



## Report to Council

DATE: March 30, 2016

TO: Mayor Charlie Hales  
Commissioner Nick Fish  
Commissioner Amanda Fritz  
Commissioner Steve Novick  
Commissioner Dan Saltzman

FROM: Mike Abbaté, Director, Portland Parks and Recreation *MAA*  
Paul Scarlett, Director, Bureau of Development Services *PS*

### **SUBJECT: Report on Year One Implementation of Citywide Tree Project**

Title 11, Trees, was adopted in April 2011 as part of the Citywide Tree Policy Review and Regulatory Improvement Project (aka Citywide Tree Project). The overarching goals of the Citywide Tree Project were to

- 1) craft comprehensive tree regulations that support multiple City goals and are clear, consistent, easy to understand and work with, equitable, and cost-effective;
- 2) protect and enhance the urban forest; and
- 3) improve customer service. Due to limited resources associated with the recession, implementation of Title 11 was delayed and became effective on January 1, 2015.

Leading up to and during the first year of implementation, the Bureaus of Development Services (BDS) and Portland Parks and Recreation Urban Forestry (Parks Urban Forestry) worked together to develop a coordinated program for staffing, training, outreach, and monitoring. Below is a summary of those activities, as well as recommended next steps and resource needs. If you have questions, please contact Jenn Cairo, City Forester, Parks Urban Forestry at 503-823-4405 or [jenn.cairo@portlandoregon.gov](mailto:jenn.cairo@portlandoregon.gov) or Stephanie Beckman, Senior Planner, BDS at 503-823-6979 or [stephanie.beckman@portlandoregon.gov](mailto:stephanie.beckman@portlandoregon.gov).

### **Summary of Accomplishments**

#### **Staffing, Coordination, and Program Development**

The new requirements of Title 11 brought a need for greater coordination between City Bureaus, particularly the key implementing Bureaus – BDS and Parks Urban Forestry. Permitting processes were successfully developed and new staff were hired to review plans, make inspections and respond to questions. Furthering the goals of the Citywide Tree Project, customer service was improved by creating a simple, efficient, and responsive system for answering tree-related inquiries.

To this end, the following staffing and process improvements were put in place:

- A “single point of contact” was established, providing clearer paths for customers to submit tree questions via a new website, caller menu, and central staff location. This function is staffed with three Parks Urban Forestry “Tree Technicians.” The Tree Technicians answer

## Report to Council - Citywide Tree Project Implementation

questions via email, telephone and in-person in the Development Services Center. These staff also process permits and dispatch Parks Urban Forestry staff for tree emergencies in City rights-of-way and on City properties.

- Some Parks Urban Forestry staff are located at the 1900 Building to provide better access for the public, as well as improved inter-bureau coordination. These include the three Tree Technicians mentioned above, two of the ten current Tree Inspectors, and the Urban Forestry Permitting Supervisor who splits her time between the 1900 Building and the Parks Urban Forestry main offices at East Delta Park.
- Parks Urban Forestry Tree inspectors at the 1900 Building provide subject-matter expertise to private development permits and land use reviews processed by BDS. This includes tree preservation inspections and on-call peer review of tree preservation plans and arborist reports. In addition, Parks Urban Forestry now responds to early assistance applications related to private development proposals, providing information to customers about street tree requirements early in the process.
- Parks Urban Forestry launched a new process to provide early consultation for the City's Capital Improvement Projects (CIP). The new process clarifies and standardizes application and plan review requirements, providing clear expectations for project managers and identifying opportunities for tree preservation at the project's earliest stages.
- Parks Urban Forestry implemented an online, self-issued street tree pruning permit for small limbs as a means to improve customer service and work efficiency.
- Programmatic permits implemented for 14 public agencies and utilities have created a clear, streamlined process for regulating routine tree work in large areas of the city and aim to ensure a net positive benefit to the urban forest.

Implementation of Title 11 also involved a major staff training effort. In the three months leading up to implementation and the first six months after, more than 30 separate staff training sessions were held. Because the tree code touches many different areas, this included staff from multiple bureaus and divisions. Bureaus that received training include BDS, Parks Urban Forestry, BES, PBOT, Water and Parks (CIP), as well as City Attorneys.

### **Public Outreach**

Public outreach and education followed a two-pronged approach.

- Training sessions on the details of the new code were scheduled throughout the community. Training sessions were scheduled both during the day and in the evening for neighborhood and other interested groups, development customers, tree care providers, and other agencies, such as the Multnomah County Drainage District and Port of Portland. Approximately 22 separate sessions were held (see Exhibit A). Training presentation materials were posted online for people who sought the information but could not participate.
- An Outreach Plan was developed in early 2015 working with consultant EnviroIssues (see Exhibit A). The plan includes goals, audiences, a tag line ("Call before you cut"), specific tools for outreach and a general implementation schedule. The primary goal of the outreach plan was to make Portlanders aware of the updated regulations and where to obtain more information. A secondary goal was for more Portlanders to understand the value of the urban forest to the community's quality of life.

## Report to Council - Citywide Tree Project Implementation

- Outreach tools that have been implemented include:
  - The tree website including a language translation function ([www.portlandoregon.gov/trees](http://www.portlandoregon.gov/trees))
  - The tree hotline (503-823-TREE), serving as the single point of contact for tree inquiries
  - Press releases and articles
  - Letters and phone calls to historically underrepresented communities
  - Fact sheets, including translated versions
  - A “Call before you cut” refrigerator magnet
  - Display ads in community newspapers
  - Social media posts
  - Tabling at various community events

### **Oversight Advisory Committee**

A Tree Code Oversight Advisory Committee (OAC) was formed in December 2014 by Commissioner Amanda Fritz to review and give input on the first year of implementation of Title 11. The OAC was jointly staffed by the Bureau of Development Services and Parks Urban Forestry. The committee held 14 public meetings between December 2014 and December 2015 and issued a recommendations report in February 2016 (see Exhibit B). Key Committee findings and recommendations include:

- Implementation of Title 11 as adopted has mostly been a success and includes notable improvements in customer service and clarity in the regulations. However, the requirements of the code have not met community expectations, particularly with regard to preservation of trees. The code favors development interests over trees and needs to be recalibrated to provide a more appropriate balance in today’s economic climate.
- Components of the code should be revisited and an amendment package brought forward. Priorities include preservation requirements for large trees, changes to the fee in lieu of preservation, and exemptions.
- A public inter-bureau planning effort is needed to focus on trees in the public right-of-way. This process should be charged with finding better ways to incorporate existing and new trees into the right-of-way as a means of meeting canopy targets.
- City Council should continue its commitment to the urban forest by making trees a priority in its decision-making and by providing funding for Title 11 code refinements and implementation improvements.

### **Code Issue Tracking**

Bureau of Development Services and Parks Urban Forestry developed a joint tracking spreadsheet where staff from both bureaus can enter code questions or issues encountered during implementation. Entries have been made by Planners, Tree Inspectors, Tree Technicians, and tree project implementation staff, including content from non-staff stakeholders and other bureaus. Examples of topics include clarifications needed, larger questions about whether the code is resulting in the outcomes intended, and the need for continued work on process improvements and inter-bureau coordination. This compilation of issues will continue to be utilized and will feed into future code amendment projects. Some of the technical clarification issues identified by staff are already included in the Regulatory Improvement Code Amendment Package (RICAP) 8 workplan discussed below .

## **Administrative Rule and Code Amendments**

During implementation, various code issues have arisen that have resulted in adoption of a new administrative rule and two code amendment packages that are currently underway. These include:

- The Administrative Rule: *Replanting Requirements for Tree Removal on Private Property, City-Owned and Managed Sites and Public Rights-of-Way*, which was filed October 19, 2015. The purpose of this rule was to establish clear standards in situations where there was broad discretion given the City Forester in terms of the amount of mitigation required for tree removals in all non-development situations and for development projects on public property and in the right-of-way.
- The RICAP 8 (Regulatory Improvement Code Amendment Package) work plan includes a package of technical and clarification tree code amendments addressing minor items where the code is unclear or has resulted in unintended outcomes. BDS and Parks Urban Forestry staff have been working with the Bureau of Planning and Sustainability (BPS), which administers the RICAP program, to craft code language. RICAP 8 is expected to come before the City Council for review in October 2016.
- Title 11 code amendments regarding the preservation of large trees in development situations are being considered by City Council this month. The amendments are being taken forward in an expedited process to respond to significant public concerns raised about the removal of large trees in development situations. This amendment package is narrowly focused on this one issue, with the understanding that other amendments may be made as part of a future, more comprehensive update to Title 11 and 33.

## **Data Collection and Reporting**

In preparation for Title 11 going into effect, a significant effort was made to increase the capacity for data collection, analysis and reporting. A *Citywide Tree Project Data Report* was produced by BDS and Parks Urban Forestry that provides detailed reporting on the first year of implementation (see Exhibit C). The information in this report will be a useful resource for future policy discussions about Title 11 and other tree-related regulations and programs.

## **Continuing Challenges**

### **Canopy Impacts**

- Title 11 has had positive effects on the urban forest by requiring tree planting and preservation in new types of development, and by expanding regulations in non-development situations. However, data suggests that the number and stature of trees currently planted in development and non-development situations will not fully replace tree canopy lost, resulting in long-term canopy implications. For example:
  - In development situations, only 13% of trees planted are large canopy trees species.
  - In non-development situations, large canopy and evergreen trees are often replaced with smaller deciduous species resulting in a net loss in these tree types.
  - Mitigation fees collected do not fully cover the cost to the City for replanting.
- Questions exist about the ability of the Title 11 tree preservation standards to incentivize preservation of high-quality trees. Recent amendments regarding the preservation of large trees will partially address this issue; however some stakeholders would like health and species to also be considered.

## Report to Council - Citywide Tree Project Implementation

- Adequate data to assess long-term effects of Title 11 on the urban forest are limited. Significant improvements have been made in the amount and type of data collected, however a number of data limitations have been identified. More detailed evaluation and evaluation of other outcomes could be facilitated by refining data collection tools and expanding the types of data collected. However, data entry and collection requires additional staff time. A balanced approach is needed in order to keep costs (and permit fees) down.

### **Implementation Challenges**

- An arborist report is not required for most development permits, therefore applicants are relied upon to provide accurate tree plans. Inaccuracies were often noted in 2015. Accurate tree plans will become more important with the proposed code amendments that establish a graduated fee in lieu of preservation based on tree size.
- Building Inspectors are currently expected to confirm a variety of tree-related information on development sites, including the accuracy of tree plans where no preservation is proposed, that tree protection is properly maintained, and the size and species of required tree planting. Ideally staff trained in arboriculture would be responsible for these tasks; however such a change would have staffing impacts.
- There may be unintended incentives to remove trees during demolition phases of the development process to avoid fencing requirements or future land use review requirements.
- Compliance is largely complaint-driven in non-development situations. It is unknown how often tree planting requirements are met and how much illegal tree removal is occurring.
- Parks Urban Forestry staff workloads continue to result in response rates at less than acceptable levels in some cases.

### **Next Steps and Resource Needs**

#### **Future Code Amendments**

A code amendment process is recommended to look at the results of the code and policy decisions made by City Council, and the issues identified by stakeholders and implementing staff. A future budget request for a Title 11 code amendment project led by the Bureau of Planning and Sustainability is anticipated, however, timing is still under discussion. Staff will continue to track code issues, but at this time priorities for the workplan include reviewing and assessing:

- The tree preservation standards, payment in lieu, and exemptions, including revisiting the March 2016 “stop-gap” code amendments addressing large trees on private property.
- Methods to provide incentives for tree preservation and flexible development options, such as reduced setbacks, where tree preservation is proposed.
- Options to discourage unnecessary tree removal, such as restrictions on tree removal with only minor ground-disturbance and demolitions.
- Providing incentives for planting large canopy and evergreen trees in development and non-development situations.
- The recently filed Administrative Rule governing replanting requirements in certain situations for consistency with Title 11, citywide tree canopy impacts and clarity of intention and administration.

## **Review of Planting Compliance for Tree Permits**

The system for compliance with non-development tree requirements is primarily complaint-driven, relying on the public to contact Parks Urban Forestry with possible violations. This system's reliance on a public with the knowledge and free time to submit violations may have equity implications. In order to help gauge the effectiveness and equity of this system, Parks Urban Forestry plans to collect planting compliance data across all of Portland's neighborhoods in 2016.

## **Staffing Needs**

No additional funding is requested related to Title 11 implementation at this time.

BDS received one permanent Associate Planner position to increase the capacity of the Land Use Services Division to implement Title 11. BDS is not requesting any changes to funding or position authority related to Title 11 implementation.

Parks Urban Forestry received two permanent Development Services Technician II ("Tree Technicians") and 2.5 Tree Inspector positions to increase Parks Urban Forestry's capacity for Citywide Tree Project implementation. Actual workloads after January 1, 2015 quickly required the use of temporary additional staff; recently a third Tree Technician and a policy administration staff position were established. Parks Urban Forestry is requesting position authority for these FTE, which will be permanently funded by Parks Urban Forestry Permit fees.

Other workload has been higher than staffing levels can handle. Coupled with some temporary staff vacancies due to retirements (e.g., three of ten Tree Inspectors in 2015), this resulted in the need for additional overtime, adding temporary staff, de-prioritization of some services, and permit turn-around times falling below service standards. Funding through Parks Urban Forestry Permit fees is planned to adequately staff necessary activities at acceptable service standards.

In addition, Parks Urban Forestry is requesting General Fund in the amount of \$100,000 to pay for Parks Urban Forestry staff to participate in a Title 11 code amendment process. If Council chooses not to fund this request, Urban Forestry Trust Funds will be used if the project moves forward in the next fiscal year.

## **Exhibits**

Exhibit A: Outreach Plan Summary and Tree Code Outreach Log

Exhibit B: Tree Code Oversight Advisory Committee Recommendations Report

Exhibit C: Citywide Tree Project Data Report, January 1 – December 31, 2015

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## **TO THE COUNCIL**

The Commissioners of Public Utilities and Public Affairs concur with the recommendations of the Directors of Portland Parks and Recreation and the Bureau of Development Services and

## **RECOMMENDS:**

That the Council accepts this Report to Council and Exhibits A, B and C.

Respectfully submitted,

Amanda Fritz, Commissioner of Public Utilities & Dan Saltzman, Commissioner of Public Affairs

Agenda No.  
**REPORT NO.**  
 Title

*Report on year one implementation of*  
 Accept the 1-year Citywide Tree Project ~~1-year Implementation Report~~ (Report)

<p><b>INTRODUCED BY</b>                  Commissioner/Auditor:  <b>Commissioner Amanda Fritz</b>  <b>Commissioner Dan Saltzman</b></p>	<p>CLERK USE: DATE FILED <u>MAR 22 2016</u></p>
<p><b>COMMISSIONER APPROVAL</b></p> <p>Mayor—Finance and Administration - Hales</p> <p>Position 1/Utilities - Fritz <i>Amanda Fritz</i></p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman <i>Dan Saltzman</i></p> <p>Position 4/Safety - Novick</p>	<p style="text-align: center;">Mary Hull Caballero                  Auditor of the City of Portland</p> <p>By: <i>[Signature]</i>                  Deputy</p>
<p><b>BUREAU APPROVAL</b></p> <p>Bureaus:                  Bureau of Development Services                  and Portland Parks &amp; Recreation                  Bureau Heads:                  Paul L. Scarlett <i>[Signature]</i>                  Mike Abbate <i>[Signature]</i></p> <p>-Prepared by: Leanne Torgerson                  Date Prepared: 3/18/16</p> <p>Financial Impact &amp; Public                  Involvement Statement                  Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p>	<p><b>ACTION TAKEN:</b></p> <p>MAR 30 2016 <b>CONTINUED TO</b> MAY 11 2016 9:30 A.M.</p> <p>MAY 11 2016 <i>Rescheduled to</i> MAY 18 2016 9:30 A.M.</p> <p>MAY 18 2016 <b>REFERRED TO COMMISSIONER OF                  PUBLIC UTILITIES</b></p> <p>JUN 29 2016 <b>ACCEPTED</b></p>
<p><b>City Auditor Office Approval:</b>                  required for Code Ordinances</p> <p><b>City Attorney Approval:</b>                  required for contract, code, easement,                  franchise, charter, Comp Plan</p> <p>Council Meeting Date                  3/30/16, 2:00 TC</p>	

<b>AGENDA</b>
<p><b>TIME CERTAIN</b> <input checked="" type="checkbox"/>                  Start time: <b>2:00 TC</b></p> <p><b>Total amount of time needed: 1 hour</b>                  (for presentation, testimony and discussion)</p>
<p><b>CONSENT</b> <input type="checkbox"/></p>
<p><b>REGULAR</b> <input type="checkbox"/>                  Total amount of time needed: _____                  (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	1. Fritz <input checked="" type="checkbox"/>	
2. Fish	2. Fish <input checked="" type="checkbox"/>	
3. Saltzman	3. Saltzman <input checked="" type="checkbox"/>	
4. Novick	4. Novick <input checked="" type="checkbox"/>	
Hales	Hales <input checked="" type="checkbox"/>	