

ORDINANCE NO. 512

AN ORDINANCE REGULATING THE PLANTING AND MAINTENANCE OF STREET TREES; ESTABLISHING THE OFFICE OF CITY FORESTER IN THE CITY PARK DEPARTMENT AND PRESCRIBING HIS AUTHORITY; REQUIRING PERMITS FOR PLANTING, PRESERVATION AND REMOVAL IN PUBLIC PLACES; PLACING DUTIES ON THE OWNERS OF PRIVATE PROPERTY IN ORDER TO PROTECT GROWTH IN PUBLIC PLACES; PROVIDING FOR ABATEMENT OF HAZARDOUS CONDITIONS BY THE CITY; AND PRESCRIBING PENALTIES FOR VIOLATIONS OF ITS PROVISIONS.

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1: SHORT TITLE. This Ordinance shall be known and be cited as the "Street Tree Ordinance of the City of Canby".

Section 2: DEFINITIONS. For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the present tense include the future, words in the plural in number include the singular in number, and words in the singular number include the plural in number. The word "shall" is always mandatory and not merely directory.

- a. "City" is the City of Canby, Oregon.
- b. "City Forester" is the City Forester of the City of Canby, Oregon.
- c. "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.
- d. "Street tree" or "tree" is a tree in a public place except where otherwise indicated.

Section 3: CITY FORESTER. There is hereby established in the Department of Parks and Cemeteries of the City of Canby the office of City Forester. In addition to the City Forester, the Canby City Council shall appoint one Councilman and two property owners from the City at large to act as an advisory committee of three to assist, advise and recommend and confer with the City Forester on matters covered by this Ordinance. The Councilman appointed to such committee shall be its Chairman. The committee shall have no powers but is strictly an advisory committee to

the City Forester.

Section 4: AUTHORITY OF CITY FORESTER. The City Forester shall have exclusive jurisdiction and supervision over all trees, other plants and grassy areas planted or growing in public places.

(a) Preserve or remove. The City Forester shall have the authority and it shall be his duty to plant, trim, spray, preserve and remove trees, other plants and grassy areas in public places to insure safety or preserve the symmetry and beauty of such public places.

(b) Order to preserve or remove. The City Forester shall have the authority and it shall be his duty to order the trimming, preservation or removal of trees or plants upon private property when he shall find such action necessary to public safety or to prevent the spread of disease or insects to public trees and places.

(c) Supervision. The City Forester shall have the authority and it shall be his duty to supervise all work done under a permit issued in accordance with the terms of this Ordinance.

(d) Issue conditional permit. The City Forester shall have the authority to affix reasonable conditions to the grant of a permit hereunder.

Section 5: Permits required.

(a) Preserve or remove. No person shall trim, spray, preserve or remove trees, other plants and grassy areas in public places without first filing an application and procuring a permit from the City Forester.

(i) Application data. The application required herein shall state the number and kind of trees to be trimmed, sprayed, preserved or removed; the kind of treatment to be administered; the kind and condition of nearest trees upon the adjoining property; and such other information as the City Forester shall find reasonably necessary to a fair determination of whether a permit should issue hereunder.

(ii) Standards for issuance. The City Forester shall issue the permit provided for herein when he finds that the desired action or treatment is necessary, and that the proposed

method and workmanship are satisfactory.

(b) Plant. No person shall plant or set out any tree or plant in a public place without first filing an application and procuring a permit from the City Forester.

(i) Application data. The application required herein shall state the number of trees or plants to be planted or set out; the location, grade and variety of each tree or plant; the method of planting including the supplying of suitable soil; and such other information as the City Forester shall find reasonably necessary to a fair determination of whether a permit should issue hereunder.

(ii) Standards for issuance. The City Forester shall issue the permit provided for herein when he finds that the proposed plantings conform as to species and location to the street tree plan which might be on file at that time in the office of the City Recorder.

(c) Large scale planting procedure. Upon receipt of an application for a permit to plant or set out in excess of two (2) trees or plants, the City Forester shall have the authority to require from the applicant a detailed declaration of intentions, either in form of a planting plan or written statement in duplicate. All planting plans shall be drawn on tracing cloth in ink. One copy of each plan or statement of intention shall, when approved by the City Forester, be returned to the applicant and the other copy shall be kept on file by the City Forester. All statements filed in lieu of a planting plan shall contain the same information as required on the plan. All planting plans shall accurately show:

- (i) The proposed street together with its subdivision of pavement, curb, gutter, parking strip and sidewalk areas to a definite indicated scale.
- (ii) The variety of each and every tree proposed to be planted and of those already existing within the proposed street lines, either indicated on the plans or referenced with a number to key list.
- (iii) The proposed location of each and every proposed tree together with the location of each existing tree within the proposed street line in scaled relation to the other features of the plan.

- (iv) The distance between trees in any one row in feet.
- (v) The nature of the soil in the planting space to a depth of three feet and all existing and proposed surface or subsoil drainage system.

(d) Regulations for planting in a public place. Work done under a permit issued hereunder shall be performed in strict accordance with the terms thereof and with the following regulations established for the planting, trimming and care of trees in public places:

- (i) Trees must be not less than one inch in diameter of trunk one foot above the ground.
- (ii) All trees from one to three inches in diameter of trunk one foot above the ground must be protected and supported by tree guards.
- (iii) No tree shall be placed so as, in the opinion of the City Forester, to cause a traffic hazard.
- (iv) In felling trees the same must be removed with the root stump grubbed out when so required by the City Forester.
- (v) All cuts above one inch in diameter must be water proofed.
- (vi) Trees shall be planted at least thirty feet apart except where a special permit is obtained from the City Forester.
- (vii) No tree shall be planted where the clear space between the curb and the sidewalk is less than three feet.
- (viii) No tree shall be planted where the soil is too poor to insure the growth of such tree unless the owner excavates a suitable hole of not less thirty-six cubic feet and replaces the material removed with suitable loam or soil stripped from pastureland.
- (ix) No tree shall be planted nearer than one foot from the curblin or outer line of the sidewalk unless a special permit is granted by the City Forester.
- (x) No tree shall be planted on any street except of the variety selected by the City Forester for that street.

Section 6: Duties of private owners. It shall be the duty of any person growing a tree within a public highway or responsible for trees growing on property abutting on public places supporting trees or plants:

(a) Trim. To trim his trees so as not to cause a hazard to public places or interfere with the proper lighting of public highways by the street lights and so that minimum clearance of any overhanging portion thereof shall be nine feet.

(b) Treat or remove. To treat or remove any tree or plant so diseased or insect-ridden as to constitute a hazard to trees or plants in public places.

(c) Prohibited species. To remove and refrain from planting any kind or type of trees or plants which the City Council by Resolution hereafter determines to be an objectionable type species.

Section 7: Procedure upon order to preserve or remove.

When the City Forester shall find it necessary to order the trimming, preservation or removal of trees or plants upon private property as authorized in Section 4 (b) herein, he shall serve a written order to correct the dangerous condition upon the owner, operator, occupant or other person responsible for its existence.

(a) Method of service. The order required herein shall be served in one of the following ways:

- (i) By making personal delivery of the order to the person responsible.
- (ii) By leaving the order with some person of suitable age and discretion upon the premises.
- (iii) By affixing a copy of the order to the door of the entrance of the premises in violation.
- (iv) By mailing a copy of the order to the last known address of the owner of the premises by certified mail.
- (v) By publishing a copy of the order in the Canby Herald once a week for three successive weeks.

(b) Time for compliance. The order required herein shall set forth a time limit for compliance dependent upon the hazard and danger created by the violation. In cases of extreme danger to persons or public property, the City Forester shall have the authority to require compliance immediately upon service of the order.

(c) Appeal from order. A person to whom an order hereunder is directed shall have the right within twenty-four hours of the service of such order, to appeal to the advisory committee, which shall review such order within three days and make a written report thereon to the City Council at its next regular meeting or special meeting called for such purpose. Unless the order is revoked or modified by the City Council, it shall remain in full force and be obeyed by the person to whom directed. No person to whom an order is directed shall fail to comply with such order within thirty days after an appeal shall have been determined.

(d) Failure to comply. When a person to whom an order is directed shall fail to comply within the specified time, the City Forester shall remedy the condition or contract with others for such purpose and charge the cost thereof to the person to whom the order is directed. The person remedying the condition under a contract made hereunder shall be authorized to enter premises for that purpose.

(e) Special assessment. If the cost of remedying a condition is not paid within ninety days after receipt of a statement therefor from the City Recorder, such costs shall be levied against the property upon which said hazard exists as a special assessment. The levying of such assessment shall not affect the liability of the person to whom the order is directed to fine and imprisonment as herein provided. Such special assessment shall be certified by the City Forester to the City Recorder, and shall thereupon become and be a lien upon such property, and shall be included in the next tax bill rendered to the owner or owners thereof unless paid before, and shall be collected in the same manner as other taxes against such property.

Section 8: Abuse or mutilation of trees. No person shall:

(a) Damage, cut, carve, transplant or remove any tree or plant, or injure the bark.


- (b) Pick the flowers or seeds of any tree or plant.
- (c) Attach any rope, wire or other contrivance to any tree or plant.
- (d) Dig in or otherwise disturb grass areas or in any other way injure or impair the natural beauty or usefulness of any area.
- (e) Cause or permit any wire charged with electricity to come in contact with any tree or plant, or allow any gaseous, liquid or solid substance which is harmful to such trees or plants to come in contact with them.

Section 9: Penalties. Any person convicted of violating any provision of this Ordinance shall be punished by a fine of not more than TWO HUNDRED FIFTY DOLLARS (\$250.00) or by imprisonment in the County Jail for not more than thirty (30) days, or both.

Section 10: Separability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

Section 11: Ordinances repealed. All Ordinances and parts of Ordinances in conflict with this Ordinance or inconsistent with this Ordinance are hereby repealed.

Passed on first reading of the Canby City Council at a regular meeting thereof held on the 18th day of December, 1967; ordered posted as provided by the Canby City Charter and to come up for final reading and action of the Canby City Council at a regular meeting thereof to be held on ^{Monday} ~~Tuesday~~, the 15th day of January, 1968, at the hour of 8:00 o'clock p.m., Pacific Standard Time, at the Canby City Hall.

ATTEST:

J. R. RICHARDSON - City Recorder


LAWRENCE J. HOUSEN - Mayor

Passed on final reading of the Canby City Council at a regular meeting thereof held on this 15th day of January, 1968, by the following vote: Yeas 6. Nays 0.


LAWRENCE J. HOUSEN - Mayor

ATTEST:


J. R. RICHARDSON - City Recorder