

IMPACT STATEMENT

Legislation title: 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)

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Purpose of proposed legislation and background information:

On 1/8/20, through [Resolution 37473](#), the Portland City Council directed the Bureaus of Development Services (BDS), Planning and Sustainability (BPS), and Parks & Recreation (PP&R) to conduct an analysis, legal review and stakeholder engagement process for the following proposals previously recommended by the Planning and Sustainability Commission (PSC) and the Urban Forestry Commission (UFC):

- Removing the exemptions from **tree preservation and tree density requirements** in IH (Heavy Industrial), IG1 (General Industrial 1), EX (Central Employment), and CX (Central Commercial) zones on private and City-owned/managed property during development situations.
- **Reducing the threshold for required tree preservation and higher inch-for-inch mitigation payment** during development on private property, from **36 inches to 20 inches in diameter at breast height** (dbh), wherever tree preservation is required.

After analysis, legal review, and stakeholder engagement, the PSC and the UFC have made recommendations to City Council for their consideration and action. The PSC recommendation is reflected in code language in Exhibit A, and the UFC recommendation is reflected in code language in Exhibit B. In summary:

- Both commissions recommended **Reducing the threshold for required tree preservation and higher inch-for-inch mitigation payment** during development on private property, from **36 inches to 20 inches in diameter at breast height** (dbh), wherever tree preservation is required.
- Both commissions recommended **removing the exemptions from tree preservation and tree density requirements** in IG1 (General Industrial 1), EX (Central Employment), and CX (Central Commercial) zones on private and City-owned/managed property during development situations.
- **The PSC recommended retaining exemptions** from tree preservation and tree density requirements in IH (Heavy Industrial) zone on private and City-owned/managed property during development situations, while **the UFC**

recommended removing exemptions from tree preservation and tree density requirements in IH (Heavy Industrial) zone on private and City-owned/managed property during development situations.

- The PSC also recommended City Council should direct, via ordinance, BPS to evaluate the Title 11 tree preservation and density exemptions for IH as part of the upcoming 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.

The recommendations of the PSC and UFC support tree canopy and climate change goals. To a greater extent, the PSC recommendation supports economic opportunity goals and compliance with Statewide Land Use Planning Goal 9, Economic Development.

Financial and budgetary impacts:

Bureau of Development Services estimates an increase in workload of 60-80 hours per year to implement new regulations in EX, CX, IG1 zones, and if adopted, IH zone. This increase can be addressed with existing staff resources.

PP&R Urban Forestry anticipates a modest increase in tree preservation inspections as a result of the proposed amendments to Title 11. This increase can be addressed with existing staff resources. A development fee is assessed for these inspections which allows PP&R to recover costs associated with this work.

Though difficult to predict exact outcomes on the fees collected for the Tree Planting and Preservation Fund, using measured results from similar past code amendments, it is estimated that fees collected will increase by about \$55,000 per year. Fiscal year 2019-20 fund revenue was \$905,497.

Community impacts and community involvement:

In addition to written comments submitted throughout the project, staff engaged community members in a three-pronged approach. The approach included: interviews with stakeholders from a variety of environmental, business, identity and geographic organizations; an online survey which was publicly available for broad community input during the development of this draft proposal; and an Online Community Forum, open continuously for almost three weeks, for community members to provide input and ask questions related to a draft staff proposal. The bureaus of Environmental Services, Housing, Management and Finance, Transportation, and Water were also engaged and provided early review and comment on the potential amendments.

- Overall, most community members expressed support for removing the exemptions in IG, CX and EX zones and raised continued concern with retaining IH exemptions, citing the disproportionate health impacts of climate change and low tree canopy on communities of color and low-income communities.

- Overall, tree advocates supported reducing the size threshold for required tree preservation or fee in lieu mitigation based on inch-per-inch calculations.
- Overall, development and business organizations are concerned about adding costs to housing development in a time of recession caused by COVID-19.
- Concerns were raised about calculations in the economic analysis which assumed that no trees could be preserved in industrial properties during development, and that no trees would be planted to meet tree density requirements.
- Concerns were expressed that tree preservation and job growth are being considered as mutually exclusive.

The proposed amendments address public and environmental health disparities due to the unequal distribution of tree canopy in Portland. Trees are important components of urban infrastructure and provide numerous public health and environmental services. Unfortunately, low income communities and communities of color often reside in or adjacent to low canopy areas of the city- particularly industrial areas, where tree preservation and tree planting are not required during development.

Concurrently, state mandated land use planning goals require a certain amount of developable land to support economic growth. Industrial areas- particularly, the Harbor Access and Airport & Harbor geographies, are a source for middle wage job opportunities for workers without bachelor's degrees. Data from BPS shows that jobs related to the Harbor Access sector provide greater opportunity for people of color and address polarized job growth resulting from regional wage income gaps (lack of middle wage jobs).

Removing exemptions to tree preservation and tree planting requirements in IG1, EX and CX zones provides an opportunity to the above, supporting climate, canopy and economic goals for Portland. Economic analysis also demonstrates that reducing the size threshold for tree preservation during development on private property also provides an opportunity for supporting more canopy throughout the city, without significantly increasing the cost of housing. Furthermore, when tree preservation cannot be accommodated, fees in lieu of mitigation paid into the Tree Preservation and Planting Fund allow for tree planting and preservation to occur where needed most, as identified in Urban Forestry's Growing a More Equitable Urban Forest Citywide Tree Planting Strategy.

Further analysis of strengthening tree preservation and tree planting requirements while supporting economic development in the IH zone is recommended as a next step by the Planning and Sustainability Commission. The Urban Forestry Commission recommends also removing exemptions in the IH zone with this project in an expression of urgency to address tree canopy and environmental inequities in canopy distribution, and as a tool for addressing climate change in general.

Similar testimony at City Council is expected from a variety of organizations and individuals and include the following concepts:

- Support for the proposal, and a desire to remove exemptions in the IH zone for reasons related to climate change, equitable distribution of tree canopy, and reducing urban heat islands.
- Support for retaining exemptions in IH zone for reasons related to employment opportunity and economic development.
- Opposition to the proposal for reasons related to cost of increased regulation and direct increased cost of development, specifically housing development.

100% Renewable Goal:

This action neither increases or decreases the City’s total energy use or renewable energy use.

Budgetary Impact Worksheet

Does this action change appropriations?

- YES:** Please complete the information below.
- NO:** Skip this section

| Fund | Fund Center | Commitment Item | Functional Area | Funded Program | Grant | Sponsored Program | Amount |
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