

Chapter 2.19

Tree & Park Strip Planting

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- 2.19.010 Purpose.**

The purpose of this ordinance is to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, pruning and removal of trees, shrubs and vegetation in the public right of way or on public lands within the City of Corvallis. This ordinance will provide the framework to create a healthy, sustainable urban forest that contributes to the economic and environmental well being of Corvallis residents..

2.19.020 Definitions.

- 1) ANSI A300 - an American National Standard for Tree Care Operations covering standard practices for tree, shrub and other woody plant maintenance. These standards are intended to apply to any person, or entity engaged in the business, trade, or performance of repairing, maintaining, or preserving trees.**
- 2) ANSI Z133.1 - an American National Standard for Safety for Tree Care Operations. These safety requirements are intended to apply to any person or entity engaged in the business, trade or performance of pruning, trimming, repairing, maintaining and removing trees, and cutting brush.**
- 3) Appraised Value – the value attached to a tree as determined by the Council of Tree and Landscape Appraisers Guide for Plant Appraisal.**
- 4) Hazardous Tree - a tree that is dead, or alive and is so affected by a significant structural defect, damage or disease that the potential of the tree or tree part to fall or fail appears imminent and the tree poses a threat to life or property.**
- 5) Arborist - ISA Certified Arborist is a professional who possesses the technical competence through experience and related training to provide for or supervise the management**

of trees and other woody plants in the residential, commercial and public landscape as defined by the International Society of Arboriculture. An ISA Certified Arborist has through experience, testing and ongoing education demonstrated a basic level of tree care knowledge. Ongoing education is a requirement to keep this certification. An ASCA Consulting Arborist is a professional who possesses the highest levels of technical and business skill in the industry as defined by the American Society of Consulting Arborist. An ASCA Consulting Arborist is versed in the legal, environmental and regulatory issues concerning trees.

- 6) Park strip - the space between the curb and sidewalk.
- 7) Public trees - trees located in public rights of way not defined as street rights of way (i.e., drainage ways) or trees located on property designated as a public park or open space.
- 8) Property owner - Any person, firm or corporation owning, possessing or having the right to control any property in the City. In the event that more than one person, firm or corporation has joint or concurring ownership in, or has a right to possession or control of the same parcel of ground, then each of said persons, firms or corporations shall be jointly and severally responsible to comply with this ordinance.
- 9) Short Term Traffic Control Handbook - the most current edition of this quick reference manual for controlling traffic through short term work zones published by the Oregon Department of Transportation. A separate permit for traffic control may be required.
- 10) Shrub - a low woody perennial plant usually having several major branches and less than 15 feet in height.
- 11) Street trees - trees located in public rights of way within the City.
- 12) Topping - the severe cutting back of limbs to stubs within the tree's crown to such a degree as to remove or alter the natural growth habit of the canopy and/or disfigure the tree.
- 13) Tree - a self supporting, perennial woody plant characterized by one main trunk, or in some cases, multiple trunks with a trunk diameter of at least 1-1/2 inches at a point 6 inches above ground level at the base of the trunk and one main canopy of leaves, usually growing to a height of 15 feet or more.
- 14) Vegetation - woody shrubs and trees.

Section 2.19.030 Enforcement.

The City Manager or her or his duly authorized representative shall be charged with the enforcement of this Chapter.

Section 2.19.040 Tree Contractors Qualifications.

No person shall accept remuneration for pruning, root pruning, planting or removing any street, or public tree(s) within the City of Corvallis without first meeting or exceeding the current State licensing requirements. That person shall be registered with the appropriate Contractors Board, carry the required insurance and bond, abide by all state and local safety standards and perform the work in a professional fashion according to the City's tree standards/guidelines.

Section 2.19.050 Standards/Guidelines.

The City Manager, with advice from the Citizens Advisory Commission on Civic Beautification and Urban Forestry (CBUF), shall adopt and from time to time update standards for pruning, planting, root pruning and removal of trees. In addition, a list of recommended trees shall also be maintained as a guide for citizens who are interested in planting trees in the public rights of way. The City Manager may approve exceptions to the standards or guidelines if these exceptions, including, but not limited to, rights of way width, pedestrian usage, landscaping, utilities and other aesthetic considerations and public health and safety, will not be unreasonably affected. When granting an exception to the standards or guidelines, the City Manager may attach conditions which the City Manager finds reasonably necessary to protect or enhance the public welfare.

Section 2.19.060 Permit requirement- Planting, Pruning, Removal.

1) No adjacent property owner shall plant, any tree, shrub or vegetation that has the potential to grow 24 inches or taller in the park strip areas and other public lands of the City without first obtaining a permit to do so from the City Manager. The City maintains a list of recommended trees.

2) No property owner shall prune or remove any street or public tree in the City without first obtaining a permit to do so from the City Manager. A separate permit for traffic control may be required, with a written plan that conforms to the Short Term Traffic Control Handbook.

3) In the event of a storm, freeze or other weather event resulting in damage to street and public trees, the City Manager may declare an emergency suspension of the permit requirements, for the removal and pruning only, of damaged trees set forth in this Chapter. Such declaration shall prescribe dates during which permits are not required, but in no event may any single declaration exceed 21 days.

Section 2.19.070 Permit issuance and conditions.

1) On receiving an application filed by an applicant containing all relevant facts relating to the request, the City Manager may, in his or her discretion, issue a permit or permits to the property owner or their authorized designee to plant, prune or remove trees, shrubs or vegetation in the park strip areas adjacent to his/her property. A separate permit for traffic control maybe required, with a written plan that conforms to the Short Term Traffic Control Handbook.

2) The City Manager shall give consideration to the following factors in granting such permits and shall not grant a permit if she or he finds that to do so would be detrimental to the public interest:

- a) Width of the park strip or planting space.
- b) Species and growth habit of tree, shrub or vegetation.
- c) Location of parking meters, light standards, crosswalks, buildings, entrance and exit ways, streets, utility poles, alleys, loading zones, and other physical conditions and legal restrictions then existing or reasonably contemplated. Reference Corvallis Land Development Code 4.2.30 (Required Tree Planting), trees shall not be planted within 10 feet of fire hydrants and utility poles; within 20 feet of street light standards; or within 10' of a public sanitary sewer, storm drainage or water line.
- d) Purpose of applicant's proposed action.
- e) Any other factors found by her or him to be relevant.

3) The City Manager shall designate in the permit or in an exhibit attached to it the areas in which planting shall be allowed, the type of plantings allowed, and any other condition or restriction that she or he deems necessary or expedient to protect the public interest.

Section 2.19.080 General conditions and restrictions.

1) Each property owner planting, pruning and removing trees, shrubs, or vegetation under permit shall comply with the following general conditions and restrictions:

- a) The permittee shall abide by all of the terms, conditions and restrictions contained in the permit and abide by the ANSI A 300 for Tree Care Operations, ANSI Z133 Safety for Tree Care Operations as well as all state and local safety regulations.
- b) The permittee shall indemnify and save the City, its officers, agents, officials and employees, harmless from any claim or award for damages or injuries to property or persons, including costs and attorneys fees, allegedly arising in whole or in part out of the use, occupation, or disruption of park strip areas by permittee or those acting on his or her behalf or with his or her approval or ratification or allegedly

arising in whole or in part out of the failure by the permittee to abide by the terms of this permit.

c) The permit shall be nontransferable.

d) The permit shall be revocable at any time with cause at the discretion of the City Manager and no expenditure of money, lapse of time, or any act or thing shall act as an estoppel against the City or be held to give permittee or the owner of any property any vested right.

e) The installation and care of such plantings shall be at the sole cost and expense of the permittee without cost to the City, and the park strip sidewalks and sidewalk areas in the vicinity of the plantings and the structure served thereby shall be maintained in a good state of repair and maintenance at the sole cost and expense of the permittee.

f) The permittee shall remove, replace or relocate individual plantings or vegetation as the public convenience or necessity warrants and at the request of the City Manager.

g) No permit shall become effective unless the permittee named shall simultaneously with the issuance file with the City Manager in form approved by her or him a notice of acceptance of the terms, covenants, and conditions and an agreement to abide by all of the terms, covenants, conditions, and obligations imposed on permittee.

Section 2.19.090 Appeals procedure.

Any applicant who feels aggrieved by any action taken by the City Manager may file a written appeal with the City Council, describing in detail the reasons for the appeal within 10 days of City Managers decision. The Council shall hear the appellant's concerns, along with any other relevant information and thereupon may confirm the decision made by the City Manager, or may choose another appropriate action in relation to the application.

Section 2.19.100 Prohibited trees, rights-of-way.

Certain trees, due to their growth habits, invasive nature, fruit drop or tendency to block sight distance, cannot be planted in the park strip. The City Manager, with advice from CBUF, maintains an up-to-date list of the prohibited trees, which include but are not limited to the following trees: bamboo, poplar, willow, conifer, cottonwood, fruit and nut trees and ailanthus in or on any street rights-of-way or park strip in the City.

Section 2.19.110 Sewer interference.

It shall be unlawful to plant willow, cottonwood, or poplar trees anywhere in the City unless the City Manager approves the site as one where the tree roots will not be likely to interfere with a public sewer.

Section 2.19.120 Removal.

The City Manager may cause any trees, shrubs, plants, or vegetation in or upon any park strip, street rights-of-way, or other public place in the City to be pruned, or removed and said pruning, or removal may be done by anyone designated to do so by said City Manager. The City shall adopt an administrative policy to eliminate public trees known to be hazardous in a timely and efficient manner, in order to reduce unsafe conditions.

Section 2.19.130 Height near rights-of-way.

Every property owner in the City shall have the duty to and shall prune or remove any tree, shrub, plant or vegetation in or upon a park strip abutting that owner's property to a height of not less than eight feet above any sidewalk and to a height of not less than 12 feet above any street pavement or curb. This work shall comply with current industry standards (ANSI A 300, ANSI Z133).

Section 2.19.140 Sight distances.

Every property owner in the City shall have a duty to and shall prune, or remove any tree, shrub, plant or vegetation on her or his property so that such tree, shrub, plant, or vegetation shall not interfere with reasonable sight distance at street intersections, alley ways and private driveways. This work shall comply with current industry standards (ANSI A 300, ANSI Z133).

Section 2.19.150 Nuisances.

1) Any tree, shrub, plant, or vegetation growing in or upon any park strip, street rights-of-way, or public place, or on private property which is endangering or which in any way may endanger the security or usefulness of any public street, sewer or sidewalk, or which in any way may be dangerous to life or property is hereby declared to be a public nuisance, and the City or the City Manager may remove or prune such tree, shrub, plant, or vegetation or may require the property owner to remove or prune any such tree, shrub, plant, or vegetation in or upon private property or upon a street rights-of-way or park strip abutting said owner's property.

2) The failure by the property owner to remove or prune such tree, shrub, plant, or vegetation within 30 days after notice is given to do so by the City Manager shall be deemed a violation of this Chapter, and the City Manager or designee may at any time thereafter remove or prune said tree, shrub, plant, or vegetation and assess the cost against the property, consistent with the City's Administrative Policies regarding the removal of hazardous trees and vegetation. The amount of the assessment may be docketed by the City Manager in the City lien docket and shall be a lien against the property which can be foreclosed in the same manner as the foreclosure of a street assessment lien. That lien shall have priority over all other liens and encumbrances of any character.

Section 2.19.160 Property owner compliance and liability.

It is not only the duty of all property owners within the City to comply with each and every provision of this Chapter, but such property owners are also hereby declared to be liable for all damages to any person, firm or corporation whomsoever resulting or arising from such property owner's failure to comply with the provisions of this Chapter.

Section 2.19.170 Abuse, mutilation, destruction or topping.

1) It shall be unlawful for any person to abuse, destroy, top or mutilate any tree in or upon any street right-of-way, park strip or other public place in the City or to attach or place any rope or wire (other than one used to support a young or broken tree), sign, poster, handbill or other thing to, on or in any tree. Abuse and mutilation could include but not be limited to; pouring solvents on roots, girdling the tree, harming any part of the trunk or circumference of a tree, causing compaction around the tree roots, removing / harming any part of the roots, breaking branches by hanging on or climbing a tree etc.

2) Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where normal pruning practices are impractical may be exempted at the determination of the City Manager.

3) This action shall not be construed to prevent abutting property owners from minor pruning of a tree, shrub or plant in or upon a street rights-of-way or park strip abutting her or his property in accordance with the ANSI A300's, nor shall it be construed to prevent the City or the City Manager from pruning or removing any tree, plant, shrub or vegetation from any street right-of-way, park strip or other public place in the City.

Section 2.19.180 Penalty.

Any person violating any provision of this Chapter shall, upon conviction thereof, be punished by a fine not to exceed \$500.00 per tree. A violation of this Chapter may be prosecuted as a Class A infraction under the procedures of ORS 153.110 to 153.310. The City Manager or duly authorized representative is authorized to issue a citation to any person violating any provision of this Chapter. In the event that a tree or trees are damaged, destroyed or wrongfully removed, the appraised value of the plant may be additionally applied to this penalty. The appraised value shall be determined by using the Council of Tree and Landscape Appraisers Guide for Plant Appraisal and applied by an ISA Certified Arborist trained in this process. Fines shall be paid into the Urban Forestry Project Account.

Section 2.19.190 Supporting Materials.

1) The City shall from time to time adopt supporting administrative policies, standards, guidelines and supplemental material which by this reference are incorporated within this code as if set out completely. These supplemental materials shall be set out by title in this section.

- a) **SUPPORTING POLICIES**
 - 1. **Hazard Tree Abatement**

- b) **SUPPORTING STANDARDS/ GUIDELINES**
 - 1. **Planting materials**
 - 2. **Planting methods**
 - 3. **Tree establishment**
 - 4. **Pruning standards**
 - 5. **Excavation and construction standards**
 - 6. **Recommended tree list**
 - 7. **ISA Arborist Certification**

- c) **SUPPLEMENTS**
 - 1. **ANSI Z 133.1**
 - 2. **ANSI A 300 Tree Care Standards**
 - Part 1: Pruning**
 - Part 2: Fertilization**
 - Part 3: Cable and Bracing**
 - 3. **Best Management Practices**
 - Pruning**
 - Tree & Shrub Fertilization**
 - Cable/Bracing/Guying**
 - 4. **Principals of Planting Trees & Shrubs (by G.W. Watson & E.B. Himelick)**

Section 2.19.200 Severability.

If any phrase, clause, or part of this Article is found to be invalid by a court of competent jurisdiction, the remaining phrases, clauses and parts shall remain in full force and effect.