

ORDINANCE NO. 3462

AN ORDINANCE ADDING CHAPTER 4.12 REGARDING TREE PLANTING, MAINTENANCE AND REMOVAL TO THE ROSEBURG MUNICIPAL CODE

SECTION 1. Chapter 4.12 entitled "*Tree Planting, Maintenance and Removal*" is hereby added to the Roseburg Municipal Code to read as follows:

CHAPTER 4.12 TREE PLANTING, MAINTENANCE AND REMOVAL

4.12.005 Definitions. For purposes of this Chapter, the following words and phrases shall have the meanings assigned to them by this Section:

"Excavation" means the mechanical removal of more than 2 cubic feet of earth material.

"Hazard Tree" means any tree with a structural defect, disease, or a combination of these that make it subject to a structural failure that may cause damage to persons and/or property.

"ISA" means International Society of Arboriculture.

"Park Tree" means trees, shrubs, bushes, and all other woody vegetation in public parks and all areas owned by the City and to which the public has free access.

"Parkway Strip" means that portion of the public way that is located between the curb and the sidewalk if the curb is not immediately adjacent to the sidewalk.

"Person" includes any individual, firm, association, or corporation of any kind, whether acting directly or through an agent.

"Public way" means any street, road, alley, right-of-way, pedestrian or bicycle easement, or utility easement for public use which is controlled by the City.

"Remove or Removal" means the act of removing a tree by digging it up or cutting it down, or any act which causes a tree to die within a period of three (3) years, including, but not limited to, damaging the root system; changing the ground level at the trunk or root zone, excessive pruning or any other action that is deemed to be harmful to the tree.

"Street Tree" means trees, shrubs, bushes, and all other woody vegetation located within the public sidewalk or parkway strip.

"Topping" means the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to substantially remove the normal canopy.

"Tree" means a woody perennial, usually with one main trunk, attaining a height of at least six feet at maturity of a trunk diameter of at least two inches, including shrubs planted in the public way or so near public way as to obstruct or interfere with public use of the public way.

"Tree Board" means the City of Roseburg Parks and Recreation Commission.

“Tree Program” means a manual prepared by the Public Works Director, or designee, containing regulations and standards for the planting, maintenance and removal of trees in, upon, overhanging or otherwise affecting public ways or City owned properties within the City limits.

4.12.010 Tree Program. The Public Works Director shall develop the City of Roseburg Tree Program outlining the standards for the planting, maintenance and removal of Street Trees within public ways and located on City owned properties. The Tree Board shall approve the standards and regulations outlined within the Tree Program.

4.12.020 Permit Required.

A. No person shall perform or cause to be performed any pruning of a branch greater than 3 inches in diameter, or removing of a Park Tree or Street Tree without first obtaining a permit from the Public Works Director.

B. No person shall excavate or cause an excavation within ten (10) feet of the base of a street tree or park tree without first obtaining a permit from the Public Works Director.

C. Exemptions. The following persons or entities are exempt from the permit requirements listed in 4.12.020 (A) and (B):

1. A municipal utility or franchisee that is required to perform or cause to be performed the pruning of a street tree or park tree due to a threat to their above ground facility or a risk to public safety.
2. Any employee of the City of Roseburg, or contractor hired by the City of Roseburg, performing their assigned duties.
3. A person responding to a hazard tree posing an immediate threat to pedestrians, traffic, or structures.

4.12.030 Responsibility for Maintenance and Liability for Injuries.

A. The owner of the land abutting any public way shall be responsible for the maintenance of any tree located on his or her property or within the public way abutting his or her property to the following standards:

1. Any tree overhanging a street shall be pruned to maintain a minimum vertical clear space of at least fifteen (15) feet over the street.
2. All trees overhanging a sidewalk shall be pruned to maintain a minimum vertical clearance of nine (9) feet above the sidewalk, unless otherwise noted in the Tree Program.
3. All trees shall be maintained so as not to block any traffic control sign or other traffic control device.
4. All trees shall be maintained so as to not block the clear vision required for any driveway or intersection as outlined in the Land Use and Development Ordinance.
5. All dead, diseased, or dangerous trees; or broken or decayed limbs which constitute a risk to public safety, as determined by City Public Works, including uplifting of sidewalk panels shall be pruned or removed to eliminate the identified hazard.

B. The owner of property abutting a tree located on public way shall be liable for injury, damage, or loss to persons or property caused by the property owner's failure to comply with this section.

C. If the City is required to pay damages for an injury to any person caused by the failure of an owner to maintain a tree in good repair or safe condition, such owner shall reimburse the City for the amount of the damages thus paid and for the attorney fees and costs of defending against the claim for damages. The City may maintain an action in a court of competent jurisdiction to enforce the provisions of this Section.

4.12.040 Standards for Maintenance and/or Removal.

A. All trees requiring pruning located within a parkway strip, sidewalk area or on City owned property shall be pruned to ISA Best Management Practices Pruning Standards as identified in the Tree Program.

B. All persons working on trees within or affecting the public way shall be required to remove all debris from the public way by sunset of the same day unless specifically authorized to do otherwise by the Public Works Director. The area impacted by the debris removal shall be swept clean.

C. A Lane Closure permit from City Public Works shall be required if the roadway will be impacted by the tree work.

D. Removal.

1. The Public Works Director or designee may issue a permit for the removal of a tree for one or more of the following reasons:
 - a. The tree poses a safety hazard to pedestrian or vehicle traffic or threatens a structure or public utility which cannot be abated with proper pruning.
 - b. The tree prevents access to or from a lot or parcel, or prevents the reasonable development of the lot or parcel or the physical use of the parcel.
 - c. The tree is diseased or insect infested and as such poses a hazard to people, property, or other trees.
 - d. The tree is weakened by age, storm, fire, ice or other injury so as to cause a danger to people, property, or other trees.
 - e. The tree is causing damage to abutting buildings, sidewalks, or utilities.
 - f. The tree is dead.
 - g. Or for a reason, not listed above, that has been deemed necessary by the Public Works Director.
2. All stumps within the public way shall be removed to at least one (1) foot below grade.
3. As a condition of removal, the Public Works Director may require the planting of a replacement tree within close proximity to the tree for which a removal permit has been issued.

4.12.050 Planting. Planting practices shall be carried out as specified within the Tree Program.

4.12.060 Notification of Maintenance Required

A. The Public Works Director, or designee, may serve notice on the abutting property owner to prune, remove, or otherwise perform maintenance on any tree within or overhanging the public way in order to meet the standards outlined in Section 4.12.040. Neither the duty of the abutting

property owner to maintain trees located on an abutting public way, nor the liability for the property owner's failure to do so, is dependent upon any notice from the City.

B. Within fourteen (14) calendar days of receiving notification from the Public Works Director or designee that tree maintenance or removal is required, the responsible property owner shall apply for a permit to perform said maintenance or removal.

C. If an abutting property owner fails to correct the condition described in the notice within the time specified in the notice or the decision on appeal, the City may do so and assess the property owner the actual cost for the required work to be completed plus an administrative fee as adopted by City Council.

4.12.070 Tree Maintenance by City. The City shall have the right to plant, prune, maintain, and remove trees located within the public way or parks. The City may remove, or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to utilities, or infected by fungus, insect, or other pest. The City may remove, or cause to be removed, any tree which is required to be removed as part of a capital improvement project. This section does not prohibit the planting of street trees by adjacent property owners, providing the selection and location of said tree is in accordance with Tree Program.

4.12.080 Violations and Penalties.

A. The following acts shall be considered offenses of this Section.

- 1. Mutilation.** Unless specifically authorized in writing by the Public Works Director, or designee, no person shall damage, cut, carve, transplant, or remove any Street Tree or Parks Tree ; attach any rope, wire, nails, advertising posters, or other contrivance; place, deposit or store any stone, brick, sand, earth, or other material as to impede the passage of water, air and fertilizer to the roots or allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with the tree; cause compaction under the drip-line of the tree; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any such tree.
- 2. Tree Topping.** No person shall top any street tree or park tree. Pruning performed by franchisees to clear utility lines where other pruning practices are impractical, may be exempted from this section with written authorization from the Public Works Director or designee.

B. Penalty. Any person who violates any provision of this ordinance may be subject to a fine not to exceed fifteen hundred dollars (\$1500) for each separate offense as outlined in Section 1.06.010. In addition, if as the result of the violation of the provisions of this ordinance, the injury, mutilation or death of a Street Tree or Park Tree is caused; the cost of repair or replacement of such tree shall be borne by the person in violation. The replacement value of trees and shrubs shall be determined in accordance with the latest revision of "Valuation of Landscape Trees, Shrubs and Other Plants" as published by the International Society of Arboriculture.

4.12.090 Variances.

A. Upon written application thereof, the Tree Board may grant variances from the requirements of this Chapter if it determines that any of the following conditions exist:

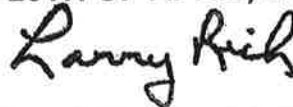
1. That strict compliance with the requirements will constitute a taking of property without due process of law;
2. That strict compliance with the requirements will create an unreasonable hardship in the use of the property but will not be contrary to the public interest and will not unreasonably and adversely affect other properties or persons.
3. That strict compliance with the requirements will create a safety hazard to people or property.

B. Before granting any variance to this chapter or the Tree Program, the Tree Board shall afford all interested persons to be heard on the matter and shall give notice of such hearing by sending notification of the meeting date to all property owners located within 300 feet of the tree that is the subject of the variance.

SECTION 2. SEVERABILITY. The Sections, Subsections, Paragraphs and clauses of this ordinance are severable. The invalidity of one Section, Subsection, Paragraph or clauses shall not affect the validity of the remaining Sections, Subsections, Paragraphs or clauses.

ADOPTED BY THE ROSEBURG CITY COUNCIL ON THIS 25TH OF APRIL, 2016.

APPROVED BY THE MAYOR ON THIS 25TH OF APRIL, 2016.



LARRY RICH, MAYOR

ATTEST:


SHEILA R. COX, CITY RECORDER