



[Home](#) / [Council Clerk](#) / [Council Documents](#) / [Ordinance](#)

191975

Ordinance

Amend Tree Preservation Standards Code to continue current regulations for preservation of private trees (amend Code Section 11.50.040)

Passed

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, public health, and economic benefits, including cleaner air and water, reduced stormwater runoff, reduced landslide and flood impacts, lower peak summer temperatures, carbon sequestration, neighborhood beauty, walkable streets, and health and livability benefits.
2. The City Forester, together with the Portland Permitting & Development Director, 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, 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. 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 concerns, 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 could be undertaken.
7. After public notice, hearings by the Planning and Sustainability Commission (PSC), Urban Forestry Commission (UFC), and City Council, Ordinance 187675 regarding tree preservation on private property in

Changes

[Ordinance 191975](#)

December 20, 2024

[View all changes](#)

Introduced by

[Mayor Ted Wheeler](#)

City department

[Parks & Recreation](#)

Contact

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Requested Agenda Type

Regular

Date and Time Information

Requested Council Date

November 20, 2024

Changes City Code

- development situations was adopted with a sunset date of December 31, 2019.
8. The amendments adopted in Ordinance 187675 required all trees 36 inches diameter at breast height (dbh) or greater to be preserved or a fee-in-lieu of preservation paid into the Tree Planting & Preservation Fund.
 9. 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, which extended the December 31, 2019 sunset date to December 31, 2024.
 10. In fulfillment of the directives in Resolution 37473, staff from the three bureaus conducted analysis, stakeholder engagement and legal review regarding reducing the threshold for required preservation of trees on private property from 36 inches to 20 inches dbh wherever tree preservation is required, and reducing the threshold for inch-for-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.
 11. On November 12, 2020, through Ordinance 190200, Portland City Council amended Title 11 to reduce the threshold to 20" dbh for required preservation of trees on private property and inch-for-inch fee in lieu of preservation. This amendment was recommended by staff, the Urban Forestry Commission and the Planning and Sustainability Commission. The ordinance did not alter the December 31, 2024 sunset date established by Ordinance 189795.
 12. In 2024, staff developed a proposal to remove the December 31, 2024 sunset date from PCC 11.50.040. The effect of the proposal would be to continue the current regulations adopted by Ordinance 187675 and revised by Ordinance 190200. The details of the proposal and supporting analysis were posted to the project webpage. Staff conducted outreach to interested organizations and individuals between March and July of 2024.
 13. On June 18, 2024 notice of a joint public hearing of the Planning Commission and Urban Forestry Commission was mailed to the recipients required by the notification requirements of Title 11. On June 19, 2024, notice of the joint hearing was published in the *Daily Journal of Commerce* and *The Oregonian*. Notice of the joint public hearing was also posted on the PP&R website and distributed electronically through various channels.
 14. Staff briefed the Urban Forestry Commission and Development Review Advisory Committee (DRAC) on July 18, 2024 and sought input on the staff proposal to remove the sunset clause from PCC 11.50.040.
 15. On July 23, 2024, the Planning and Sustainability Commission and Urban Forestry Commission held a joint hearing and invited oral and

written testimony. Staff provided a briefing on the staff proposal at this hearing.

16. On August 13, 2024, the Planning Commission voted unanimously to support the staff proposal.
17. On August 15, 2024, the Urban Forestry Commission voted unanimously to support the staff proposal.
18. In accordance with the notification requirements of Title 11, on October 28, 2024 notice of the City Council hearing was published in the *Daily Journal of Commerce* and *The Oregonian*. On October 29, 2024 notice of the City Council hearing was mailed to those who testified at the Planning Commission and Urban Forestry Commission hearing, either in person or in writing, and those who requested such notice.

NOW, THEREFORE, the Council directs:

- A. Amend City Code Section 11.50.040 as shown in Exhibit A.

Exhibits and Attachments

 [Exhibit A](#) 472.66 KB

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed by Council
November 20, 2024

Auditor of the City of Portland
Simone Rede

Impact Statement

Purpose of Proposed Legislation and Background Information

When Title 11 was originally implemented in 2015, a flat mitigation fee, regardless of tree size, was assessed for certain trees not preserved in private property development situations.

In 2015, community concern regarding large trees being removed in development led to a fast-tracked amendment. Large trees are few, virtually irreplaceable, and critical in the City's efforts to expand tree canopy cover and provide essential public health and climate crisis mitigation services.

The amendment (ORD 187685) to increase mitigation for and preservation of trees 36" diameter-at-breast-height (dbh) or greater became effective May 2016 with a sunset date of December 31, 2019. The sunset date was later extended to December 31, 2024 (ORD 189795).

In 2019, the Urban Forestry Commission (UFC) and the Planning & Sustainability Commission (PSC) advocated for strengthening the tree code

by reducing the size threshold for higher mitigation from 36" to 20" dbh. Through Resolution 37473 City Council directed staff to assess the recommendation and return to Council with a recommendation.

A joint BPS, BDS, and PP&R project team produced a report detailing the impacts of the 2016 amendment and anticipated impacts of the UFC and PSC recommendation. In fall 2020, via Ordinance 190200 City Council adopted the 20" dbh size threshold. This action did not change the December 31, 2024 sunset date.

The proposed legislation would amend PCC 11.50.040.C to remove the December 31, 2024 sunset clause. The impact would be to make permanent the current tree regulation requirements in 11.50.040 established by Ordinance 187685 and modified by Ordinance 190200.

Financial and Budgetary Impacts

Under Title 11, mitigation fees are deposited into the Tree Planting & Preservation Fund (TPPF) which currently supports the planting of 3,500 trees annually by Urban Forestry. The proposed amendment to Title 11 would have the effect of continuing current tree regulations which have been in place since 2016 with a modification in 2020. If this legislation is adopted and those provisions continue, there are not anticipated impacts to planned programmatic budgets or outcomes.

If the proposed amendment is not adopted and current provisions of 11.50.040 sunset at the end of 2024, revenue into the fund will decrease significantly resulting in potential reductions in staff and the number of trees to be planted in high priority low-income/low-canopy and diverse neighborhoods. Over the past three fiscal years, the TPPF received an average of \$1.7 million in revenue. About 40% of that revenue, or roughly \$680,000 annually, is attributable to the regulations which are set to expire at the end of this calendar year.

Economic and Real Estate Development Impacts

The tree preservation requirements established in 2016 (ORD 187685) and modified in 2020 (ORD 190200) have been effective in preserving large trees without negatively impacting the development of new housing.

Trees 20" dbh or larger represent just 13% of all trees in the city which limits their prevalence in development situations. Further, Title 11 includes broad exemptions from tree preservation requirements including affordable housing projects, lots under 5,000sf, and projects with existing or proposed 85% or greater lot coverage. These exemptions cover 79% of the residential unit capacity in the Buildable Lands Inventory. The relative rarity of large trees together with the limited instances where Title 11 tree preservation requirements are applied citywide significantly minimizes the overall impact on housing development.

A 2019 analysis by Johnson Economics found that the proposed 20" dbh threshold, which was adopted in Ordinance 190200 and is the current code, would have a minimal impact on housing development with just 54 fewer housing units produced over twenty years.

Since the 20" dbh threshold was adopted, the number of trees 20" or greater being removed dropped by 68%. During that same period, only 3% (62 total) of housing development projects paid a mitigation fee for removing trees 20" or larger.

In the March 2023 Housing Regulations Survey, Tree Requirements were not identified by respondents as among the top ten priority requirements to suspend or modify to increase housing production.

In the summer of 2024, staff conducted outreach to interested organizations including the City's Development Review Advisory Committee, Portland Metro Chamber, Columbia Corridor Association, Home Building Association of Greater Portland, Smart Growth Oregon, Portland Neighbors Welcome, Trees for Life Oregon, 350 PDX, Bird Alliance of Oregon, and Willamette Riverkeeper.

The Urban Forestry Commission (UFC) and Planning Commission (PC) held a joint public hearing on July 23, 2024. More than sixty comments were submitted in favor of removing the sunset clause. One comment was submitted in opposition. Multiple organizations endorsed removing the sunset clause including Portland Neighbors Welcome, Bird Alliance of Oregon, Willamette Riverkeepers, and East Multnomah County Soil and Water Conservation District.

The UFC and PC support the staff recommendation and voted unanimously to recommend that City Council remove the sunset clause from PCC 11.50.040.C.

Community Impacts and Community Involvement

Portland's urban forest is a unique identifying feature which conveys a distinctive sense of place in the Pacific Northwest. The city's tall native evergreens and tree-lined streets provide immeasurable benefits to the city's livability, civic pride, and national reputation.

According to the U.S Forest Service, Portland's 4.9 million trees are valued at \$9.6 billion. Trees 20" dbh or larger account for 59% of that value despite making up just 13% of total tree population.

Portland's trees provide \$40 million annually in environmental benefits including air pollution removal, avoided stormwater runoff, and carbon sequestration. This figure does not include additional known benefits including heat island mitigation, improved public health outcomes, increases to property value, and increased economic activity in tree-rich commercial areas.

Public expectations for the preservation of large, healthy trees have been consistently communicated to the city. This community guidance has been documented in adopted plans and policies including the Climate Emergency Workplan, 2035 Climate Action Plan, 2004 Urban Forest Management Plan, the Portland Plan, and the Comprehensive Plan among others.

The Urban Forestry Commission and Planning Commission recommendations to City Council to remove the sunset date in PCC 11.50.40 align with public testimony received at the July 23, 2024 hearing. Both Commissions emphasized the current Title 11 regulations have increased the preservation of large trees without hindering the development of new needed housing.

Staff received objections to the proposed amendment from Smart Growth Oregon and Home Building Association of Greater Portland who requested the sunset clause remain as is or be extended. The staff recommendation supports removing the sunset clause based on economic projections, analysis of housing production and tree preservation impacts, broad exemptions for housing development already in Title 11, and strong community support.

Staff support a comprehensive review of tree preservation requirements in a planned Title 11 amendment project to begin late 2025. That project will be guided by an updated Portland Urban Forest Plan expected to be adopted in early 2025.

100% Renewable Goal

N/A

Financial and Budget Analysis

The proposed amendment would remove a December 31, 2024 sunset clause and would have the effect of continuing current tree regulations which have been in place since 2016 with a modification in 2020. If this legislation is adopted and those provisions continue, there are no anticipated impacts to planned programmatic budgets or outcomes. Over the past three fiscal years, the TPPF received an average of roughly \$680,000 in revenues annually which are attributable to the regulations which would expire at the end of this calendar year without the amendment.

Document History

Agenda	Council action
November 13, 2024 Time Certain City Council	Passed to second reading Passed to second reading November 20, 2024 at 9:30 a.m.

Agenda	Council action
<p>November 20, 2024 Regular Agenda City Council</p>	<p>Passed</p> <p>Aye (5): Mingus Mapps, Carmen Rubio, Dan Ryan, Rene Gonzalez, Ted Wheeler</p>