

# Summary Report On Proposed Housekeeping Amendments Title 11, Trees & Title 33, Planning and Zoning

**Includes:**

- **Current implementation activities**
- **Housekeeping amendments to Title 11, Trees and Title 11, Planning and Zoning (included as Exhibit A)**

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**City of Portland  
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## **Summary and Background**

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On April 13 2012, Portland City Council adopted Ordinance #184522, and #184524 that together created a new Title 11, Trees, and amended Title 33, Portland Zoning Code. The Ordinances also called for several related implementation measures including the development of a centralized tree website (tree manual), online pruning permits, a 24-hour tree hotline, and establishing a single point of contact for the public, for a Centralized and coordinated response to tree programs and requirement questions.

The implementing bureaus are making progress on these fronts, as described in more detail later in this report. In addition, over the course of establishing protocols and procedures to administer the new regulations, staff has identified several necessary code amendments. These amendments will improve the clarity of the new code and ensure a coordinated and seamless implementation while remaining consistent with the legislative intent of the adopted ordinances.

This report includes:

- ❑ An update on implementation activities;
- ❑ A description of the proposed housekeeping amendments; and
- ❑ Exhibit A Housekeeping Amendments to Title 11, Trees and Title 33, Planning and Zoning.

Exhibit A is also available from the Bureau of Development Services, 1900 SW 4<sup>th</sup> Avenue 5<sup>th</sup> floor or on line at [www.portlandonline.com/bps/treeproject](http://www.portlandonline.com/bps/treeproject).

## **Recommendation**

The Bureaus of Development Services, Portland Parks and Recreation, and Planning and Sustainability recommend that the Commissions:

- Recommend that Council amend Title 11 as shown in this report and Exhibit A;
- Recommend that Council amend the Zoning Code as shown in this report and Exhibit A; and
- Direct staff to continue to refine the recommended code language as necessary to reflect direction provided by the Commissions.

## **Implementation Date**

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The Bureau of Development Services and Portland Parks and Recreation have requested to delay implementation of the Tree Code and amendments to the Zoning Code to allow additional time to prepare for administration of the new regulations. The current effective date is February 2013. Delaying the date until July 1, 2013 will allow administration staff in the Bureau of Development Services and Portland Parks and Recreation, Transportation, and Environmental Services to finalize all the systems needed for implementation of the new code, and will allow for additional public involvement and outreach for some of the implementation activities described below.

## **Current Implementation Activities**

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City Council phased the effective dates of the ordinances in order to provide time for staff to prepare for implementation. Overall, systems will provide greater transparency for the public and improved accessibility. In addition to this amendment package, staff has been working on various implementation activities. Below is a description of some of the primary activities.

## **Performance Measures**

Staff is in the process of developing performance measures and monitoring protocols to track customer service related improvements and permitting efficiencies. Here are a few of the highlights:

- Develop TRACS (the citywide permit database) and customer service procedures to provide faster permit turn-around times.
- Create new permit reporting and tracking systems that are transparent and accessible to the public. Proposed systems will enable users from multiple bureaus access to tree permit status information and eventually will allow permit information to be posted on PortlandMaps.
- Create an online system for reporting suspected violations. The public will also be able to identify whether a permit has been issued for a particular tree removal via the centralized website.

## **Tree Website**

Staff is developing a new website (to function as a dynamic and readily accessible tree manual proposed with the Citywide Tree Project) that will provide a centralized location for all tree related questions and activities in accordance with the customer service and community access goals of the Citywide Tree Project. Neighborhood organizations such as the Citywide Land Use Group have volunteered to beta test the new website as it gets closer to implementation. The new website will feature the following:

- An online pruning permit portal that will allow customers to apply for and receive a pruning permit from their home or office;
- Answers to commonly asked questions about tree care and tree permits;
- Volunteer opportunities for tree programs in the city;
- Heritage Tree walks; and
- Benefits of trees and links to tree resources.

## **Create Policy Documents**

Title 11 creates a new framework for regulating and enforcing tree removal on public and private property. The bureaus are working together to create guiding policy documents that will inform administrators and the public on standards and operating procedures of the new regulations. Some of these policies include:

- Document and implement a formalized process for the Urban Forestry Commission to conduct public hearings and appeals;
- Document the criteria used to make decisions for issuing street tree removal and street tree pruning permits; and
- Document the criteria and violation thresholds for applying violation enforcement actions.

## **Improve Existing Process and Procedures**

The implementing bureaus are actively identifying methods to improve tree protection and preservation opportunities, increase inter-bureau coordination and communication, and enhance dissemination of customer information. Targeted process improvements for this summer and fall include the following:

- The online pruning permit program described in the Citywide Tree Project is scheduled to launch this fall with preliminary testing to take place in July and August 2012. The Portland Parks and Recreation website will host the new portal until the new tree website is operational.
- Staff is identifying opportunities to improve tree preservation in the early stages of land use reviews. Improvements under discussion include having tree inspectors attend pre-application meetings to identify preservation opportunities early in the process. Staff is exploring ways to provide standard office hours for tree inspectors at the 1900 building to answer land use and permit questions as related to tree removal and preservation.
- The bureaus are updating public information documents such as brochures, handouts, and land use decisions to include more information about existing street tree planting requirements and opportunities for preservation.

## **Housekeeping Amendments to Title 11, Trees**

### **Summary of Amendments**

Since adoption of new tree regulations in April 2011, staff has been working to set up systems for administering the new code. During that process, administration staff has raised questions and concerns regarding application of specific language contained in the new code. In some cases, these questions have indicated areas that an amendment to the code language is necessary to clarify its intent, while others have identified unintended consequences not directly discussed during code development. Other amendments will correct minor errors such as typos and create consistent terminology. The proposed amendments will create a solid foundation for implementation and ongoing administration.

### **Fix Technical Errors**

Technical fixes are minor corrections that address typos, fix references, and create consistent terminology between Title 11 and Title 33. The Tree Code and Zoning Code

together create an interlocking regulatory system for tree requirements citywide. As such, the Zoning Code and Tree Code share terminology and definitions. Staff has identified a few inconsistencies between the use of terms in Title 11 and the definition in Title 33. The proposed amendments will better align Title 11 and Title 33 and facilitate a more consistent and cohesive system.

## **Clarify Policy**

Title 11 includes tables designed to provide at-a-glance requirements for tree permit requirements in various situations. The tables are a tool for readers to quickly and easily find permit and public notice requirements. As staff began to set up protocols for different permit types they discovered situations that were not addressed in the tables. This amendment will add more situations to the tables to clarify the regulations in a way that is easy to interpret and apply.

## **Correct Unintended Consequences**

There are a couple of situations where the regulatory effect of the adopted code language resulted in an outcome that was not intended. Two of these areas include enforcement protocols and the regulated size of street trees.

Under the Criminal Penalty and Civil Penalty of today's Street Tree and Public Tree regulations, the City Forester may fine any person or corporation who violates any provisions of 20.40. This includes first time offenders. This enforcement tool serves as an effective deterrent to repeat offenders.

The new code replaces the criminal and civil penalty option as a first line of defense with a requirement to correct a violation prior to issuing a civil or criminal penalty. This enforcement model is effective for property owners and places an emphasis on restoring lost canopy, but does not provide violation enforcement options for third party vendors who may have conducted work without a permit. Portland Parks and Recreation has recommended that the ability to issue a civil penalty to first time offenders be added back into the code so that penalties can be issued to any individual or company found to be in violation of Title 11, particularly those that repeatedly violate the code.

Under the current regulations, a permit is always required for removing or pruning a street tree. The new Title 11 established a 3-inch diameter threshold for street tree removal. However, a permit is still required for trees less than 3 inches diameter if they were a requirement of a previous permit, land use review, or other city regulation. This creates an administrative burden for staff that would need to determine if any previous permits exist for the tree. In addition, the majority of street trees planted by the City are less than the 3-inch diameter size. If no permit is required to remove these small trees, the City will not have a way to ensure they are replaced, impacting future tree canopy. This amendment will eliminate the 3-inch size threshold for street trees and maintain the existing policy. It should be noted that the 3-inch size threshold will continue to apply to trees on City properties, and the 12-inch diameter threshold size (6-inches in some overlay zones and plan districts) will apply to private trees.

# **Conflicting Amendments to Title 33, Planning and Zoning**

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Title 33 amendments pertaining to environmental regulations in certain plan districts conflict with the existing Airport Futures project (effective May 13, 2011). Although not related, the two concurrently developed projects addressed some of the same environmental regulations in the same plan districts, creating inconsistencies.

The Airport Futures project comprehensively overhauled the environmental regulations in the Cascade Station/Portland International Center (CS/PIC), and created a third airport related district called the Portland International Airport. The Airport Futures project reorganized and changed substantial portions of the plan district language.

The changes proposed by the Citywide Tree Project were intended to make the language between the general environmental zones and Cascade Station/Portland International Center Plan District environmental regulations more consistent. The Airport Futures project resolved those inconsistencies by referring the CS/PIC Plan District environmental regulations back to the general environmental regulations.

Rescinding the amendments to Title 33 proposed with the Citywide Tree project will eliminate the conflicting amendments, while retaining consistent requirements for trees in the environmental zones of those plan districts.

# EXHIBIT A

## Proposed Housekeeping Amendment Title 11, Trees and Title 33, Planning and Zoning