

Chapter 17.58

TREES

(as adopted by Ord. 4654B Dec. 9, 1997)

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17.58.010 Purpose. The purpose of this ordinance is to establish and maintain the maximum amount of tree cover on public and private lands in the city; provide tree-lined streets throughout the city; select, situate and maintain trees appropriately to minimize hazard, nuisance, damage, and maintenance costs; to enhance the appearance, beauty and charm of the City; to implement applicable adopted Downtown Improvement Plan provisions; to promote a diverse, healthy, and sustainable community forest; and to educate the public regarding community forest issues. (Ord. 4816 §2, 2004; Ord. 4654B §1, 1997).

17.58.020 Applicability. The provisions of this ordinance shall apply to:

- A. Individual significant or historic trees as defined in this ordinance.
- B. **All trees or street trees planted in any public area or right-of-way in accordance with an approved street tree plan or landscape plan;**
- C. All trees ~~planted in or upon~~ **with trunks located completely or partially within** any public area or right-of-way;
- D. All trees ~~planted in or upon~~ **with trunks located completely within** any private property which directly affect public infrastructure including but not limited to sewers, water mains, sidewalks, streets, public property, or clear vision distances at street intersections;
- E. All trees on developable land and subject to or undergoing development review such as site plan review, tentative subdivision review, or partition review; (Ord. 4654B §1, 1997).

17.58.030 Definitions. For the purpose of this section, refer to Section 17.06.045 for Tree related definitions. (Ord. 4952 §1, 2012).

17.58.040 Tree Removal/Replacement

- A. The removal or major pruning of a tree, as defined in Section 17.58.020, ~~within the public right-of-way~~ shall require City approval, unless specifically designated as exempt by this ordinance. Persons wishing to remove or prune such trees shall file an application for a permit with the McMinnville Planning Department. The applicant shall include information describing the location, type, and size of the subject tree or trees, ~~and the reasons for the desired action,~~ and the costs associated with tree removal, replacement, and repair of any other infrastructure impacted by the tree removal. Requests for tree removal or pruning of trees outside of the downtown tree zone shall be forwarded to the McMinnville Landscape Review Committee for a decision within ~~fifteen~~ **30 (thirty)** days of submittal. Requests for tree removal within the downtown ~~tree zone~~ area shall be submitted to the McMinnville Planning Department. Such requests shall be acted upon as soon as practicable, with consideration given to public safety, value of the tree to the public, and work schedules. The Planning Director or his designee should attempt to make decisions on such requests within five calendar days of submittal. The Landscape Review Committee or ~~Planning Director~~ Planning Director, as appropriate, may approve, approve with conditions, or deny the request based on the criteria stated in Section 17.58.050. A decision of the committee or Director may be appealed to the Planning Commission if notice of intent to appeal is filed with the Planning Department within ~~five~~ **15 (fifteen)** days of the committee's or Director's decision. A decision made by the Planning Director in response to a request to remove an unsafe tree, or a tree causing repeated and excessive damage to sidewalks or other public or private improvements or structures shall be final, unless appealed by the applicant; no other party shall have standing to appeal.
- B. Trees subject to this ordinance shall be removed or pruned following accepted pruning standards adopted by the City. The Planning Director, after consultation with appropriate city staff and/or a certified arborist, shall direct removal of downtown trees that are identified in a current downtown tree zone inventory assessment as unhealthy, dangerous to the public, inappropriate for the downtown area, or otherwise in need of removal.
- C. The applicant shall be responsible for all costs associated with the tree removal or pruning, or as otherwise required by this ordinance, and shall ensure that all work is done in a manner which ensures safety to individuals and public and private property.
- D. Approval of a request to remove a tree may be conditioned upon replacement of the tree with another tree approved by the city, or a requirement to pay to the city an amount sufficient to fund the planting and establishment by the city of a tree, or trees, of similar value. The value of the existing tree to be removed shall be calculated using the methods set forth in the edition then in effect of the "Guide for Plant Appraisal" published by the International Society of Arboriculture Council of Tree Landscape Appraisers. Every attempt should be made to plant replacement trees in the same general location as the tree being removed. In the event that a replacement tree cannot be planted in the same general location, a condition of approval may be required to allow for the

replacement tree to be planted in another location in the City as part of the City's annual park tree planting program.

- E. The applicant is responsible for grinding stumps and surface roots at least six inches below grade. At least a two inch thick layer of topsoil shall be placed over the remaining stump and surface roots. The area shall be crowned at least two inches above the surrounding grade to allow for settling and shall be raked smooth. The applicant shall restore any damaged turf areas and grades due to vehicular or mechanical operations. The area shall be re-seeded.
- F. **The applicant shall complete the tree removal, and tree replacement if required, within six months of receiving notification of the Landscape Review Committee's decision.**
- G. Other conditions may be attached to the permit approval by the McMinnville Landscape Review Committee as deemed necessary.
- H. The pruning and removal of street trees within the downtown tree zone shall be the responsibility of the City, and shall be undertaken at public expense.
- I. ~~Specific design drawings and specifications shall be developed for the planting of street trees within the downtown tree zone, and shall be made readily available to all property owners undertaking sidewalk construction, reconstruction or modifications.~~ **The planting of street trees shall be subject to the design drawings and specifications developed by the City in May 2014. Specific design drawings and specifications have been developed for trees within the downtown tree zone and for street trees outside the downtown tree zone.** Such design specifications may **be periodically updated by the City to include specifications such as** tree root barriers, watering tubes or structures, **tree grates,** and removable pavers, and shall graphically describe the proper method for planting trees within the downtown tree zone to minimize the potential for sidewalk / tree root conflict.
- J. The City shall adopt implementation measures that cause, through rotation over time, the development of a variable aged stand of trees within the downtown tree zone. In order to implement this policy, the Planning Director shall authorize, but shall limit, annual tree removal within the downtown to no more than three (3) percent of the total number of existing downtown trees in the downtown tree zone. (Ord. 4816 §2, 2004; Ord. 4654B §1, 1997).

17.58.050 Review Criteria. A permit for major pruning or tree removal shall be granted if any of the following criteria apply:

- A. The tree is unsafe, dead, or diseased as determined by a Certified Arborist. Verification of tree health may be required, at the expense of the applicant, by a Certified Arborist acceptable to the City.
- B. The tree is in conflict with public improvements.
- C. The proposed removal or pruning is part of an approved development project, a public improvement project where no alternative is available, or is part of a street tree improvement program.
- D. A street tree within the downtown tree zone may also be removed if the Planning Director determines that the tree is causing repeated and

excessive damage to sidewalks or other public or private improvements or structures. (Ord. 4816 §2, 2004; Ord. 4654B §1, 1997).

17.58.060 Permit Exemptions.

- A. Hazardous Tree - If an imminent danger exists to the public or any private property owner or occupant, the City may issue an emergency removal permit. The removal shall be in accordance with International Society of Arboriculture (ISA) standards.
- B. **Tree Impacting Public Infrastructure – If a tree is causing damage to or impacting public infrastructure that the adjacent property owner is not responsible for repairing, such as pedestrian ramps, utility vaults, or public storm or sanitary sewer lines, the tree removal may be approved by the Planning Director or their designee. The removal shall be in accordance with International Society of Arboriculture (ISA) standards. In the event that a replacement tree cannot be planted in the same general location as the tree removed, the replacement tree may be planted in another location in the City as part of the City’s annual park tree planting program.**
- C. Maintenance - Regular pruning maintenance which does not require the removal of over 20 percent of the tree’s canopy, tree topping, or the disturbance of over 10 percent of the tree’s root system is exempt from the provisions of this ordinance.
- D. Removal of downtown trees at the direction and initiative of the City Planning Director. (Ord. 4816 §2, 2004; Ord. 4654B §1, 1997).

17.58.070 Tree Topping It shall be unlawful for any person, firm, or the City to top any tree. 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 McMinnville Landscape Review Committee, applying criteria developed by the City. (Ord. 4654B §1, 1997).

17.58.075 Protection of Trees

- A. It shall be unlawful for any person to remove, destroy, break, or injure any street tree or public tree. Individuals convicted of removing or destroying a tree without City approval shall be subject to paying to the City an amount sufficient to fund the planting and establishment of a tree, or trees, of similar value. The value of the removed or destroyed tree shall be calculated using the methods set forth in the edition then in effect of the "Guide for Plant Appraisal" published by the International Society of Arboriculture Council of Tree Landscape Appraisers.
- B. It shall be unlawful for any person to attach or keep attached to any street or public tree or to the guard or stake intended for the protection of such tree, any rope, wire, chain, sign, or other device, except as a support for such tree.
- C. During the construction, repair, alteration or removal of any building or structure it shall be unlawful for any owner or contractor to leave any street tree or public tree in the vicinity of such building or structure without a good and sufficient guard or protectors as shall prevent injury to such tree arising out of or by reason of such construction or removal.
- D. Excavations shall not occur within the drip line of any street tree or public tree without approval of the City, applying criteria developed by the Landscape Review Committee. Utility pole installations are exempted from these requirements. During such excavation or construction, any such person shall guard any street tree or public tree within the drip line, or as may be required by the Landscape Review Committee.
- E. All building material or other debris shall be kept outside of the drip line of any street tree or public tree. (Ord. 4654B §1, 1997).

17.58.080 Street Tree Planting—When Required. All new multi-family development, commercial or industrial development, subdivisions, partitions, or parking lots fronting on a public roadway which has a designated curb-side planting strip or planting island shall be required to plant street trees in accordance with the standards listed in Section 17.58.090. (Ord. 4654B §1, 1997).

17.58.090 Street Tree Standards.

- A. The species of the street trees to be planted shall be chosen from the approved street tree list **McMinnville Street Tree List, as approved by Resolution 2016-22,** unless approval of another species is given by the McMinnville Landscape Review Committee. **The Landscape Review Committee may periodically update the McMinnville Street Tree List as necessary to reflect current arborist practices and industry standards.**
- B. Street trees shall be a minimum of two (2) inches in caliper measured at six (6) inches above ground level. All trees shall be healthy grown nursery stock with a single straight trunk, a well developed leader with tops and roots characteristic of the species cultivar or variety. All trees must be free of insects, diseases, mechanical injury, and other objectionable features when planted.

- C. Small or narrow stature trees (under 25 feet tall and less than 16 feet wide branching) should be spaced no greater than 20 feet apart; medium sized trees (25 feet to 40 feet tall, 16 feet to 35 feet wide branching) should be spaced no greater than 30 feet apart; and large trees (over 40 feet tall and more than 35 feet wide branching) should be spaced no greater than 40 feet apart. Within residential developments, street trees should be evenly spaced, with variations to the spacing permitted as approved by the City for specific site limitations and safety purposes. Within commercial and industrial development staggered, or irregular spacing is permitted, as may be approved by the McMinnville Landscape Review Committee. When planting replacement trees within the downtown tree zone, consideration shall be given to the height of adjacent buildings.
- D. When located adjacent to a local residential street or minor collector street, street trees shall be planted within a curbside landscape strip measuring a minimum of three (3) feet in width. Street trees adjacent to major collector streets or arterial streets shall be placed a minimum of four (4) feet from the back edge of the sidewalk. In no case shall a tree be planted closer than two and one-half (2 1/2) feet from the face of a curb. **These standards may be superseded by design drawings and specifications as periodically developed and adopted by the City.**
- E. Street trees shall not be planted within ten (10) feet of fire hydrants, utility poles, sanitary sewer, storm sewer or water lines, or within twenty (20) feet of street light standards or street intersections, or within five (5) feet of a private driveway or alley. New utility poles shall not be located within five (5) feet of an existing street tree. Variations to these distances may be granted by the Public Works Director and as may be required to ensure adequate clear vision.
- F. Existing street trees shall be retained unless approved by the Planning Director for removal during site development or in conjunction with a street construction project. Sidewalks of variable width and elevation may be utilized as approved by the Planning Director to save existing street trees. Any street tree removed through demolition or construction within the street right-of-way, or as approved by the City, shall be replaced within the street right-of-way at a location approved by the city with a tree, or trees, of similar value. As an alternative the property owner may be required to pay to the City an amount sufficient to fund the planting and establishment by the city of a tree of similar value. The value of the existing street tree to be removed shall be calculated using the methods set forth in the edition then in effect of the "Guide for Plant Appraisal" published by the International Society of Arboriculture Council of Tree Landscape Appraisers. The developer or applicant shall be responsible for the cost of the planting, maintenance and establishment of the replacement tree.
- G. Sidewalk cuts in concrete for tree planting shall be a minimum of four feet by six feet, with the long dimension parallel to the curb, and if located within the downtown tree zone shall follow the design drawing, ~~or modified design,~~

~~approved by the Planning Director~~ **or updated design drawings and specifications as periodically developed and adopted by the City.**

- H. Street trees, as they grow, shall be pruned to provide at least eight (8) feet of clearance above sidewalks and thirteen (13) feet above local streets, fifteen (15) feet above collector streets, and eighteen (18) feet above arterial streets. This provision may be waived in the case of newly planted trees so long as they do not interfere with public travel, sight distances, or endanger public safety as determined by the City.
- I. Maintenance of street trees, other than those located in the downtown tree zone shall be the continuing obligation of the abutting property owner. The City shall undertake regular maintenance of street trees within the downtown tree zone in accordance with appropriate horticultural practices including pruning and fertilizing to properly maintain the health of such trees. (Ord. 4816 §2, 2004; Ord. 4654B §1, 1997).

17.58.100 Street Tree Plans

- A. Submittal.
 - 1. Subdivisions and Partitions: Street tree planting plans shall be submitted to the Landscape Review Committee for review and approval prior to the filing of a final subdivision or partition plat.
 - 2. Commercial, Industrial, Parking Lots, and Multi-family Residential Development: Landscape plans, to include street tree planting as may be required by this ordinance, shall be submitted to the Landscape Review Committee for review and approval prior to the issuance of a building permit.
- B. Street Tree Plan Content. At a minimum, the street tree planting plan should:
 - 1. Indicate all existing trees, noting location, species, size (caliper and height) and condition;
 - 2. Indicate whether existing trees will be retained, removed or relocated;
 - 3. Indicate the measures to be taken during site development to ensure the protection of existing trees to be retained;
 - 4. Indicate the location, species, and size (caliper and height) of street trees to be planted;
 - 5. Indicate the location of proposed and existing utilities and driveways; and
 - 6. Indicate the location of rights-of-way, existing structures, driveways, and existing trees including their species, size, and condition, within twenty feet of the subject site. (Ord. 4654B §1, 1997).

17.58.110 Street Tree Planting

- A. Residential subdivisions and partitions.
 - 1. Planting Schedule: Street trees required of residential subdivisions and partitions shall be installed prior to submittal of a final subdivision plat or partition plat. As an alternative the applicant may file a surety bond or

other approved security to assure the planting of the required street trees, as prescribed in Section 17.53.153.

- B. Commercial, Industrial, Multi-family, Parking Lot Development.
 - 1. Planting Schedule: Street trees required of a commercial, industrial, multi-family, or parking lot development shall be installed at the time all other required landscaping is installed. (Ord. 4654B §1, 1997).

17.58.120 Street Tree Maintenance.

- A. Street trees shall be continually maintained, including necessary watering, weeding, pruning and replacement, by the developer or property owner for one full growing season following planting, or as may be required by the City. (Ord. 4654B §1, 1997).
- B. **Street tree plans, or landscape plans including street trees, shall be maintained in perpetuity. In the event that a street tree must be replaced, the adjacent property owner or developer shall plant a replacement tree of a species from the approved street tree or landscape plan.**