter or greater and exempted certain affordable housing projects from the fee in lieu of preservation for trees 36 inches in diameter and greater.

9. Although there is some data to indicate that the amendment has resulted in increased preservation of large-diameter trees, to-date, no comprehensive review of Title 11, or comprehensive review of the specific amendments adopted in Ordinance 187675. Therefore, BDS, with the support of the City Forester, initiated a proposal to extend the sunset date of the amendments adopted in Ordinance 187675 from December 31, 2019 to December 31, 2021 to allow for additional time to complete a more comprehensive evaluations of the regulations, either separately, or as part of a more comprehensive review of Title 11 as a whole.
10. On August 23, 2019, the BDS staff proposal, notice of public hearing with the Planning and Sustainability Commission, and notice of public hearing with the Urban Forestry Commission was posted on the BDS website, and distributed electronically through various channels. On the same date, notice of both hearings was published in *The Oregonian* and the *Daily Journal of Commerce* in accordance with the notification requirements of Title 11. The staff proposal is attached as Exhibit E for reference.
11. On September 13, 2019 notice of public hearing with the Urban Forestry Commission was mailed to the Bureau of Planning and Sustainability legislative project mailing list in accordance with the notification requirements of Title 11.
12. On September 19, 2019, the proposal was reviewed with the Development Review Advisory Committee (DRAC).
13. On September 24, 2019 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 October 10, 2019, is in part to recommend extending the sunset date of the subject regulations as proposed. This recommendation is attached as Exhibit C.
14. On October 17, 2019 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 October 21, 2019, is in part to recommend extending the sunset date of the subject regulations to December 31, 2021 or, should a Climate Emergency be declared by City Council, for the duration of the Climate Emergency, whichever is longer. The Urban Forestry Commission also recommended to reduce the tree size threshold for required

tree preservation and for inch-per-inch fee lieu of preservation from 36" to 20", for the duration of a declared Climate Emergency. This recommendation is attached as Exhibit D.

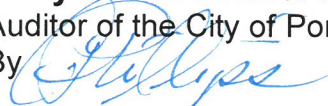
15. Planning and Sustainability Commission and Urban Forestry Commission made other recommendations that will be addressed by City Council separately.
16. City Council heard this proposal on November 13, 2019. At that hearing, Commissioner Eudaly introduced an amendment to extend the sunset date to December 31, 2050. The written record was held open until December 5, 2019.
17. City Council discussed this proposal on December 5, 2019. At that hearing, Mayor Wheeler introduced an amendment to extend the sunset date to December 31, 2024. The record was held open until December 12, 2019.
18. There are four 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. Exhibit F reflects the amendment introduced by Commissioner Eudaly at the City Council hearing November 13, 2019. Exhibit G reflects the amendment introduced by Mayor Wheeler on December 5, 2019.
19. In accordance with the notification requirements of Title 11, on October 30, 2019, 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.

NOW, THEREFORE, the Council directs:

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

Section 2. The Council declares an emergency exists because it's in the public interest to get this done as quickly as possible because our planet is on fire. Therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council:      **DEC 12 2019**  
 Mayor Ted Wheeler  
 Prepared by: Emily Sandy, BDS  
 Date Prepared: December 12, 2019

**Mary Hull Caballero**  
 Auditor of the City of Portland  
 By   
 Deputy



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NOV 05 2019

<p><b>INTRODUCED BY</b> Commissioner/Auditor: <b>Mayor Ted Wheeler</b></p> <p><b>COMMISSIONER APPROVAL</b></p> <p>Mayor—Finance &amp; Administration - Wheeler <input checked="" type="checkbox"/></p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Hardesty</p> <p>Position 4/Safety - Eudaly</p> <p><b>BUREAU APPROVAL</b></p> <p>Bureau of Development Services <i>Clark</i> for R.E. Rebecca Esau, Director</p> <p>Prepared by: Leanne Torgerson Date Prepared: October 23, 2019</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><b>City Auditor Office Approval:</b> required for Code Ordinances <i>Toni/Ku</i></p> <p><b>City Attorney Approval:</b> required for contract, code, easement, franchise, comp plan, charter <i>[Signature]</i></p> <p>Council Meeting Date <b>November 13, 2019, 4:20 TC</b></p>	<p>CLERK USE: DATE FILED _____</p> <p>Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p> <p><b>ACTION TAKEN:</b></p> <p>NOV 13 2019 <b>Continued to December 5, 2019 at 3:00 PM Time Certain As Amended</b></p> <p>DEC 05 2019 <b>CONTINUED TO DECEMBER 12, 2019 AT 5:00 PM TIME CERTAIN AS AMENDED</b></p>
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**AGENDA**

**TIME CERTAIN**   
**Start time: 4:20 pm**

**Total amount of time needed: 40 minutes**  
 (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. Fish	—————	
3. Hardesty	✓	
4. Eudaly	✓	
Wheeler		