



## DRAFT REPORT TO CITY COUNCIL - February 2016

### Summary of 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.

#### Summary of Implementation Activities

##### **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. Additional staff was needed to review plans, make inspections and respond to questions. As noted above, one of the goals of the Citywide Tree Project was to improve customer service 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 for tree-related questions and concerns by setting up a tree hotline: (503) 823-TREE and staffing this hotline with two Parks Urban Forestry “Tree Technicians”. The Tree Technicians answer 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.
- Some Parks Urban Forestry staff were moved to the 1900 Building to provide better access for the public, as well as improved inter-bureau coordination. These include the two 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 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, allowing Bureaus to anticipate tree requirements early in the project design phase.

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- Parks Urban Forestry and BDS plan review supervisors have a standing monthly meeting to ensure coordination and implementation consistency between work groups.
- Parks Urban Forestry implemented an on-line, 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 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 multi-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 Attachment 1). 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 Attachment 1). 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.
- An online customer service survey was conducted by the outreach consultant EnviroIssues for two weeks in December 2015 to assess progress toward meeting the Citywide Tree Project goal of improving customer service. The survey focused primarily on reaching non-development tree permit customers. There were 353 responses where at least one question was answered, and 304 respondents completed all questions. More than 60 percent of respondents rated customer service as good or outstanding compared to 23 percent who said it was poor or needs improvement. Most respondents indicated customer service improved in 2015 compared to earlier experiences.
- Other 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

### **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 that provides the details of the first year (see Attachment 2). Key findings are highlighted below:

#### Development Permits on Private Property

##### *Code applicability*

- Tree planting and/or preservation was required by code on 15.7% of all private development permits issued. This includes residential, commercial, development review, site development and zoning permits and all sub-types (new construction, additions, demolitions and alterations), for a total of 1,102 of 7,021 issued permits. Note: alterations account for a high volume of permits, but have the lowest rate of required tree planting and/or preservation because they most often are internal to an existing building and therefore don't trigger tree requirements.
- Tree planting and/or preservation was required at a much higher rate for residential permits (19.6%) than commercial permits (3.9%) (all permit subtypes are included).
- Rates are more significant when looking at residential permits for new construction (63%), additions (27.6%) and demolitions (34.2%).

##### *Tree preservation exemptions*

- About 1/5 of all development sites (1,015 sites) were exempt because the site was less than 5,000 square feet.
- About 1/3 of commercial development sites (484 sites) were exempt because they were located in an exempt zone.

##### *Outcomes for New Single Family Residential (NSFR) permits – pre and post Title 11*

- The rate of tree planting and preservation for new single family residential construction is similar to what it was prior to the implementation of Title 11. Note: information about the actual number or type of trees planted or preserved in 2014 was not collected, just whether preservation, planting or payment occurred.
- In 2014, 86.1% of permits had planting, and 21.8% of permits had preservation. In 2015, 85% of permits had planting, and 19.7% of permits had preservation.

##### *Payment in lieu of preservation or planting*

- Just 2% of new single family residential permits that had planting requirements (7 permits) opted to pay a fee in lieu of planting requirements.
- About 18% of new single family residential permits that had preservation requirements (17 permits) opted to pay a fee in lieu of preservation.
- 43% of residential demolition permits that had preservation requirements (86 permits) chose the fee in lieu of preservation.

##### *Trees preserved and planted*

- Approximately 13% of trees planted are in the large canopy size category; the remainder are in the small or medium canopy size categories (a total of 3,263 trees were planted).
- Approximately 1.5 times more trees were preserved (1,677) than were removed (1,128). The average size of both trees preserved and trees removed are approximately 17-inches.
- Approximately 60% of trees were preserved (1,677 trees and over 28,000 diameter inches).

### Non-Development Tree Permits

#### *Code applicability*

- Type A (non-discretionary) permits made up over 95% of all permitted private and street tree removals in 2015.
- Of the Type A permits for private tree removals, 72% were for trees that were dead, dying, or dangerous; nuisance species; or within 10 feet of a building or attached structure.

#### *Trees removal and replacement*

- On private lands, large form and evergreen trees are most often replaced with smaller, deciduous species. Title 11 established a minimum 1:1 mitigation for trees removed but allows applicants the choice of species for replanting.
- Private tree removal permits issued in 2015 resulted in a net loss of 1,051 large form trees (1,605 removed vs. 554 planted) and a net gain of 556 small form trees (465 removed vs. 1,021 planted). The same permits resulted in a net loss of 748 evergreen species (1,192 removed vs. 444 planted).
- In the fourth quarter of 2015, replacement of removed trees fell below 1:1 under issued Type B (discretionary) permits for private and street tree removal. The Administrative Rule, finalized in October, 2015, lowered maximum mitigation for many of these permits.

#### *Fee in lieu of planting*

- Applicants rarely chose to pay a fee in lieu of planting to meet mitigation requirements. Of 2,842 street and private removal permits issued, 12 paid a fee in lieu of planting. In all other cases, applicants met required mitigation through planting or were granted a waiver from requirements.

#### *Street tree planting*

- Parks Urban Forestry permitted the planting of 3,696 street trees in 2015, including those planted as mitigation for removals. 52% of these trees were small form varieties and 94% were deciduous.

#### *Code compliance*

- Parks Urban Forestry pursued 699 tree code compliance complaints outside of development in 2015. Of these, 22 resulted in violations; all other compliance issues were unfounded or resolved without proceeding to a violation process. Note: enforcement was “soft” during the first 6 months of 2015 in order to allow for a public outreach period when the tree code regulations were new.

### Parks Urban Forestry Development Reviews and City Property Development

- Urban Forestry reviews of development projects increased 35% in 2015. Tree preservation and tree violation inspections, new under Title 11, increased over the year, with two-thirds of inspections occurring in third and fourth quarters of 2015.
- Permit requirements of 17 completed CIPs in 2015 resulted in a net gain of 98 trees; most CIPs for which permits were issued in 2015 are still in progress.

### Customer Service

- There was an overall increase of 34% in tree permit applications and 26% in public inquiries to Urban Forestry staff in 2015 over the previous year.
- While Title 11 roughly tripled the number of private properties where trees are regulated in Portland, applications for private tree removals increased more than four times from 2014 (470

applications) to 2015 (2,193 applications). It is unknown if more trees are being removed or, due to outreach efforts; more people are getting appropriate permits.

- Urban Forestry intake staff met response goals for 99% of public inquiries in 2015.
- Urban Forestry tree inspectors met goals for initial inspections at similar rates to the previous year, meeting goals for 60% of permits despite workload increases and significant staff vacancies.

### **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. To date, 44 entries have been made by Planners, Tree Inspectors, Tree Technicians, and tree project implementation staff, including content from non-staff stakeholders and other bureaus. Topics range from clarifications needed, to larger questions about whether the code is resulting in the outcomes intended. This compilation of issues that continues to be utilized 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.

### **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 Attachment 3). 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 tree preservation requirements for large trees, changes to the fee in lieu of preservation, and tree preservation exemptions.
- A public inter-bureau planning effort is needed to focus on trees in the right-of-way. This process should be charged with finding better ways to incorporate existing and new trees into the public right-of-way as a means of meeting canopy targets for rights-of-way.
- City Council should continue its commitment to the urban forest by making trees a priority in its decision-making and by providing the necessary funding to make needed Title 11 code refinements and implementation improvements.

### **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 June 2016.
- **Title 11 code amendments** regarding the preservation of large trees in development situations are scheduled to come before City Council in early March 2016. 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.

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

#### **Future Code Amendments**

With only one year of implementation behind us, it is still early to re-visit the code to make changes. However, in the coming years, a code amendment package 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. 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.
- 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.
- Barriers to and 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.

#### **Staffing Needs**

BDS received one permanent Associate Planner position to increase the capacity of the Land Use Services Division to implement Title 11. No additional funding is requested related to Title 11 implementation at this time.

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 to help the two Tree Technicians; recently a third Tree Technician position was established and will be permanently funded by Parks Urban Forestry Permit fees. Other workload, including that of Tree Inspectors and

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policy administration staff, have also been higher than the 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.

### **Attachments:**

Attachment 1: Outreach Plan Summary and Tree Code Outreach Log

Attachment 2: Citywide Tree Project Data Report

Attachment 3: Tree Code Oversight Advisory Committee Recommendations Report