

ORDINANCE NO. 441-0

AN ORDINANCE ADOPTING GUIDELINES AND POLICIES FOR STREET TREES.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE:

Sections:

1. Definitions
2. Street Tree Plan and list of trees
3. Jurisdiction of street trees
4. Planting
5. Maintenance
6. Removal
7. Permit requirements and conditions
8. Cutting, trimming and pruning
9. New subdivisions
10. New streets
11. Protection
12. Gifts and funding - liabilities and responsibilities for costs
13. Historic trees
14. Penalty
15. Nuisances - abatement procedures

Section 1. Definitions.

As used in this ordinance, singular includes the plural and vis. a vis.

- (A) Tree shall include plants, shrubs, vines and ground covers.
- (B) Street shall include sidewalk, malls, parking or planting strip, alley or any public area.
- (C) Superintendent means superintendent of facilities maintenance.
- (D) Director means Director of Community Services
- (E) City means City of Troutdale
- (F) Person includes any individual, firm, association, corporation, agency or organization of any kind.
- (G) Council means City of Troutdale Council.

Section 2. Street Tree Plan and List of Trees.

- (A) It is in the best interests of the City that a Street Tree Plan be developed and established for the planting, maintenance and replacement of trees in and along its streets. This ordinance is adopted for the purpose of providing for such a plan and for the establishment of regulations necessary to carry out its purpose.

- (B) The superintendent may prepare or cause to be prepared a Street Tree Plan for the planting and maintenance of trees in the streets of the city.
- (C) The Street Tree Plan shall include, but shall not be limited to, a series of maps of city streets upon which is designated a scheme for the planting of trees and the zoning of streets for certain types of trees. Such maps shall show the interval between trees and the place where each tree is to be planted.
- (D) A survey of the street trees presently existing in the city and their condition may be taken.
- (E) The superintendent shall maintain a list of approved varieties of trees and ground covers that may be planted on any street within the city in accordance with the Street Tree Plan. Approval shall be based upon considerations such as maturity height, susceptibility to disease or pests, reasonable freedom from nuisance characteristics and general suitability for any particular locations. The superintendent's listing of approved varieties shall not prevent the seeking of approval of unlisted varieties.
- (F) It shall be unlawful for any person to engage in the business occupation or profession of tree trimming within the corporate limits of the City of Troutdale without first obtaining a business license therefor as provided in Ordinance No. 206.

Section 3. Jurisdiction of Street Trees.

The superintendent shall have jurisdiction over all trees, planted and growing within or upon the streets, and the planting, removal, care, pruning, maintenance and protection thereof, and may call upon the Building Division as may be necessary for enforcement of this chapter.

Section 4. Planting.

- (A) The superintendent may plant trees in the streets of the City in accordance with the Street Tree Plan. In addition to using his own personnel, he may hire independent contractors.

- (B) It shall be unlawful for any person to plant or set out any tree or authorize or cause or procure any person to plant or set out any tree in or upon any part of any street without first obtaining from the superintendent a written permit to do so and complying in all respects with the conditions set forth in such written permit and with the provisions of this ordinance. All applications for such permit shall describe work to be done and the variety, size and precise location of each tree to be planted. If the superintendent has found that the proposed planting is in accord with the Street Tree Plan; or that trees proposed to be planted have a reasonable likelihood of prospering and such permit specifies the location, variety and grade of each tree and method of planting, including among other things the supplying of suitable soil, then he may grant a permit. The permit shall be good only for the planting season stated.
- (C) The planting, removal and maintenance of street trees shall be subject to the provisions established by Ordinance No. _____, Street Tree Regulations. Until such time as a Street Tree Plan for the planting and maintenance of street trees is developed, street tree plantings shall conform with the City's Street Tree Planting Guidelines, which may be obtained from the Facilities Maintenance Division.

Section 5. Maintenance.

- (A) The superintendent may prune and maintain or cause to be pruned and maintained all of the trees in the streets.
- (B) Responsibility for trimming of trees, standing in or upon any street or private grounds and having branches projecting into the street shall be trimmed by the owners of the property adjacent to or in front of which such trees are growing and shall be done according to the requirements for tree branch clearance over street and sidewalk areas, and signs as set forth in the Zoning Ordinance of the City of Troutdale.
- (C) Care and maintenance of street trees is the continuing responsibility of the project property owner.

- (D) The adjacent property owners shall be liable to any person who is injured or otherwise suffers damage by reason of the property owner's failure to trim trees. Furthermore, said adjacent property owner shall be liable to the City of Troutdale for any judgment or expense incurred or paid by the City by reason of said property owner's failure to satisfy the obligations.
- (E) Whenever the owner or owners, lessees, occupants or persons in charge of private grounds shall neglect or refuse to trim any tree as provided in this section, the superintendent may trim or treat or cause to be trimmed or treated such trees. The person remedying the condition shall be authorized to enter the premises for that purpose.
- (F) Trimming for or by City and/or a Public Utility. Upon obtaining a written permit from the superintendent, the City or a public utility maintaining its utility system in a street may trim or cause to be trimmed in accordance with said permit, any tree located in the street which interferes with any light, pole, wire, cable, appliance or apparatus used in connection with or as a part of the utility system; but no tree shall be trimmed without the consent of the abutting owner until the public utility shall have given written or printed notice to the owner or occupant of the premises. The owner or occupant has one month after receipt of notice to trim or arrange for trimming of said tree at his cost and in accordance with the terms of this permit. If the owner or occupant fails, neglects or refuses to trim such tree as required by the notice and permit, the public utility may trim, or cause to be trimmed, the tree at its expense in accordance with the conditions of the permit.
- (G) Nothing in this ordinance shall be deemed to impose any liability upon any member of the Council or the City, or any of its officers or employees nor to relieve the owner or occupant of any private property from the duty to keep his private property, sidewalks, planting strip and street trees in front of such private property in a safe condition so as not to be hazardous to public travel nor to relieve said property owner of the obligation to pay the cost of planting, removal and replanting of street trees in the planting strip adjacent to the property of said property owner, or to relieve said property owner of liability to persons injured or otherwise damaged by reason of

the property owner's failure to keep his private property, sidewalks, planting strips and trees in front of such private property, sidewalks, planting strips and trees in a safe condition so as not to be hazardous to public travel, as required by Ordinance No. 300 of the City. Furthermore, said adjacent property owner shall be liable to the City for any judgment or expense incurred or paid by the City by reason of said property owner's failure to satisfy the obligations imposed.

- (H) The owner, his agent or the person in possession of any parcel of land, improved or unimproved, shall cut and remove, and keep cut and removed therefrom and from the half of the street or streets abutting the property, all weeds and other noxious vegetation, all grass more than ten inches in height, and all dead bushes, stumps and other combustible material. He shall remove and keep removed therefrom all stagnant water, rubbish, waste material and any other substance which may endanger neighboring property or the health or safety of the public. He shall keep the sidewalk and improved streets abutting such property free from earth, rock and other debris and from projecting or overhanging bushes and limbs that may obstruct or render unsafe the passage of persons or vehicles.

Limbs of trees may be allowed to project over the sidewalk area at an elevation of not less than seven and one-half feet above the sidewalk level, and over the street area at an elevation of not less than 11 feet above the street level. However, on any street designated as an arterial or one-way street, and where parking has been prohibited, limbs of trees shall be trimmed to a height of not less than 14 feet above the street level. No wires or other things shall be maintained over the street level at any elevation less than 11 feet. However, on any street designated as an arterial or one-way street, and where parking has been prohibited, no wires or other things shall be maintained over the street level at an elevation of less than 14 feet.

All conditions in violation of this section constitute a nuisance and any person whose duty it is to correct those conditions and who fails to do so shall be subject to the penalties provided by this ordinance.

A continuing inspection of property shall be made by the Facilities Maintenance Division and/or Building Division. If any nuisance is found to exist, the City shall proceed to abate the same as provided in this ordinance. The owner of any parcel of land may notify the City, in writing, that he desires the City to remove a nuisance and agrees to pay the reasonable and necessary expense thereof, including ten percent for overhead. A deposit shall accompany the notice to guarantee payment.

Section 6. Removal.

- (A) Diseased trees. When any tree located on a street or on private property is infested with a disease or insects, or is in the opinion of the superintendent, infectious and may spread such disease or insects to other trees in the city, the superintendent may remove or treat the tree or cause same to be removed or treated.
- (B) Regulations regarding root interference with sewers and damage to curbs and sidewalks are set forth in Ordinance No. 280.
- (C) The superintendent may abate or remove or cause to be abated or removed any tree located in the street area or which encroaches from private property into the street area because of age, disease or other debilitating cause, death, insecure root system, or any other condition which, in the opinion of the superintendent, causes its continued existence to be detrimental to the public interest. The superintendent may require that the removed tree be replaced with a new tree at the expense of the property owner.
- (D) It shall be unlawful for any person, without a prior written permit from the superintendent, to remove, destroy, cut, break or injure any tree, or to remove, except as provided in this ordinance any tree that is planted or growing in or upon any street or cause or authorize or procure any person to do so; or injure, misuse or remove any device set for the protection of any tree in or upon any street.

- (E) The approval of a tree removal by the superintendent may be conditioned on replacement with a new tree of approved variety if the superintendent finds the replacement necessary to maintain an ornamental tree system on the street, block or portion thereof. If approval by the superintendent is so conditioned, the tree removal permit shall contain such condition. Costs of replacement are the responsibility of the property owner.

Section 7. Cutting, Trimming and Pruning.

The following regulations are hereby established for the trimming and care of trees in or upon the public streets of the City.

- (A) When trees are cut down, the stump thereof shall be removed to a depth of six inches below the surface of the ground or grade of the street, whichever is of greater depth.
- (B) When pruning, all cuts must be flush cut and those of more than two inches in diameter must be waterproofed in accordance with the condition of the permit.

Section 8. Permit Requirements and Conditions.

Any person desiring for any purpose to plant, remove, destroy, cut, prune, or treat any tree in or upon any street shall make application to the superintendent on forms furnished by the City. Such application must state the number and kind of trees to be planted, removed, trimmed, pruned or treated, the name of permittee and/or contractor, and the time by which the proposed work is to be done and such other information as may be required by the superintendent. Any work done under such written permit must be performed in strict accordance with the terms and provisions of this ordinance. In issuing or denying a permit, the superintendent shall apply all the standards as set forth in this ordinance and the objective of the Street Tree Plan.

- (A) Appeal. If the superintendent refuses to issue any permit as required by this ordinance, he shall at once notify the applicant who may appeal to the Council in writing within ten (10) days thereafter. The Council shall proceed to hear and determine the appeal, calling upon the superintendent to give his reasons therefor. In all cases decision of the Council shall be final.

- (B) Emergency. In case of an emergency caused by a tree being in a hazardous or dangerous condition, such tree may be removed by permission of any member of the Police Department or Fire District.

Section 9. New Subdivision.

The superintendent shall require the planting of street trees within the planting strips of any new subdivision in conformity with a Street Tree Plan for the area which, in turn, shall be in conformity with the Street Tree Plan. All such planting shall be done in accordance with the planting specifications governing the planting of trees in planting strips as provided by the superintendent. A developer may make financial arrangements with the City to provide for street tree planting. See Section 6.

Section 10. New Streets.

Any proposed change in width in a public street right-of-way or any proposed street improvement may, where feasible, include allowances for planting strips. Plans and specifications for planting such areas shall be integrated into the general plan of improvements, and it shall be the duty of the Community Services Department to coordinate the design of such improvements with Facilities Maintenance and Building Division.

Section 11. Protection.

- (A) It shall be unlawful for any person to attach or keep attached to any tree in or upon any public street or to the guard or stake intended for the protection of such tree any ropes, wires, chains, or other device whatsoever, except that the same may be attached to any tree as support or protection thereof.
- (B) During the erection, repair, alteration or removal of any buildings or structure, it shall be unlawful for the person in charge of such erection, repair, alteration or removal to leave any tree in or upon any street in the vicinity of such building or structure without a good and sufficient guard or protector as shall prevent injury to such tree arising out of or by reason of such erection, repair, alteration or removal.

Section 12. Gifts and Funding - Liabilities and Responsibility for Costs.

- (A) The city may accept gifts which are specifically designated for the purpose of planting or maintaining street trees within said city.
- (B) Funds raised by a local improvement district as provided for in Ordinance No. 159 shall be expended by the superintendent or under his direction and supervision for the planting and maintenance of street trees.
- (C) The superintendent may direct any adjacent property owner to plant, trim, prune, treat or maintain or remove street trees adjacent to this property or after notice to said property owner, the superintendent may perform the work necessary or have the same performed and assess said adjacent property for the cost.
- (D) A separate fund shall be established and maintained for revenues and expenditures created by the street tree program.

Section 13. Historic Trees.

The superintendent shall as soon as possible after passage of this ordinance and from time to time thereafter prepare or cause to be prepared a list of trees within the City which because of their age, type or historic association are of special note. Such trees, upon approval of the Council, will be designated "Historic Trees". Upon a tree being designated as a historic tree, a plaque so designating shall be placed upon or near said tree. It shall become the obligation of the Facilities Maintenance Division to maintain it, and if such tree is upon private property, the superintendent shall notify the owner of such tree that it has been designated as a historic tree and may thereafter be maintained by the City upon consent of the property owner. A historic tree may not be removed without a public hearing at least 30 days prior to the proposed date of removal. This section is intended to give, and does hereby give full and complete authority to the superintendent over any and all historic trees in the city.

Section 14. Penalty.

Any person, firm or corporation violating any provision of this ordinance shall, upon conviction, be fined a sum not exceeding \$500 or be imprisoned in jail for a period not exceeding six months, or be punished by both such fine and imprisonment.


Section 15. Nuisances-Abatement Procedures.

In addition to the procedures for enforcement set forth within this ordinance, the superintendent in enforcing the provisions of this ordinance may proceed against the property on which or in front of which a tree is located and found to constitute a nuisance as set forth under the ordinances of the City.

ADOPTED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE THIS
9th DAY OF APRIL, 1985.

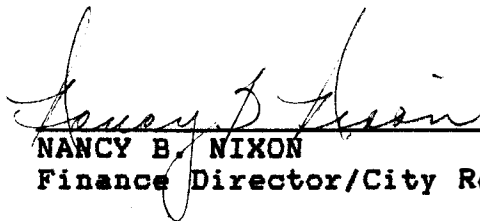
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SAM K. COX, MAYOR
DATE SIGNED: 4-11-85

ATTEST:



NANCY B. NIXON
Finance Director/City Recorder

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