

Stumptown Fables

Debunking some myths about Portland's new tree code

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Since Portland's new "City-Wide" tree code (Title 11) went into effect last year, myths and rumors abound about its impact, its implementation and how to improve it. What follows are some of the common myths and why they are not true.

Myth #1 Portland's new tree code weakened safeguards for trees. This rumor circulated after it was revealed that a developer could fell three massive sequoias in Eastmoreland Neighborhood and pay only \$1,200 to plant two saplings to replace them. How could that be? Some speculated that Portland once had stronger safeguards for trees in the past and that the City Council's action in adopting Title 11 made it easier to cut trees. This certainly seems plausible given recent events, but it is false.

Before Title 11 no tree regulations applied to development or redevelopment of individual properties, only in new subdivisions, planned developments and in environmental or scenic overlay zones. For the first time, Title 11 required tree mitigation and planting in conjunction with thousands of building permits per year. Hence, where rules require only \$1,200 to mitigate the removal of the massive Eastmoreland sequoias, the old tree code would have required none at all. Title 11 also made tree cutting rules in nondevelopment situations clearer and more inconsistent. While far from perfect, Title 11 consolidated tree regulations and provided a much more coherent framework that can and should be reassessed, evaluated and reformed over time.

That said, it is also evident that Portland's new tree code is a lot weaker than Portlanders expected it would be. In part, this is because the tree code was developed between 2008 and 2011 during the Great Recession. At that time few could have anticipated the white-hot real estate market we're experiencing today. But it also because the new tree code was not as strong as it could and should have been.

Myth #2 Portland's new tree code requires developers to preserve trees. Read Title 11 and you might think it requires tree preservation. The code refers to a "preservation standard" that appears to require the preservation of one-third of trees on a development site. However in fact nothing in Title 11 requires that any tree associated with new development to be preserved. Developers who decide they can't or simply don't want to preserve one-third of the trees can pay a fee in lieu of preservation to plant new trees on public land. There are some tree preservation requirements that apply specifically in separate codes for development in environmental zones, new subdivisions and some planned developments (Title 33), but these situations are a small and shrinking percentage of all new development in Portland.

The language in Title 11 that suggests a "tree preservation" requirement where



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The city approved the removal of these large healthy Douglas firs in the Powellhurst-Gilbert Neighborhood in order to accommodate sidewalks and a parking lot for a new development. Allowing tree-friendly sidewalk designs and/or waiving some off-street parking requirements are just two reforms that could help preserve trees like these in the future.

there isn't any, is one of the most confusing and frustrating aspects of the new code for ordinary Portlanders. However, legally, there is nothing to prevent the City Council from establishing a real Title 11 tree preservation requirement. The Title 11 Oversight Advisory Committee (OAC), the Urban Forestry Commission, and Southeast Uplift have already proposed the city develop a site review process for some large healthy trees that would require developers to demonstrate the need to remove trees to meet desired density before permitting removal. This approach would be entirely consistent with the stated purpose of Title 11: Preserve trees that can be preserved with new development.

Myth #3 Portland's new tree code applies equitably citywide. Portland's new tree code was born from the "City-Wide Tree Project" which heeded calls for reform in neighborhoods across the entire City.

Between 2008 and 2011 the project staff and stakeholders worked to develop a "consistent, cohesive and comprehensive" regulatory framework for all types of trees across all types of land uses. But a pending lawsuit related to industrial land supply and some eleventh-hour lobbying by developers and real estate interests during the legislative process successfully exempted most commercial and industrial sites from new tree regulations. After the code went into affect last year, internal lobbying by the Portland Bureau of Transportation (PBOT) successfully narrowed the city forester's discretion with the effect of lowering the maximum tree mitigation that could be applied with public right-of-way improvements (See Myth #8).

Such exceptions and exemptions make for inequitable outcomes for Portlanders and undermine efforts to foster a healthy urban forest city-wide. Industrial lands and the public right-of-way are the two land-use

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categories that are currently the farthest from achieving the city's canopy cover targets. They are also where more and larger trees have the greatest potential to reduce urban heat and improve air and water quality and thereby yield improved public health outcomes. High poverty, lower canopy neighborhoods such as Cully or many parts East Portland have more unimproved streets and more industrial land. Hence the new tree code is weakest in precisely the neighborhoods where the lack of trees is a significant environmental justice issue. For all these reasons the Title 11 OAC, the Urban Forestry Commission, and Audubon Society of Portland have all recommended removing exemptions for commercial and industrial land as part of future reforms.

Myth #4 Preserving more trees in Portland will force expansion of the urban growth boundary and threaten forest and farmland preservation. This argument is an old favorite of those who see a political opportunity in pitting urban tree advocates against advocates for forest and farmland preservation and walkable neighborhoods. The variant on this myth is that a "tight" UGB and regional density goals threaten urban trees by constraining land supply and forcing conflict with development.

For several reasons, both variants pose a false choice. First, both Title 11 and zoning code changes adopted in 2011 were intended to improve tree preservation and tree planting while allowing development to meet zoned densities. As noted above, the code clearly was not intended to preserve all trees on development sites but merely encourage (but ultimately not require) more tree-friendly design in meeting zoning. More importantly, housing capacity in Portland is more than sufficient to support both tree canopy and housing goals. Even if the city required developers to preserve more healthy, non-nuisance, non-hazard trees, it needn't limit density in most situations. But even if it did, the space to preserve more large healthy trees would be a drop in the bucket in terms of the overall land supply and zoned capacity, especially on the regional scale. Consider the fact that the Metro Council has added more than 31,000 acres to the UGB since 1979 but only 6 percent has been developed. Consequently there is currently room for 40,000 new single family homes inside the current UGB, plenty of room to have new development and large healthy trees in our neighborhoods.

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