

ORDINANCE NO. 23-1004

AN ORDINANCE OF THE CITY OF OREGON CITY AMENDING OREGON CITY MUNICIPAL CODE CHAPTER 12.08 – PUBLIC AND STREET TREES AND CHAPTER 12.32 – HERITAGE TREES.

WHEREAS, At the direction of the City Commission, the Natural Resource Committee, working in conjunction with Public Works, recommended changes to the Street Tree Code to exempt street trees in planter strips three feet wide or less from replanting or fee in lieu requirements; and

WHEREAS, Planning Division staff presented these recommendations to the Citizen Involvement Committee, Planning Commission, and City Commission for questions and feedback; and

WHEREAS, Planning Division staff have presented these recommendations to the general public, received public input, and conveyed that input to the City Commission; and

WHEREAS, The City Commission has directed Planning Division staff to make changes to the Public and Street Tree Code to exempt street trees in planter strips three feet wide or less from replanting or fee in lieu requirements; and

WHEREAS, The City Commission has directed Planning Division staff to make changes to the Public and Street Tree Code to clarify and make consistent the City Manager or designee as the decision-maker for Street Tree Removal and Replanting applications; and

WHEREAS, The City Commission has directed Planning Division staff to make changes to the Public and Street Tree Code to clarify and make consistent use of the term Certified Arborist, as defined in OCMC 17.04.082; and

WHEREAS, The City Commission has directed Planning Division staff to make changes to the Public and Street Tree Code to remove the County-level deed recordation requirement for any street trees designated in private front yards; and

WHEREAS, The City Commission has directed Planning Division staff to make changes to the Public and Street Tree Code to more clearly prioritize street tree replanting alternatives, making the fee in lieu option a last resort; and

WHEREAS, The City Commission has directed Planning Division staff to make changes to the Public and Street Tree Code to clarify – where no requirement currently exists – replacement street tree size requirements for dead, diseased, and hazardous trees,

NOW, THEREFORE, OREGON CITY ORDAINS AS FOLLOWS:

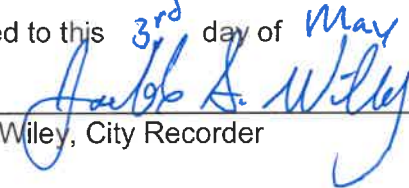
Section 1. The City Commission adopts amendments to Oregon City Municipal Code Title 12: Streets, Sidewalks and Public Places, which are attached hereto as Exhibits ‘A,’ ‘B,’ and ‘C.’

Section 2. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.


Section 3. Effectiveness. This Ordinance shall take effect on June 2, 2023.

Read for the first time at a regular meeting of the City Commission held on the 19th day of April 2023, and the City Commission enacted the foregoing ordinance on the 3rd day of May 2023.


DENYSE C. MCGRIFF
Mayor

Attested to this ^{3rd} day of ^{May} 20²³


Jakob Wiley, City Recorder

Approved as to legal sufficiency:


City Attorney

12.08.035 Tree removal and replacement.

Existing street trees, trees in the right-of-way, and trees on public property shall be retained and protected during development unless removal is specified as part of a land use approval or in conjunction with a public capital improvement project, in accordance with OCMC 17.41. Tree removal shall be mitigated by the following:

- A. A dead, diseased, or hazardous street tree, as determined by a certified arborist and approved by the City Manager or designee, may be removed if replaced with one (1) new tree for each dead, diseased or hazardous tree that is removed.
 - 1. Hazardous trees which have raised the adjacent sidewalk in a manner which does not comply with the Americans with Disabilities Act may be removed and replaced without a report from a certified arborist, as defined in OCMC 17.04.082.
 - 2. All replacement trees under this section shall have a minimum one and one half (1.5) inch caliper trunk measured six (6) inches above the root crown.
- B. Removed trees that were not determined to be dead, diseased, or hazardous shall be replaced in accordance with Table 12.08.035. All replaced street trees shall have a minimum one and one-half-inch (1.5 inch) caliper trunk measured six (6) inches above the root crown.

Table 12.08.035

Replacement Schedule for Trees Determined to be Dead, Diseased or Hazardous by a Certified Arborist		Replacement Schedule for Trees Not Determined to be Dead, Diseased or Hazardous by a Certified Arborist	
Diameter of tree to be Removed (Inches of diameter at 4-ft. height)	Number of Replacement Trees to be Planted	Diameter of tree to be Removed (Inches of diameter at 4-ft. height)	Number of Replacement Trees to be Planted
Any Diameter	1 Tree	Less than 6"	1 Tree
		6" to 12"	2 Trees
		13" to 18"	3 Trees
		19" to 24"	4 Trees
		25" to 30"	5 Trees
		31" and over	8 Trees

- C. Removed trees shall be replaced by approved tree species:
 - 1. Within the right-of-way abutting the same frontage; and
 - 2. Subject to the requirements under OCMC 12.08.015.
- D. If an applicant can demonstrate to the satisfaction of the City Manager or designee that a sufficient location to replant tree(s) according to section C is not available, the City Manager or designee may allow:
 - 1. Installation of replacement tree(s) in one of the following alternative locations:
 - a. Within the right-of-way abutting another property, with abutting property owner approval, or
 - b. On public property, with City Manager or designee approval, or

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- c. Within 10 feet of the right of way in the abutting private yard; or
2. As a last resort, a fee in lieu of replacing the tree(s), subject to the following:
- a. The applicant must demonstrate to the satisfaction of the City Manager or designee that none of the alternative replanting options in section D.1 is sufficient for replanting.
 - b. Is to be placed into a city fund dedicated to obtaining trees, planting trees and/or tree education in Oregon City.

E. Exceptions:

- 1. Trees that are listed as invasive non-native, nuisance, prohibited, or noxious vegetation species, as defined in OCMC 17.04.605, may be removed without replacement or fee in lieu of replacement.
- 2. Trees in planter strips three (3) feet or less in width may be removed without replacement or fee in lieu of replacement.

12.08.025 General tree maintenance.

Abutting property owners shall be responsible for the maintenance and replacement of street trees and planting strips. Topping of trees is prohibited, unless under recommendation of a certified arborist. Trees shall be trimmed appropriately. Maintenance shall include watering during dry periods, trimming of established trees to remove dead branches and dangerous limbs and to maintain a minimum seven-foot clearance above all sidewalks, eight-foot clearance in clear vision areas pursuant to OCMC 10.32, and ten-foot clearance above the street. Planter strips shall be kept clear of weeds, obstructing vegetation and trash.

12.32.020 Definitions.

For the purposes of this chapter the following definitions are used:

"Diseased tree" means a tree that has a naturally occurring disease that is expected to kill the tree, or which harbors communicable diseases or insects of a type that could infest and cause the decline of adjacent or nearby trees as determined by a certified arborist, as defined in OCMC 17.04.082.

"Hazardous tree" means a tree that presents a significant risk to life or property as determined by a certified arborist, as defined in OCMC 17.04.082. An otherwise healthy tree that may become a hazard to a proposed future development shall not be considered a hazardous tree. Hazardous trees may include, but are not limited to dead, diseased, broken, split, cracked, leaning, and uprooted trees. A tree harboring communicable diseases or insects of a type that could infest and cause the decline of adjacent or nearby trees may also be identified as a hazardous tree.

"Heritage stand" means a group of two or more trees that have been designated by the city as having unique importance, subject to the heritage tree regulations of OCMC 12.32.

"Heritage tree" means a tree that has been designated by the city as having unique importance, and subject to the heritage tree regulations of OCMC 12.32. Where a grouping of two or more heritage trees has been so designated, the term "heritage stand" may be used.

"Imminent hazard tree" means a hazardous tree, all or more than thirty percent of which has already fallen or is estimated to fall within seventy-two hours into the public right-of-way or onto a target that cannot be protected, restricted, moved, or removed. (See also Tree, hazard.) Determination of imminent hazard may be made by the city of Oregon City public works or emergency personnel, a PGE forester, or a certified arborist.

"Native tree" or "native tree stand" refers to a regulated native tree or stand of trees that are defined as such on regionally recognized plant lists. Significant native trees are those that contribute to the landscape character of the area.

"Tree stand" means a stand of three or more trees which together create a mutual canopy continuous over eighty or more percent of the area within the boundaries of the stand.