

ORDINANCE NO. 735

AN ORDINANCE REGULATING THE PLANTING AND MAINTENANCE OF STREET TREES; ESTABLISHING THE OFFICE OF CITY FORESTER AND PRESCRIBING THEIR AUTHORITY; REGULATING PRESERVATION AND REMOVAL IN PUBLIC PLACES; PROHIBITING THE PLANTING OF NOXIOUS SPECIES; PLACING DUTIES ON 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 OF THIS ORDINANCE.

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 Director of Public Works of the City of Canby, Oregon, or his authorized agent.

(c) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

(d) "Tree" is a woody perennial plant having a single elongated main stem generally with few or no branches on its lower part.

Section 3. City Forester. There is hereby established in the Department of Public Works of the City of Canby, the Office of City Forester. The Director of Public Works, or his authorized agent, shall serve as City Forester in the administration and enforcement of this ordinance.

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, to oversee the planting, trimming, spraying, pre-
servation and removal of trees, other plants and grassy areas in public places to ensure 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 spraying, 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 the terms of this ordinance.

Section 5. Written Permission Required.

(a) Preserve or remove. No person shall remove trees in public places without first obtaining written permission from the City Forester.

(i) Standards for issuance. The City Forester shall issue written permission provided 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 in a public place without first obtaining written permission from the City Forester.

(i) Before permission is granted to plant, the applicant shall state the number of trees to be planted or set out; the location, grade, and variety of each tree; 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 permission should be granted.

(c) Regulations for planting in a public place. Work done under permission of the City Forester shall be performed in strict accordance with the terms thereof and with the following regulations established for the planting, trimming and care in public places.

(i) No tree shall be placed so as, in the opinion of the City Forester, to cause a traffic hazard. In no case shall trees, shrubs, or bushes be permitted in violation of the vision clearance area regulations of City zoning.

(ii) In felling trees, the same must be removed with the root stump grubbed out when so required by the City Forester.

(iii) All cuts above one inch in diameter must be water-proofed.

(iv) Trees shall be planted at least thirty (30) feet apart, except where written permission is obtained from the City Forester.

(v) No tree shall be planted where the clear space between the curb and the sidewalk is less than three (3) feet.

(vi) 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 than thirty-six (36) inches and replaces the material removed with suitable loam or soil.

(vii) No tree shall be planted nearer than two and one-half (2½) feet from the curbline or outer line of the sidewalk, unless special permission is granted by the City Forester.

(viii) In no case shall any tree which, in the opinion of the City Forester, is deemed to be a noxious specie be permitted to be planted anywhere in the City or grow in a manner which damages sewer or water lines or creates any hazard to life or property.

(ix) No tree shall be planted within ten (10) feet of a sewer pipeline or side lateral.

Section 6. Duties of Private Owners. It shall be the duty of the owner of property which abuts a public right-of-way to:

(a) Trim the 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 (9) feet.

(b) 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 or refrain from planting any kind or type of trees or plants which the City Forester 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 spraying, 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 the owner, operator, occupant, or other person responsible for its existence to correct the dangerous condition.

(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 persons of suitable age and descretion 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 (3) 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 (24) hours of the service of such order to appeal to the City Council, which shall review such order 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 (30) days after an appeal shall have been determined.

(d) Failure to comply. When a person to whom an order is directed fails to comply with 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 (90) 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, injure the bark, transplant or remove any tree or plants in any public place.

(b) Pick the flowers or seeds of any tree or plant in any public place.

(c) Attach any rope, wire or other contrivance to any tree or plant in any public place.

(d) Dig in or otherwise disturb grass areas or in any other way injure or impair the natural beauty or usefulness of any public area.

(e) Cause or permit any wire charged with electricity to come in contact with any tree or plant in any public place, 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 \$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.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on the 20th day of July, 1983; ordered posted in three public and conspicuous places in the City for a period of five (5) days as authorized by the Canby City Charter; and to come up for final reading and action by the Canby City Council at a regular meeting thereof on the 3rd day of August, 1983, commencing at the hour of 7:30 o'clock P.M. at the Council's regular meeting chambers at the Canby City Hall, in Canby, Oregon.


Marilyn K. Perkett, Deputy Recorder

Passed on second and final reading by the Canby City Council at a regular meeting thereof on the 17th day of August, 1983, by the following vote: YEAS 6 NAYS 0


William F. Pulver, Council President

ATTEST:


Marilyn K. Perkett, Deputy Recorder