

ORDINANCE NO. 207

AN ORDINANCE REGULATING THE PLANTING, MAINTENANCE, PROTECTION, CONTROL, AND REMOVAL OF TREES IN AND UPON PUBLIC AREAS WITHIN THE CITY LIMITS OF COBURG AND REPEALING CONFLICTING ORDINANCES

THE CITY OF COBURG ORDAINS AS FOLLOWS:

Section 1. Title.

- (a) This ordinance shall be known and cited as the "Tree Ordinance" of Coburg.

Section 2. Purpose and Intent.

(a) **Purpose.** It is the purpose of this ordinance to promote and protect public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees in and upon public areas and right-of-ways within Coburg.

(b) **Intent.** It is the intent of the City Council of Coburg that the terms of this ordinance shall be construed as to promote:

- (1) The planting, maintenance, restoration, and survival of desirable trees within the City, and;
- (2) The protection of community residents from personal injury and property damage, and the protection of the City of Coburg from property damage caused or threatened by the improper planting, maintenance, or removal of trees located in and upon public areas and right-of-ways within Coburg.

Section 3. Definitions. As used within this ordinance, the following terms shall have the meanings set forth in this section:

(a) **City of Coburg Tree Program.** A manual prepared by the City Administrator, with the assistance of the Public Works Department, pursuant to this ordinance containing regulations and standards for the planting, maintenance, and removal of trees in and upon public areas and right-of-ways within the City limits.

(b) **Trees.** A woody perennial, usually with one main trunk, attaining a height of at least six feet at maturity or a trunk diameter of at least two inches, including shrubs when planted in the right-of-way or so near a right-of-way as to obstruct or interfere with public use of the right-of-way.

(c) **Street Trees.** Trees, shrubs, or bushes, and all other woody vegetation the trunk(s) of which are growing in public rights-of-ways within the City.

(d) **Overhanging Trees.** Trees, shrubs, or bushes, and all other woody vegetation the trunk(s) of which are growing outside public rights-of-ways within the City, but whose vegetation is in or above public right-of-way.

(e) **Park Trees.** Trees, shrubs, bushes, and all other woody vegetation in public parks and all areas owned by the City or to which the public has free access to as a park.

Section 4. Duties of the Tree Committee

Duties and Responsibilities. In addition to other duties, it shall be the responsibility of the Park/Tree Committee to study, investigate, counsel; and develop and/or update annually a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets, and in other public areas. Such plan will be presented annually to the City Council and, upon their acceptance and approval, shall constitute the official comprehensive City tree plan for the City of Coburg. The committee,

when requested by the City Council, shall consider, investigate, make finding, report, and recommend upon any special matter or question coming within the scope of its work.

Section 5. Ordinance Administration.

(a) **Authority.** The City Administrator, or designee, shall administer this ordinance.

(b) **Governing Standards.** The City Administrator, with the assistance of the Public Works Department, shall develop and periodically review and revise, as necessary, the City of Coburg Tree Program standards. The City of Coburg Tree Program standards shall be published in a manual available to the public. This manual shall contain regulations and standards for the planting, maintenance, and removal of trees, shrubs, and other plants upon City owned property.

(c) **Public Awareness.** The City Administrator, or designee, shall make available to any interested persons copies of the Tree Ordinance and the City of Coburg Tree Program manual.

Section 6. Permits.

(a) **Scope.** No person except the Public Works Department, or designee; a contractor hired by the City; or a regulated public utility and their authorized agents and contractors may plant; prune; or excavate within ten (10) feet of a street or park tree without first obtaining a permit from the City.

(b) **Fees.** The Coburg City Council shall set a permit fee schedule based on the reasonable costs of issuing such permits. The permit fee schedule shall be reviewed periodically as part of the City of Coburg Tree Program.

(c) **Public Utility Companies.** Public utility companies shall notify the Public Works Department, prior to pruning any tree located on City owned property for the purpose of maintaining safe line clearance and shall carry out all such work in accordance with American National Standards.

Section 7. Tree Maintenance and Care.

(a) **Standards.** All Street Trees and Overhanging Trees must be pruned by American National Standards. Such standards shall be adopted as part of the City of Coburg Right-of-Way Tree Program.

(b) **Property Owners to Maintain Overhanging Trees.** Every owner of property having an Overhanging Tree shall prune the branches so that such branches shall not obstruct the view of any street intersection and so that there shall be a clear space of thirteen feet, six inches (13' 6") over the street, and/or eight (8) feet above the sidewalk. Said owners shall remove all dead, diseased, or dangerous trees; or broken or decayed limbs which constitute a menace to public safety.

(c) **Adjacent Property Owners Liable.** The owner of property having Overhanging Trees shall be liable for injury, damage, or loss to persons or property caused by the property owner's negligent failure to comply with subsection (b) of this section.

(d) **Notification.** The Public Works Department may serve notice on the owner of property having Overhanging Trees to prune, remove, or otherwise treat any Overhanging tree as conditions may require. Any such notice shall be governed by Section 8 of this ordinance. Neither the duty of the owner of property having Overhanging Trees to maintain Overhanging Trees, nor the liability for the property owner's failure to do so, is dependent upon any notice from the City.

(e) **Debris Removal.** The person working on trees on a street, highway, or public area shall be required to remove all debris from the right-of-way by sunset of the same day, unless specifically authorized to do otherwise by the Public Works Department. The acceptable standard shall be a broom clean finish or better.

(f) **City Tree Maintenance.** The City shall have the right to plant, prune, maintain, and remove trees located within the public right-of-way as may be necessary to preserve or enhance the symmetry and beauty of such areas. 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 sewers, electrical power lines, natural gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect, or other pest. This section does not prohibit the planting of street trees by adjacent property owners, providing that the selection and location of said tree is in accordance with Section 10 of this ordinance.

(g) **City Held Harmless.** The City of Coburg shall not be liable for injury, damage, or loss to person or property caused in whole or part by the defective or dangerous condition of any Overhanging Tree. The property owner shall defend and hold harmless the City from all claims for loss and damage arising from the owner's negligent failure to comply with Section 7 of this ordinance.

Section 8. Notification.

(a) **Notice to Prune or Remove.** Should any owner of property having Overhanging Trees fail to maintain a Overhanging trees as per Section 7 of this ordinance, the Public Works Department shall order such person or persons, within ten days of mailing of such notice, to so prune or remove such trees.

(b) **Notice Required.** The notice required herein shall be served by mailing a copy of the order to the last known address of the property owner, by certified mail.

(c) **Failure to Comply.** When a person to whom a notice is directed shall fail to comply within this specified time, it shall be lawful for the City to cause the trees in question to be pruned and/or removed; and the exact cost thereof shall be assessed to the property owner as provided by law in the case of public nuisance abatements.

Section 9. Mutilation and Topping of Trees.

(a) **Mutilation.** Unless specifically authorized in writing by the Public Works Department, no person shall intentionally damage, cut, carve, transplant, or remove any tree in or upon a right-of-way; attach any rope, wire, nails, advertising posters, or other contrivance; allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any such tree.

(b) **Tree Topping.** It shall be unlawful as a normal practice for any person, firm, or City department to top any street tree; park tree; overhanging tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. Trees damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this ordinance at the determination of the Public Works Department.

Section 10. Tree Planting Practices.

(a) **Controlling Document.** The planting practices shall be carried out as specified within the City of Coburg Tree Program and shall be reviewed on an annual basis by the Public Works Department.

(b) **Prohibited Trees.** It shall be unlawful to plant poplar, cottonwood, black walnut, willows, box elder, ailanthus, elm, or bamboo trees in a public right of way, sewer or water easement.

(c) **Listed Trees.** The City shall consider the use of native or drought tolerant, low water-requiring trees and landscaping materials. The City shall maintain and periodically update a list of street trees and plants fitting this description.

Section 11. Violation and Penalty.

Any person who violates any provision of this ordinance or who fails to comply with any notice issued pursuant to the provisions of said ordinance, upon being found guilty of violation, shall be subject to a fine not to exceed two hundred and fifty dollars (\$250.00) for each separate offense; each day during which any violation of the provisions of this ordinance shall occur or continue shall be a separate offense. If, as the result of the violation of the provisions of this ordinance, the injury; mutilation; or death of a tree or shrub located in a right-of-way is caused; the cost of repair or replacement of such tree or shrub shall be borne by the party 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.

Section 13. Severability.

If any provision of this ordinance or application thereof to any person or circumstance is held invalid by any court, other provisions or applications of the ordinance which can be given effect without the invalid provision or application shall not be affected, and to this end the provisions of this ordinance are declared to be severable.

Section 14. Historic Trees

No Person shall fell or perform major pruning or topping of a tree which has been listed or included in the City's inventory of historic trees, regardless of whether the tree is on public or private property, without first obtaining a permit to do so at least ten days prior to taking such action.

Section 15. Repeal of Conflicting Ordinances

Those portions of Ordinance A-108 dealing with trees are hereby repealed, including but not limited to those changes to Ordinance A-108 made by Ordinance A-108-F, and all other ordinances of the City of Coburg which conflict with this ordinance are hereby repealed in so far as they conflict with this ordinance. Portions of Ordinance A-108 and other ordinances which are not repealed remain in full force and effect.

The foregoing ordinance was, by City Council consent, after public notice and Council deliberations, read by title only in accordance with the City Charter on the 9th day of October, 2007, whereupon it was put to a vote, the results of which were:

YES: 4

NO: 0

ABSTAIN: 0

PASSED: X

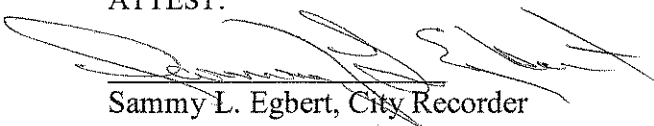
REJECTED:

SIGNED AND APPROVED this 9th day of October, 2007



Mike Watson, Council President

ATTEST:



Sammy L. Egbert, City Recorder