



## NOTICE OF PUBLIC MEETING

CITY OF ALBANY  
TREE COMMISSION  
Albany City Hall, Willamette Room  
333 Broadalbin Street SW

Thursday, November 20, 2008  
3:00 p.m.

### AGENDA

- |           |  |              |
|-----------|--|--------------|
| 3:00 p.m. | 1. CALL TO ORDER                                   | Tom Krupicka |
|           | 2. ROLL CALL                                       |              |
|           | 3. COMMENTS FROM THE PUBLIC                        |              |
|           | 4. APPROVAL OF MINUTES                             |              |
| 3:15 p.m. | 5. Scheduled Business                              |              |
|           | a) Outstanding Tree Issues                         | Carnagey     |
|           | b) Heritage Tree Candidates                        | All          |
|           | c) Tree Code Revision Discussion                   | All          |
| 4:00 pm   | 6. BUSINESS FROM THE COMMISSION                    |              |
|           | 7. NEXT MEETING DATE – Thursday, December 18, 2008 |              |
| 4:30 p.m. | 8. ADJOURNMENT                                     |              |

### PLEASE BRING YOUR COPY OF:

- Urban Forestry Management Plan

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The location of the meeting/hearing is accessible to the disabled. If you need special accommodations to attend or participate, please notify the Human Resources Department in advance by calling 917-7501.

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**CITY OF ALBANY  
TREE COMMISSION  
Albany City Hall, Council Chambers**

Tuesday, September 16, 2008

3:00 p.m.

**MINUTES**

Commission members present: Dick Miles, Mark Azevdo, David Smith,  
Barb Bolden, Tom Krupicka

Commission members absent:

Staff present: Jim Delapoer, City Attorney, Craig Carnagey, City Forester,  
Tari Hayes, Administrative Assistant

Others present: Bodie Dickerson, Ellen Hammill

**1. CALL TO ORDER**

Tom Krupicka called the meeting to order at 3:00 pm.

**2. ROLL CALL**

**3. COMMENTS FROM THE PUBLIC**

Bodie Dickerson asked if there was an appeal process for the public when removal permits are approved. The City Attorney said that the only person able to appeal a permit is the permit requestor. There is no public appeal process for tree removals on private property or for street trees. If the public does not like a decision they can express their feelings to the City Council.

**4. APPROVAL OF MINUTES – approved June and July, August with changes**

**5. SCHEDULED BUSINESS**

a) Tree Code Revision Discussion

The City Attorney provided clarification on action items from the August meeting. The Action Items and his response were as follows:

**ACTION ITEM:**

Craig will invite the City Attorney to the next Commission meeting to answer the above questions and to give an opinion on the roles and responsibilities of the Commission.

Some of the questions were:

- Who develops criteria? – The City Forester with input from the Tree Commission
- How does the Commission interact with the City Forester (advisory or directs) – The Commission is an advisory body for the City Forester

- What power does the Commission have over the discretionary decisions of the City Forester? – None, they do however hear appeals of decisions by the City Forester with regards to tree removal permits
- What responsibilities does the Commission have regarding the AMC, ADC, and the UFMP, particularly in regards to trees in the City, both on private land and City street trees? – The Commission assists the City Forester in reviews of above codes and helps to create the UFMP. The Commission is an appeal body for denied removal permits. The City Forester will provide the Tree Commission with advance notice, when possible, of permit removal requests that the Forester may deem controversial due to tree species, size, age, location, etc. This would apply to tree permit removal requests on private property as well as removal street trees.
- Everyone agreed that the Commission answers to the City Council, not the City Forester, is this a correct assumption? – Correct

The City Attorney suggested that the portion of the AMC pertaining to the Tree Commission, Chapter 2.23, be updated to clarify the purpose, duties, responsibility and procedure sections based on this discussion.

ACTION ITEM: Nuisance Trees (AMC7.98.020)

- Ask the City Attorney for opinion on the need to include or the ability to exclude. – Set aside for further discussion with City Attorney and Commission.

ACTION ITEM: The Definition of Significant Tree (AMC 7.98.020)

- Ask the City Attorney for a legal perspective on the definition and by whose designation. Ask for clarification on neighborhood input on significant designation. – Set aside for further discussion with City Attorney and Commission.

ACTION ITEM: Duties and Responsibilities of City Officials. (ADC 9.207)

- Ask the City Attorney if a) the authorization is already there in job descriptions, etc. and b) opinion on this addition. – There is no need to add “City Manager” to this part of the code, the duty and responsibility is already provided.

AMC Review

The Commission discussed and approved, disapproved, or edited updates to the AMC. The changes approved are attached to this document. Two items will be brought back for review, definitions, and their relevance, for significant and nuisance trees. Somewhere in the past review process and section of 7.98.180 – Tree Removal Permit Criteria – was dropped. Bodie Dickerson will send staff the missing text and it will be added to the code revisions for the October meeting.

**ACTION ITEM(S):**

- **Further discussion and clarification with the City Attorney for the definition and relevance of Significant Tree and Nuisance Tree as they relate to the codes.**
- **Bodie Dickerson will send staff 7.98.180.1(F) to be added to the proposed code.**
- **The City Forester will send staff the added definitions for 7.98.020.9(c)**
- **The City Forester and Commission members will bring definitions for “Grove” in October (7.98.020.9(d))**
- **The City Forester will provide added definition of “Canopy” in October (7.98.020.12)**

The Commission will review the proposed changes to the ADC at the October meeting.

**6. BUSINESS FROM THE COMMISSION - none**

**7. NEXT MEETING DATE**

The next meeting of the Tree Commission is scheduled for Thursday, October 23, 2008 at 3:00 p.m. in the Santiam Room in Albany City Hall.

**8. ADJOURNMENT**

The meeting adjourned at 5:30 p.m.

Submitted by

Tari Hayes  
Parks and Recreation Administrative Assistant

**CITY OF ALBANY  
TREE COMMISSION  
Albany City Hall, Santiam Room**

Thursday, October 23, 2008  
3:00 p.m.

**MINUTES**

Commission members present: Dick Miles, Mark Azevedo, Barb Bolden, Tom Krupicka  
Commission members absent: David Smith  
Staff present: Craig Carnagey, City Forester, Tari Hayes, Administrative Assistant  
Others present: Bodie Dickerson, Hank Gurzynski, Mike Lew

**1. CALL TO ORDER**

Tom Krupicka called the meeting to order at 3:07 pm.

**2. ROLL CALL**

**3. COMMENTS FROM THE PUBLIC**

Bodie Dickerson took exception to the September minutes, specifically action items regarding Tree Commission duties. The Commission agrees there is a clarity issue with responsibilities of the Commission. The Commission is going to review the Commission duties in the Albany Municipal Code (AMC) at future meetings, suggest updates and changes, and send it to the Council for clarification and approval.

Krupicka and Azevedo feel the minutes are accurate.

Hank Gurzynski has a request before the Commission for a tree removal permit; he'll speak during Outstanding Tree Issues.

**4. APPROVAL OF MINUTES – bringing back to November meeting.**

**5. SCHEDULED BUSINESS**

a) Outstanding Tree Issues

125 Pine St. - Hank Gurzynski - This request was brought before the commission in July; the Commission asked for additional information and an arborist report at that time. The Commission discussed this request today with the property owner. They are approving the removal permit, pending a written agreement from the property owner that he will replace the tree with two or more "canopy" trees, 1 ½" caliper, no later than May 15, 2009, and maintain them through the establishment period (two years.).

**ACTION ITEM:**

- City Forester will draft agreement for property owner and Commission Chair to sign. The City Forester will provide the property owner with a list of appropriate tree species for replanting.

4149 Evergreen St. SE – Carol Silbaugh – Property owner has some concerns with the effect of a street tree on her garden and sidewalk. The Commission looked at pictures of the tree, garden and surrounding areas. Their opinion is that the tree is not adversely affecting her garden. They did suggest the City Forester refer the property owner to OSU Extension Service. The City will also schedule additional watering for the tree during the summer months next year.

**ACTION ITEM:**

- City Forester will call property owner with contact name and phone number at OSU Extension.

b) Tree Code Revision Discussion

AMC Follow Up:

After discussion, the Commission approved the AMC Sept. 2008 draft with changes. Outstanding questions were addressed. Copies will be forwarded to the City Attorney and Planning Division for review, comment, and approval. The Commission will vote on final approval of code changes at November meeting.

**ACTION ITEM(S):**

- City staff will update the draft and send it to the Commission, City Attorney and Planning Division for review, edits and approval. The document will go before Council for approval with the Albany Development Code (ADC) revisions.
- Mark Azevedo will send to City Staff his definition of “grove.”
- City Forester will send the Commission a complete definition of “significant tree” for review and approval.

ADC Approval:

The Commission discussed and approved, disapproved, or edited updates to the ADC. The changes approved are attached to this document. With the exception of 9.205, Purpose, Commission unanimously approved changes. For 9.205, the commission voted to accept the “*As Approved by TC/Reviewed by Council*” definition. Dick Miles dissented.

**ACTION ITEM(S):**

- City staff will update the draft and send it to the Commission, City Attorney and Planning Division for review, edits and approval. The document will go to Council for approval with the AMC revisions.
- City Forester will send the Commission a complete definition of “significant tree” for review and approval.
- City Forester will seek input from the City Attorney on whether to include the word “nuisance” in the code. If he suggests keeping the term in the code(s), perhaps he can provide a definition and where he recommends it be used in both codes.

The Commission will review the proposed draft at the ADC at the November meeting.

## 6. BUSINESS FROM THE COMMISSION

Azevedo shared with the Commission that the City and community organizers are submitting a grant request for the purchase of a natural area in North Albany. There are a number of significant wildlife species in the area. If the grant is successful, Azevedo would like the Tree Commission to become involved in the project. Azevedo suggested partnering with FOMAT as a way to participate in the North Albany site. They will be working with school children on-site.

Miles asked if service trees come up on the priority/protective lists. Azevedo stated that they do come up, but each agency can have different priorities and lists.

The City Forester continues to look for opportunities to promote the City's urban forest, the Tree Commission and their potential for community outreach.

It would be great for the Commission and Urban Forestry Division to start considering some candidates for Heritage Tree or Heritage Grove designation soon. Azevedo suggested designating a grove of oaks in Eleanor Hackleman Park as the first Heritage Grove in Albany. Dickerson also mentioned a grove and a tree candidate for Heritage designations.

- **ACTION ITEM:**

The commission will bring Heritage tree/grove ideas to the November meeting.

## 7. NEXT MEETING DATE

The next meeting of the Tree Commission is scheduled for Thursday, November 20, 2008 at 3:00 p.m. in the Willamette Room in Albany City Hall.

## 8. ADJOURNMENT

The meeting adjourned at 5:20 p.m.

Submitted by  
Tari Hayes  
Parks and Recreation Administrative Assistant



# Current Tree Issues

Date Initiated	Address Description of Issue	Location Action Requested	Resolution	<input type="checkbox"/> Public <input checked="" type="checkbox"/> Private
11/01/2008	1040 Willetta SW Owner request permission to remove cedar tree close to his house. Tree is a hazard when wind blows and renters are complaining of spider bites.	East side of existing house FYI for Commission		<input type="checkbox"/> Public <input checked="" type="checkbox"/> Private
10/13/2008	125 Pine St Tree roots underneath drive way, clogging the sewage pipe, safety hazard	Sidewalk and along side house Tree removal permit	Removal permit granted, owner agrees to replant two canopy trees and maintain them for at least 2 years during the establishment period.	<input type="checkbox"/> Public <input checked="" type="checkbox"/> Private
09/25/2008	4149 Evergreen St. SE Roots are coming under the sidewalk into owner's garden space	Sidewalk The homeowner is asking for "something" to be done about the roots.	Tree commission believes the problem is not with the tree but with the garden. City Forester will forward OSU Extension contact information to the home owner in hopes they can advise her on better gardening ideas.	<input checked="" type="checkbox"/> Public <input type="checkbox"/> Private
05/15/2008	201 Daffodil Ln Homeowner's are requesting to have 2 Maples reevaluated for removal. Original request was made in 2007 and removal of 1 of 3 Maple trees was approved.	Private trees The homeowner is now asking for the removal of the 2 remaining trees due to rot and safety concerns.	The commission will go out and evaluate the trees in the next 30 days and will bring this request back to the June commission meeting.	<input type="checkbox"/> Public <input checked="" type="checkbox"/> Private
05/15/2008	817 14th Ave SW Disabled home owner's asked for permission to remove 2 Hawthorne trees. They have become unmanageable.	Private trees Remove trees and replant	The City will be removing the trees and replanting in the fall.	<input type="checkbox"/> Public <input checked="" type="checkbox"/> Private



# City of Albany

## Application for Tree Removal Permit

Application is hereby made to the City of Albany pursuant to the provision of Albany Municipal Code (AMC) 7.98 for a tree removal permit for the property herein described.

Date:

### Owner of Record

Bontrager Properties II  
Name  
1437 Gibson Hill Rd  
Address  
Albany OR 97321  
City State Zip  
(541) 619-3081  
Phone e-mail

### Authorized Agent

\_\_\_\_\_  
Name  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
City State Zip  
\_\_\_\_\_  
Phone e-mail

Applicant is: (check one)

- Owner of Record     Purchasing the Property     Agent Authorized by Owner

### Property Information

1040 Willetta (Albany) \_\_\_\_\_  
Location Size Parcel Number

### Permit Type

- Proposed tree removal is part of a project which will require a building permit.  
 Proposed tree removal is *not* part of a project which will require a building permit.

### Submittal Requirements

- A list of each species, size, and location of the tree(s) proposed for removal. (*Diameter is measured 4½ feet above the junction of the root and trunk sections.*)
- A statement of the reason for the proposed tree removal.
- A written recommendation by a licensed tree care professional and or ISA certified arborist concerning the health and quality of the tree(s) in question and possible alternative actions (if applicable).
- Pictures that support the reason for removal permit request.
- Map of property that diagrams locations of each tree requested for removal.

<b>Office Use Only</b>	
<input type="checkbox"/> Date Received: _____	<input type="checkbox"/> Received By: _____



## City of Albany Tree Removal Permit Information Sheet



A permit is required from the City Forester for the removal of individual trees equal to, or greater than, six and one-half feet in circumference (25 inches in diameter) on all property within the city limits of the City of Albany. A site plan review is required from the Planning Division for the removal of 5 or more trees on property greater than 20,000 square feet.

Apply for permits at the Parks & Recreation counter at 333 Broadalbin SW, first floor, or by phone at 917-7679. Please be prepared to provide the following information:

- Address and/or Parcel Number
- Owner's Name
- Location, number, and general condition of tree(s)
- Square footage or acreage of property
- Does the owner intend to develop the property in the near future
- Reason for removal: Please reference removal criteria 1(a) – 1(e) below.

### *Tree Removal Criteria: Albany Municipal Code 7.98.180.*

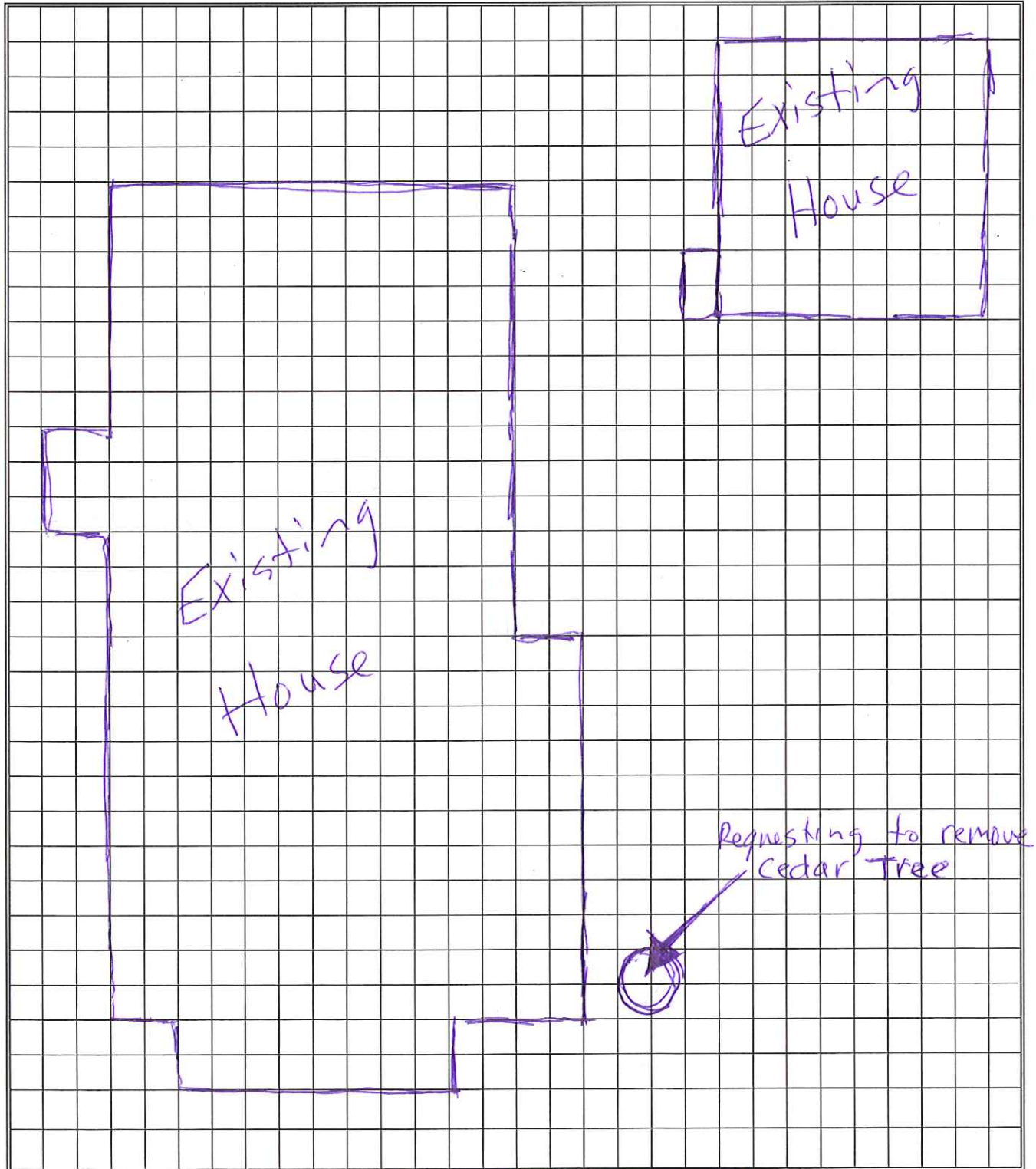
- (1) Tree removal will be approved when:
  - (a) It has been determined by the City Forester or by a certified arborist, without objection from the City Forester, that a tree is hazardous or significantly impacted by aggressive pests or pathogens, with a potential to spread and no other viable options are reasonably available to minimize hazard or alleviate risk of pest or pathogen to spread, or
  - (b) A logging permit issued by the Oregon Department of Forestry has been submitted to the City Forester, or
  - (c) Trees are overcrowded and it is determined by the City Forester or a certified arborist that removal will have a positive impact on the overall site and will not compromise the health of residual trees, or
  - (d) When necessary pursuant to a building permit for an improvement for which a site plan approval is not required, or
  - (e) Variance Clause: When unique circumstances specific to the applicant's situation have been expressed in writing with the application and the City Tree Commission has approved removal. Reasons for issuance of a variance may include but are not limited to: when a tree is causing significant negative impacts to improvements or personal property or for personal health reasons, or the tree is invasive, having significant negative impact to surrounding vegetation.
- (2) In all other cases, a tree removal permit shall be denied.

If you have any questions, please call Albany City Forester Craig Carnagey at (541) 917-7679.

Tree Location Site Plan

Prepared by: \_\_\_\_\_

Plot existing or proposed structure(s) and all proposed trees for removal. If trees are to be retained near any trees proposed for removal, please annotate which are to be removed and which are to be retained. Show dimensions from the property lines and existing structures. Show North arrow.



- Tree size is 7ft ground (4½ above ground)
- tree type cedar tree
- 

Craig,

I would like a permit to cut down this tree. It is dangerously close (8') to the House, when the wind blows the branches hit the House. This tree is a Hazard to my renters they often complain of it. The renters also constantly complain of spider bites.

Thank you!

Corey Bontrager  
(541) 619-3081

# ALBANY HERITAGE TREE PROGRAM

## NOMINATION INSTRUCTIONS

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The Albany Heritage Tree Program was established in 1999 to help increase public awareness of the important contribution of trees to Albany's history and heritage. The goal of the Albany Heritage Tree Program is to recognize and designate individual heritage trees within the city limits.

To qualify for heritage status, trees shall be unique in size, structure, or species and/or shall be significant on the basis of their importance in local, state, or national history. To be considered for Heritage status, please submit the enclosed application. A nomination for the tree must be submitted to the Albany Tree Commission before the end of January. Please attach extra sheets as necessary to answer the questions fully. Heritage Tree designations will be announced during Arbor Week, the first week in April.

Completed application forms may be sent to:

Craig Carnagey  
City Forester  
City of Albany  
City Hall  
PO Box 490  
Albany, OR 97321

# ALBANY HERITAGE TREE PROGRAM

## NOMINATION INSTRUCTIONS

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### DESCRIPTION AND HISTORICAL SIGNIFICANCE OF TREE(S)

List the botanical or common name of the tree(s) \_\_\_\_\_

Give reason(s) for the nomination, including any or all of the following: 1) original owner, 2) significant person or events associated with the tree, 3) unusual, distinctive or significant aspect of the tree, or 4) association with the heritage of the community. List who planted the tree(s) (if known), and explain the historical significance of the tree(s) to the region, state, or nation.

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### LOCATION OF THE TREE(S)

List the county, town, and street or rural route address and directions to the tree. Attach a site map, indicating the tree's precise location.

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Describe how accessible the tree is to the general public:

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### PHYSICAL DESCRIPTION OF THE TREE(S)

Describe the tree's approximate age, size, health, and condition:

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### TREE OWNERSHIP AND PROTECTION STATUS

Once a tree is designated as a heritage tree, it will remain so unless it becomes necessary to classify it as a dangerous tree and remove as such. Heritage trees may not be removed without the expressed consent of the City Tree commission. (AMC 7.98.120)

Present owner of the property where the tree(s) is located:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

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Does the present owner support the nomination of the tree(s)? If no, please explain.

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APPLICATION PREPARED BY (if different from owner):

Name: \_\_\_\_\_ Organization: \_\_\_\_\_

Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Date Submitted: \_\_\_\_\_



## “Messenger Oak” Oregon White Oak *Quercus garryana* Heritage Mall

With a trunk circumference of 12.5 feet and a crown spreading approx. 90 feet, one of Albany’s greatest oaks is appropriately showcased at Heritage Mall on SE 14th st. Showing tremendous foresight, Roebhelen Engineering Inc. preserved the Oregon White Oak in the Heritage Mall’s design plans in 1988.

At the turn of the century, the prominent Burkhardt family owned much of the pastureland surrounding the oak but the exact age of the tree is unknown. The age is conservatively estimated at a minimum of 150 years old.

Tom Lundberg from Shade Tree Landscaping recalls delivering notes to his friends during the 1950s by placing the letters in the hollows of the large oak. Hence the name, “Messenger Oak”. It is fitting that Tom for the last seven years has held the contract to care for this truly magnificent and historic tree.

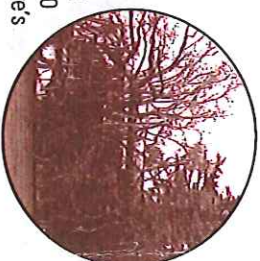


## Hybrid Persian Walnut *Juglans regia* Department of Energy

With a trunk 15.5 feet in circumference and a crown with an approximate spread of 110 feet, this Persian walnut is one of Nature’s finest creations and one of Albany’s treasures.

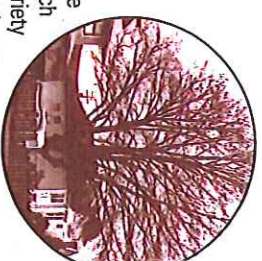
Located on the wooded grounds of the U.S. Department of Energy, Albany Research Center, the walnut has an interesting and well-documented past. From historic photo’s provided by Stephen Anderson of Images Unlimited, the site at 1450 Queen Ave. SW can be traced back to roughly 1899, where a small wood-frame home and “Albany Nurseries” were located. In 1925, this site was dedicated to Albany College. Historic photos clearly show the walnut on the South side of Bldg. 1 at this time. During the period 1942-96 the U.S. Bureau of Mines operated on the site.

This tree is truly a sight to behold.



## Copper Beech *Fagus sylvatica* 532 Ferry Street SW

Nestled between two historic homes in the Monteth District, this majestic Copper Beech is one of a kind. It is a purple-leaved variety of the Northern European Green Beech and was probably planted around the turn of the century. Even with its impressive trunk measuring 11.5 feet in circumference, the beech fits beautifully into the residential neighborhood.



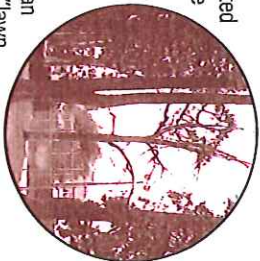
The “Peiffer House” was built in 1900 by the prominent Charles Peiffer and his wife Catherine as a retirement home. The couple had moved here from Pennsylvania and had established the Revere House Hotel—“one of the most popular in the valley” according to the late Albany historian Fred P. Nutting. The home itself is in the Queen Anne style and is notable for its many fine architectural details.

## Shagbark Hickory *Carya ovata* Henderson Park, Calapooia Street and 8th Avenue

At first glance, this Shagbark Hickory situated among the cedars at the North end of the Henderson Park tennis court might not seem like anything special. However, it is very rare in Oregon, probably the only Shagbark Hickory in Albany, and is likely very old.

One of the earliest property owners, Johnny Irving, was a leading businessman in town. Mr. Irving was also considered a “tawn artist” who transformed the property into “what many thought was the prettiest place in town”, according to the late Albany historian Fred P. Nutting.

The latest owner of the home was Miss Maud Henderson who willed the property to the City. She died in either 1935 or 1936, and shortly thereafter Henderson Park was created. Many of the still-existing large trees can without a doubt be traced back to Johnny Irving, the “tawn artist.” This may be true for the Hickory as well.

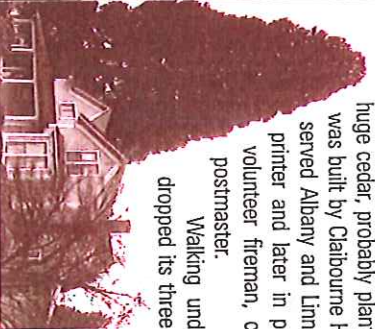


## Incense-Cedar *Calocedrus decurrens* 406 6th Avenue SW

At slightly more than 17 feet in circumference, this Incense Cedar boasts the most massive trunk and is the tallest (100 ft) of all the heritage trees nominated. Distributed throughout California and Oregon, the species is exclusively a Western breed.

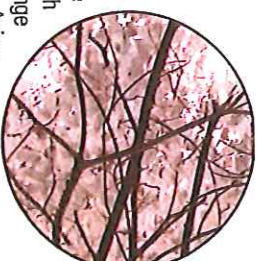
The “Stewart House” dates back to 1880 and is now dwarfed by the huge cedar, probably planted about the same time. The home was built by Claiborne H. Stewart and wife Cora. Claiborne served Albany and Lin County for over 70 years, first as a printer and later in positions as varied as county judge, volunteer fireman, co-owner of a hardware store, and postmaster.

Walking under an Incense Cedar that has just dropped its three-pronged seed and released its wonderful fragrance is an experience that one is not likely to forget. Try reaching around this magnificent tree. You will need the help of a few friends.



## American Chestnut *Castanea dentata* 393 Creswell Lane, N. Albany

“The American chestnut may well have been the most important hardwood in North America.” However, in 1904 that change quickly, as a chestnut blight caused by an Asian fungus *Cryphonectria parasitica*, was first identified on trees in the Bronx Zoo. Chestnut blight is characterized by cankers that kill bark and usually cambium and sapwood of twigs, branches, and trunks but not roots. Within 50 years, the disease spread across the chestnut’s native range, completely removing the chestnut, as a dominant species. The blight also appeared in scattered chestnut plantings in California, Oregon and British Columbia, but was suppressed by eradication and sanitation efforts (Journal of Forestry, February 2000). The tree in north Albany clearly depicts the spread of the disease. Most likely, the parent chestnut was planted during Albany’s early days. The land surrounding the chestnut was most likely farmed for barley to support the beer brewing pubs in Salem. The Willamette River was a convenient source of transportation for many products heading to Salem or further to Portland. In the meantime, the blight was spreading westward killing the above ground portion of almost all the chestnut trees. Root sprouts commonly sprouted around the base of the trees after infection. If proper sanitation efforts were taken, the new sprouts could grow successfully. This explains the multi-stem structure of the Heritage chestnut tree.



## Camperdown Scotch Elm *Ulmus glabra ‘camperdownii’* 547 7th Avenue SW

This unique tree species originated from a seedling at the Camperdown House, near Dundee, Scotland, around 1850. Used as an ornamental landscape tree, the camperdown elm, or umbrella elm, is known for its peculiar weeping branch structure. For this attribute, the tree was often planted in cemeteries. The species may be susceptible to the Dutch elm disease but currently is not at risk. Camperdown elm is usually grafted to the American elm rootstock. Displayed at the corner of the lot the camperdown elm is a fantastic specimen. In park setting the pendulous branches would naturally weep to the ground. However, in this situation, the tree must be pruned annually in order to maintain safe visual clearances for vehicles and pedestrians.

The name camperdown has an interesting story behind it. In 1797, a English Navy mannegead to beat the Dutch Navy off the coast of Holland near the village of Kamperduin. The English corroborated the name to Camperdown (which is wrong, as “dun” means “dune”, not “down”). The English admiral Duncan, because of his victory, was allowed to call himself “Count of Camperdown” and established his estate. This unique weeping elm sprang up on the admiral’s estate and the new species was subsequently named.



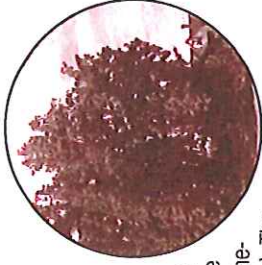
The Albany Heritage Tree Program was established to recognize, foster appreciation of, and protect trees having historic significance to our community.

City trees add the soft touch of nature to our busy lives. They cool our cities, fight pollution, beautify our neighborhoods, provide habitat for wildlife, and quite simply, create a more livable community. The intent of the Heritage Tree Program is to connect the past to the present by preserving historic trees for the enjoyment of future generations.

To be considered for Heritage status, a nomination for the tree must be submitted to the Albany Tree Commission. If the nomination is favorably considered and the owner is in agreement, the tree will be designated a Heritage Tree.

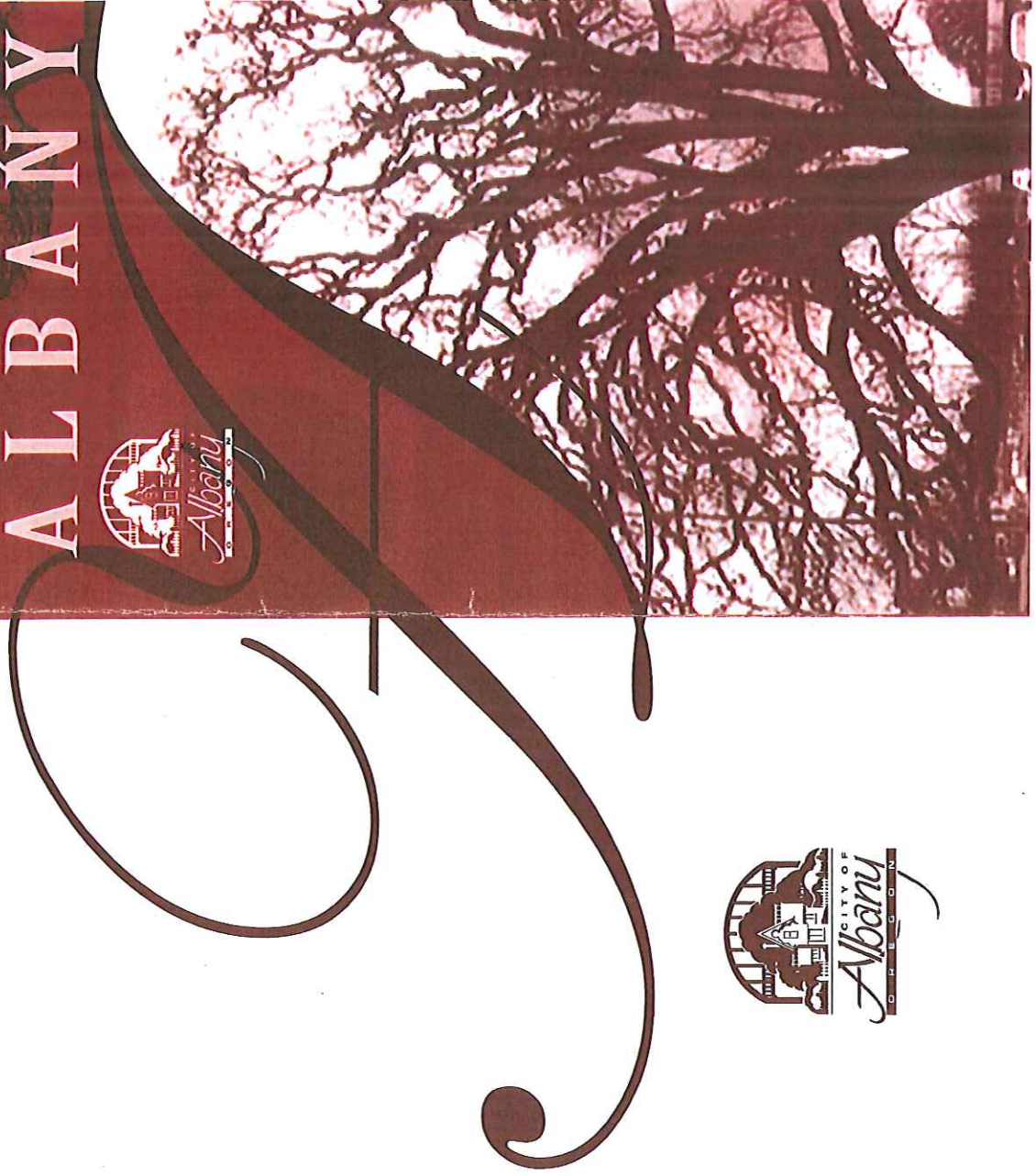
The program is completely voluntary and the City does not assume authority over the selected trees.

**Black Walnut**  
*Juglans Nigra*  
1431 N.W. Highway 20



This tree is considered to be both one of the oldest and largest Black Walnut trees in the State of Oregon. The tree measures eighty three inches in diameter (twenty-two feet in circumference). The home it sits adjacent to was built in 1889. This walnut tree is at least as old as the house. For many years the nuts from the tree have been harvested for propagation, and it's said the tree is mother to over five thousand seedlings.

# Heritage Trees of ALBANY



# AMC /ADC

## Drafts

Per October Meeting

I updated the necessary definitions in each code for consistency.

- Nothing was dropped; some definitions were added if referenced in the code. For instance, Certified Arborist was defined in the AMC. I added that definition to the ADC, because it was referenced in the ADC but not defined.
- I alphabetized the definitions in both codes for consistency.
- The definitions now match in each code.

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**ALBANY  
DEVELOPMENT  
CODE**

**ARTICLE 9  
ON-SITE DEVELOPMENT AND ENVIRONMENTAL STANDARDS**

## TREE FELLING

9.205 Purpose. Trees of significant size represent a visual and aesthetic resource to the community. These standards are intended to balance the preservation of significant trees as a benefit to the community with the individual's right to use and enjoy property. [Ord. 5445, 4/12/2000]

9.206 Definitions. For the purposes of the following sections, these definitions apply:

- (1) "Certified arborist" means a person certified by the International Society of Arboriculture as having specialized knowledge, experience, and training related to arboriculture.
- (2) "City Forester" means the person designated by the ~~Public Works Parks and Recreation~~ Director to be the authorized representative in matters concerning the urban forest of the City of Albany.
- (3) "Community Development Director" means the person designated by the City Manager to supervise the Community Development Department and who is charged with certain duties and responsibilities by this chapter, or the duly authorized representative.
- (4) "Critical root zone" means the distance extending out from and surrounding a tree trunk. The critical root zone distance is calculated by multiplying the diameter of the tree, in inches, measured at four and one-half feet above the mean ground level, by 18. For example, a tree with a diameter of two inches would have a critical root zone of 36 (2 × 18) inches all around the tree.
- (5) ~~"Remove or pruning or removal"~~ "Fell" means to ~~fell~~ remove or sever a tree or the intentional use of any procedure, the natural result of which is to cause the death or substantial destruction of the tree. ~~Pruning or removal~~ Fell does not in any context include normal pruning of trees.
- (6) "Grove or Groves of Trees" means
  - (a) A grove of trees is two or more trees consisting of a stand with a continuous or nearly continuous canopy that have one or more of the following characteristics:
  - (b) Groves of trees that are of similar species composition, tree sizes, ages, and structure.
  - (c) Groves of trees that provide a functional relationship to a natural resource such as trees located along stream banks, lake sides, wetlands, wildlife corridors, ridge lines, hillsides or habitat for at risk native plants or animals.
  - (d) Groves of trees documented as having an association with a historical figure, property, or significant event (such as groves of trees documented in land donation act surveys or long lived trees in public spaces such as parks or open spaces).
- (7) ~~"Hazardous or dangerous tree" means a tree that is classified as a hazardous or dangerous tree by the City Tree Commission.~~ "Hazardous tree" means any tree as determined by the City Forester to be dead, or alive and so affected by a significant structural defect or physical damage that the failure of the tree or limbs of the tree appears imminent, or it constitutes a hazard to life and property, or harbor insects or disease which constitute an imminent threat to other trees within the City.

(8) ~~“Public Works Director”~~ “Parks and Recreation Director” means the person designated by the City Manager to supervise the ~~Public Works~~ Parks and Recreation Department and who is charged with certain duties and responsibilities by this chapter, or the duly authorized representative.

(9) “Person” means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns.

(10) “Significant Tree” means

(a) Any heritage, rare, threatened, or endangered tree of any size as defined or designated under state or federal law; or

(b) Any tree designated as significant by the City Tree Commission by virtue of heritage parameters or size.

(c) Trees that are considered high priority for preservation based on their natural function as part of canopied slopes native groves (particularly pacific madrone, Oregon white oak, and pacific dogwood), riparian buffers, wildlife corridors, and or contiguous woodlands

(11) “Tree” means a non-parasitic, self-supporting, perennial woody plant characterized by one main trunk or in some cases multiple trunks, and one main canopy of leaves, usually growing to a height of 15 feet or higher.

(12) “Tree circumference” means the distance (in inches) measured around the trunk or trunks in the case of trees with multiple trunks. The circumference is measured at 4-1/2 feet above mean ground level from the base of the trunk. To obtain the total circumference of a tree with multiple trunks, add the largest trunk circumference with one-half the total circumferences of all other individual trunks. These individual trunks must be greater than size inches in circumference to be included in this measurement. ~~of a tree at four and one-half feet above the mean ground level from the base of the trunk. The circumference of a tree with multiple trunks is determined by adding together the individual trunk circumferences greater than six inches.~~ (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993).

9.207 Applicability. Site plan review approval is required for the felling of five or more trees larger than 25 inches in circumference (approximately 8 inches in diameter) on a lot or property in contiguous single ownership in excess of 20,000 square feet in any land use zone.

The following activities are exempt from site plan review:

(1) The action of any City official as authorized by the City Manager or of any public utility necessary to remove or alleviate an immediate danger to life or property; to restore utility service or to reopen a public street to traffic.

(2) Felling of any tree that is defined as hazardous. a nuisance under the Albany Municipal Code.

(3) Any felling necessary to maintain streets or public or private utilities within a public right-of-way or utility easement provided the Tree Commission and/or City Forester approved the proposed tree felling.[Ord. 5445, 4/12/2000]

(4) Felling of trees planted as Christmas trees. [Ord. 5635, 1/11/2006]

(5) Felling of trees on property under a Forest Stewardship Plan approved by the Oregon Department of Forestry. [Ord. 5635, 1/11/2006]

9.208 Tree Felling Criteria. The following review criteria replace the site plan review criteria found elsewhere in this code for the purposes of reviewing tree felling. A site plan review for tree felling will be processed as a Type I-L land use decision.

(1) The Community Development Director or his/her designee shall approve a site plan review for tree felling when the applicant demonstrates that the felling of the tree(s) is warranted because of the condition of the tree(s) with respect to disease, hazardous or unsafe conditions, danger of falling, proximity to existing structures or proposed construction, or interference with utility services or pedestrian or vehicular safety. The Community Development Director shall ~~Director may~~ require the applicant to provide a Certified Arborist's report or;

(2) For property where a site plan review, conditional use or land division application has been approved or is currently under review, the Community Development Director and City Forester, or his/her designee shall approve a site plan review for tree felling when the applicant demonstrates that all of the following review criteria are met:

(a) It is necessary to fell tree(s) in order to construct proposed improvements in accordance with an approved site plan review or conditional use review, or to otherwise utilize the applicant's property in a manner consistent with its zoning, this code, applicable plans adopted by the City Council, ~~or a logging permit issued by the Oregon Department of Forestry.~~

(b) The proposed felling is consistent with State standards, City ordinances, and the proposed felling does not negatively impact the environmental quality of the area, ~~including but not limited to:~~ the protection of nearby trees and windbreaks; natural vegetation, wildlife corridors and habitats; erosion; soil retention and stability; volume of surface runoff and water quality of seasonal and year round waterways; streams; scenic quality, and geologically significant sites.

(c) The uniqueness, size, maturity, structure, and historic value of the trees or groves of trees have been considered and all other options for tree preservation have been exhausted. The Community Development Director shall ~~may~~ require that trees or groves of trees determined to be unique in species, size, maturity, structure, as significant wildlife habitat or historic value is protected if possible.

(d) Preservation of individual trees and wooded areas shall be established on a site where feasible and prudent. Each design shall consider the following priorities when determining trees and groves of trees for preservation:

High priority: Canopied slopes, native groves and woodlands, non-native groves and woodlands which are significant wildlife habitat or provide significant canopy cover, riparian buffers, wildlife corridors, contiguous woodlands, and significant trees.

Mid-level priority: non-native groves and woodlands which are not significant wildlife habitat and do not provide significant canopy cover, relic orchards which are in good health and vigor and provide significant wildlife habitat and/or canopy cover.

Low-level priority: Invasive non-native species, relic orchards which are in poor health and vigor and do not provide significant wildlife habitat or significant canopy cover, Christmas tree lots.

Preserve only those trees that are not hazardous and are free from significant structural defects which would likely make them hazardous.

Protect the critical root zone(s) around each preserved tree or grove of trees.

Retain trees in groups if at all possible to minimize wind-throw effects. Single specimen trees shall be structurally sound and capable of continued health and vigor during and following development.

Age and potential longevity: Diversity of species and age compositions shall be maintained whenever possible, or

(3) For property where tree felling has not been approved as part of a site plan review, conditional use, or land division application, the Community Development Director or his/her designee shall approve a site plan review application for tree felling, if the review criteria above are met, and the following criteria are met:

(a) Trees shall be retained in significantly large areas and dense stands so as to ensure against wind throw effects, to maintain canopy cover and significant wildlife habitat.

(b) Wooded areas that will likely provide an attractive on-site amenity to occupants of future developments shall be retained.

(c) Wooded areas associated with natural drainageways and water areas will be maintained to preserve riparian habitat and minimize erosion. The wooded area to be retained shall be at least 10 feet in width or wider if necessary for the protection of riparian habitat and to minimize erosion. ~~as required elsewhere in this code.~~

(d) Wooded areas along ridges and hilltops will be retained for their scenic value, canopy cover, and wildlife value, and water retention characteristics.

(e) Tree felling on developable areas not currently under development will be avoided to retain the wooded character of future building sites and so preserve housing and design options for future City residents.

(f) Wooded areas along property lines shall be retained at a minimum width of 10 feet to provide vegetative buffers from adjacent properties.

(g) The plan for tree felling shall be consistent with the preservation of the site's future development potential and land use zoning.

(4) The Community Development Director may attach conditions to the approval of the site plan review for tree felling to ensure the replacement of trees and landscape or otherwise reduce the effects of the felling, and may require an improvement assurance to ensure all conditions are met.

(a) Tree replacement shall be required when more than 30% of a sites canopy cover is removed. The requirements for replacement will be in addition to any landscape requirements. The City Forester will determine replacement values based on the percent of removed canopy from the site beyond the 30 percent threshold. The formula used for determining these values is detailed in the urban forestry management plan.

(b) On sites where replanting is not permissible due to site constraints, payment for the monetary value of each replacement tree shall be required for deposit into the City's urban forestry program account. The monetary value of each replacement tree will be determined by the City Forester based on the fair market price to purchase, install, and establish each tree. All monies received for replacement trees shall be used to plant trees in public spaces within the City, as close to the subject development site as possible, and/or provide public information about the value of trees.

(5) Precautions shall be made to protect residual trees and tree roots from damaging agents during and after the removal process. Tree protection specifications as detailed

in the urban forestry management plan should be followed to the maximum extent feasible for all projects with protected existing trees.

~~(a) Within the drip line of any protected existing tree, there shall be no cut or fill over a four-inch depth unless a qualified arborist or forester has evaluated and approved the disturbance.~~

~~(b) Prior to and during construction, barriers shall be erected around all protected existing trees with such barriers to be of orange fencing a minimum of four (4) feet in height, secured with metal Tposts, no closer than six (6) feet from the trunk or one-half (1/2) of the drip line, whichever is greater. There shall be no storage or movement of equipment, material, debris or fill within the fenced tree protection zone.~~

~~(c) During the construction stage of development, the applicant shall prevent the cleaning of equipment or material or the storage and disposal of waste material such as paints, oils, solvents, asphalt, concrete, motor oil or any other material harmful to the life of a tree within the drip line of any protected tree or group of trees.~~

~~(d) No damaging attachment, wires, signs or permits may be fastened to any protected tree.~~

~~(e) Large property areas containing protected trees and separated from construction or land clearing areas, road rights-of-way and utility easements may be "ribboned off," rather than accomplished by placing metal t-post stakes a maximum of fifty (50) feet apart and tying ribbon or rope from stake to stake along the outside perimeters of such areas being cleared.~~

~~(a) The installation of utilities, irrigation lines or any underground fixture requiring excavation deeper than six (6) inches shall be accomplished by boring under the root system of protected existing trees at a minimum depth of twenty-four (24) inches. The auger distance is established from the face of the tree (outer bark) and is scaled from tree diameter at breast height as described in the chart below. [Ord. 5445, 4/12/2000]~~

(a) All protected trees and groves of trees shall have a line designated around them that matches the drip line of those trees or groves of trees. This area shall be shown on the construction plans.

(b) Protective fencing shall consist of either orange barrier fencing or chain link fencing.

(c) No grading, fill, construction, storage of materials, underground utilities, etc. shall occur within the tree protection zone.

(d) Surface drainage shall not be altered in any way that directs water in or out of the tree protection zone unless approved by the City Forester.

(e) Installation of public infrastructure, irrigation, or utilities within the drip line of protected trees will require construction methods that minimize impacts to tree roots as approved by the City Forester.

(f) All tree protection measures shall be in place prior to any earthmoving or construction activity.

(g) The City Forester must be notified prior to the start of work.

Tree Diameter at Breast Height (inches)	Auger Distance from Face of Tree (feet)
8-9	5
10-14	10
15-19	12
Over 19	15

**Albany Municipal Code**  
**A Codification of the General Ordinances**  
**of the City of Albany, Oregon**

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## Chapter 7.98 TREE REGULATIONS

### Sections:

- 7.98.010 Purpose.
- 7.98.020 Definitions.
- 7.98.030 Prohibited activities.
- 7.98.040 Permits required.
- 7.98.050 Street trees – Classification and spacing.
- 7.98.060 Distance between curb and sidewalk.
- 7.98.070 Distance from street corners and fire hydrants.
- 7.98.080 Planting in roadways having no gutter or curb.
- 7.98.090 Tree topping.
- 7.98.100 Exemptions.
- 7.98.110 Private utility tree policy.
- 7.98.120 Heritage trees.
- 7.98.130 Pruning, corner clearance.
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- 7.98.200 Conditional permit approval.
- 7.98.205 Permit fees.
- 7.98.210 Appeals.
- 7.98.220 Penalties.

### **7.98.010 Purpose.**

The following chapter is established by the Albany City Council to promote and protect the public health, safety, and general welfare of the citizens of Albany by providing for the regulation of the planting, maintenance, and pruning or removal of trees in the City of Albany. ~~Trees of significant size possess considerable~~ provide environmental and aesthetic qualities beneficial to the community. These standards are intended to balance the preservation of significant trees as a benefit to the community with the individual right to use and enjoy property. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993).

### **7.98.020 Definitions.**

- (1) "Certified arborist" means a person certified by the International Society of Arboriculture as having specialized knowledge, experience, and training related to arboriculture.
- (2) "City Forester" means the person designated by the ~~Public Works~~ Parks and Recreation Director to be the authorized representative in matters concerning the urban forest of the City of Albany.
- (3) "Critical root zone" means the distance extending out from and surrounding a tree trunk. The critical root zone distance is calculated by multiplying the diameter of the tree, in inches, measured at four and one-half feet above the mean ground level, by 18. For

example, a tree with a diameter of two inches would have a critical root zone of 36 (2 x 18) inches all around the tree.

(4) ~~“Remove or pruning or removal”~~ “Fell” means to ~~fell~~ remove or sever a tree or the intentional use of any procedure, the natural result of which is to cause the death or substantial destruction of the tree. ~~Pruning or removal~~ Fell does not in any context include normal pruning of trees.

(5) “ Grove or Groves of Trees” means

(a) A grove of trees is two or more trees consisting of a stand with a continuous or nearly continuous canopy that have one or more of the following characteristics:

(b) Groves of trees that are of similar species composition, tree sizes, ages, and structure.

(c) Groves of trees that provide a functional relationship to a natural resource such as trees located along stream banks, lake sides, wetlands, wildlife corridors, ridge lines, hillsides or habitat for at risk native plants or animals.

(d) Groves of trees documented as having an association with a historical figure, property, or significant event (such as groves of trees documented in land donation act surveys or long lived trees in public spaces such as parks or open spaces).

(6) ~~“Hazardous or dangerous tree” means a tree that is classified as a hazardous or dangerous tree by the City Tree Commission.~~ “Hazardous tree” means any tree as determined by the City Forester to be dead, or alive and so affected by a significant structural defect or physical damage that the failure of the tree or limbs of the tree appears imminent, or it constitutes a hazard to life and property, or harbor insects or disease which constitute an imminent threat to other trees within the City.

(7) “Person” means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns.

(8) ~~“Public Works Director”~~ “Parks and Recreation Director” means the person designated by the City Manager to supervise the ~~Public Works~~ Parks and Recreation Department and who is charged with certain duties and responsibilities by this chapter, or the duly authorized representative.

(9) “Public trees” means trees located on property designated as a public park, ~~trees on the grounds of public facilities~~, and trees located in public right-of-way not defined as street right-of-way.

(10) “Significant Tree” means

(a) Any heritage, rare, threatened, or endangered tree of any size as defined or designated under state or federal law; or

(b) Any tree designated as significant by the City Tree Commission by virtue of heritage parameters or size.

(c) Trees that are considered high priority for preservation based on their natural function as part of canopied slopes native groves (particularly pacific madrone, Oregon white oak, and pacific dogwood), riparian buffers, wildlife corridors, and or contiguous woodlands

(11) “Street trees” means trees located in public rights-of-way within the City.

(12) “Topping” means the cutting back of limbs to stubs larger than three inches in diameter within the tree’s crown to such a degree so as to remove the normal top.

(13) “Tree” means a non-parasitic, self-supporting, perennial woody plant characterized by one main trunk or in some cases multiple trunks, and one main canopy of leaves, usually growing to a height of 15 feet or higher.

(14) "Tree circumference" means the distance (in inches) measured around the trunk or trunks in the case of trees with multiple trunks. The circumference is measured at 4-1/2 feet above mean ground level from the base of the trunk. To obtain the total circumference of a tree with multiple trunks, add the largest trunk circumference with one-half the total circumferences of all other individual trunks. These individual trunks must be greater than size inches in circumference to be included in this measurement. ~~of a tree at four and one-half feet above the mean ground level from the base of the trunk. The circumference of a tree with multiple trunks is determined by adding together the individual trunk circumferences greater than six inches.~~ (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993).

#### **7.98.030 Prohibited activities.**

- (1) It shall be unlawful for any person to remove, destroy, break, or injure any street tree or public tree.
- (2) 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 whatsoever, except as a support for such tree.
- (3) During the construction, repair, alteration or pruning 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 pruning or removal.
- (4) Excavations shall not occur within 10 feet of any street tree or public tree without approval of the City Forester, applying criteria developed by the City Tree Commission. Utility pole installations are exempted from the requirements set forth in this subsection. During such excavation or construction, any such person shall guard any street tree or public tree within 10 feet thereof.
- (5) All building material or other debris shall be kept at least four feet from any street tree or public tree.
- (6) Unless pruning or removal is expressly authorized by a land use action or approval issued by the City of Albany, it shall be unlawful to remove any tree larger than or equal to six and one-half feet in circumference (approximately 25 inches in diameter), public or private, on property five thousand square feet or larger, within the City of Albany city limits without first making application to the City of Albany and obtaining a permit or as otherwise authorized by this code. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993. Formerly 7.98.120).

#### **7.98.040 Permits required.**

- (1) A permit shall be obtained from the City Forester, applying criteria developed by the City Tree Commission outlined in the Urban Forestry Management Plan, before planting, pruning, or otherwise affecting a street tree.
- (2) A permit shall be obtained from the City Forester, applying criteria contained in AMC 7.98.180, for the pruning or removal of individual trees equal to or greater than six and one-half feet in circumference on all property five thousand square feet or larger within the city limits of the City of Albany.
- (3) With a permit, adjacent property owners may plant street trees so long as the selection, location, and planting of such trees is in accordance with this chapter.

(4) Any street tree planted that does not comply with this chapter may be removed by the City at the direction of the City Tree Commission. The cost of such pruning or removal will be borne by the person or persons who planted the tree.

(5) Permits shall be valid for a period of 180 days following the date of issuance. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993. Formerly 7.98.090).

#### **7.98.050 Street trees – Classification and spacing.**

(1) ~~The City Tree Commission Forester, with cooperation of the city Tree Commission,~~ shall develop and maintain a list of approved trees for planting along streets. ~~This list may be found in the Urban Forestry Management Plan.~~ The trees ~~will be~~ are listed in three size classes based on mature height: small (~~under less than~~ 30 feet); medium (30 to 50 feet); and large (~~over more than~~ 50 feet). Lists of trees not suitable for planting will also be created by the City Tree Commission.

(2) ~~The City Tree Commission City Forester, with cooperation of the City Tree Commission,~~ shall develop criteria on the spacing of street trees. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993. Formerly 7.98.030).

#### **7.98.060 Distance between curb and sidewalk.**

The distance street trees may be planted from curbs or curblines and sidewalks will be in accordance with the three size classes listed in AMC 7.98.050(1). No tree may be planted in a planting strip with a width of less than the following: small trees, three-four feet; medium trees, five four-six feet; and large trees, eight six plus feet. The exception to this rule shall be when curb and sidewalk are protected by a chemical or mechanical barrier approved by the City Forester. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993).

#### **7.98.070 Distance from street corners and fire hydrants.**

~~The City Tree Commission City Forester, with cooperation of the City Tree Commission,~~ shall establish standards for planting street trees in vision clearance areas. ~~These standards are listed in the Urban Forestry Management Plan.~~(Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993).

#### **7.98.080 Planting in roadways having no gutter or curb.**

No trees, shrubs, or plantings more than 18 inches in height shall be planted in the public right-of-way abutting roadways having no established curb or gutter. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993. Formerly 7.98.130).

#### **7.98.090 Tree topping.**

It shall be unlawful for any person to top any street tree, public tree, or heritage tree. Topping shall be defined as the cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal top. 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 Forester. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993. Formerly 7.98.140).

#### **7.98.100 Exemptions.**

In the event of a storm, freeze, or other environmental event resulting in damage to street and public trees, the City Manager may declare an emergency suspension of the permit requirements for the pruning or removal and pruning of 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. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993. Formerly 7.98.150).

#### **7.98.110 Private utility tree policy.**

Upon obtaining a permit from the City Forester, a private utility maintaining its utility system in a street may prune or cause to be pruned, using proper arboricultural practices in accordance with said permit, any tree located in or overhanging the street that interferes with any light, pole, wire, cable, appliance or apparatus used in connection with or as a part of the utility system; but no tree shall be pruned without the consent of the abutting owner until the utility shall have given a written, printed, or verbal notice to the owner or occupant of the premises. The City Forester must be notified before any work proceeds. In cases of emergency, the consent of the abutting property owner may not be required, but notification of any work completed must be reported to the City Forester. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993. Formerly 7.98.040).

#### **7.98.120 Heritage trees.**

The City Forester, with cooperation of the City Tree Commission may designate certain trees or groves as "heritage trees" within the City with the consent of the owner(s) of record. The purpose of the heritage tree designation is to recognize, foster appreciation of, and protect trees or groves having significance to the community. The City Tree Commission shall have the authority to determine, select, and identify such trees or groves that qualify as heritage trees. Once a tree or grove is designated as a heritage tree, it will remain so unless it becomes necessary to classify the tree or grove of trees as hazardous it as a dangerous tree and removed as such. Heritage trees may not be removed without the express consent of the City Tree Commission. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993. Formerly 7.98.050).

#### **7.98.130 Pruning, corner clearance.**

Every owner of any tree, located on private property, overhanging any street or right-of-way within the City shall prune the branches so the branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection, traffic sign, or traffic control device, and so that there shall be a clear space of 14 feet above street surface, and eight feet above the sidewalk surface. Said owner shall remove all dead, diseased, or dangerous hazardous trees, or broken or decayed limbs that constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with the light from any street lamp, or interferes with visibility of any traffic control device or sign or vision clearance area at intersections and driveways. Tree limbs that grow within 10 feet of high voltage electrical conductors shall be maintained clear of such conductors by the electric utility company in compliance with any applicable franchise agreements and AMC 7.98.110, Private utility tree policy. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993. Formerly 7.98.080).

#### **7.98.140 ~~Dead or dangerous~~ Hazardous tree pruning or removal on private property.**

The City Manager or his/her designate ~~Tree Commission~~ shall have the right to cause the pruning or pruning or removal of any ~~dead or dangerous~~ hazardous trees on private property within the City, when such trees constitute a hazard to life and property, or harbor insects or disease which constitutes an imminent threat to other trees within the City. The City Manager or his designee will notify in writing the owners of such trees.

Pruning or pruning or removal shall be done by said owners at their own expense within 30 days after the date of service of notice. The failure of the property owner to prune or remove said ~~dead or dangerous~~ **hazardous** tree within 30 days of the delivery of notice shall be deemed a violation of the Albany Municipal Code, and, in addition to prosecution of said violation, the City Manager or his authorized representative may at any time thereafter prune or remove said ~~dead or dangerous~~ **hazardous** tree and assess the cost against the property as provided hereafter.

(1) Deadline to **prune or** remove ~~dead or dangerous~~ **Hazardous** Trees. Within 30 days after the date of service of the notice, the owner of the property shall cause the tree determined to be ~~dead or dangerous~~ **hazardous** to be **pruned or** removed.

(2) Requested Pruning or removal by City. At the request of the owner, the City Manager or his/her designate will cause said ~~dead or dangerous~~ **hazardous** tree to be removed for a fee sufficient to cover the direct cost plus 30 percent for administrative overhead with a minimum fee.

(3) Pruning or removal **or Pruning** by City. The City Manager or his/her designate may cause to be **pruned or** removed any tree determined to be ~~dead or dangerous~~ **hazardous** at any time following the deadline for **pruning or** pruning or removal set forth at subsection (1) of this section. The cost of the **pruning or** pruning or removal of said ~~dead or dangerous~~ **hazardous** tree shall be as calculated in subsection (2) of this section and will be a charge to the owner of the property and will become a lien against the property.

(4) Right to Enter. In the event that it becomes necessary for the City Manager or his/her designate to undertake the **pruning or** pruning or removal of the said ~~dead or dangerous~~ **hazardous** tree from any private property within the City, the designate of the City Manager shall have the right at reasonable times to enter into or upon said property to **prune or** remove said ~~dead or dangerous~~ **hazardous** tree.

(5) Cost to Become a Lien. Upon completion of the **pruning or** pruning or removal of a ~~dead or dangerous~~ **hazardous** tree under these provisions and in the event that the fee is not paid within 30 days thereafter, the City Manager or his/her designate shall file with the City Recorder and thereafter present to the City Council an itemized statement of the cost thereof. After providing the notice and hearing set forth below, the City Council shall, by ordinance, determine the reasonableness of said statements of costs and adjust the same, and thereupon the amount of said statements as approved by the City Council shall be an obligation owed to the City of Albany by the owner or owners of the real property involved, and the City shall have a lien upon said real property for such sum and the lien shall be entered in the lien docket and enforced against said property in the same manner provided for the enforcement of City liens.

(6) Notice and Hearing. Prior to the adoption of the ordinance referred to above, the City Manager or his/her designate shall cause a notice to be mailed by registered or certified mail, postage prepaid, to the record owner or owners of any real property upon which the City proposes to impose a lien for the costs of the pruning or removal of a tree determined to be dead or dangerous. This notice shall be mailed to the owner or owners of the real property in question at the address designated on the Linn or Benton County real property tax assessment rolls. An error in the name of the property owner or owners shall not void the assessment nor will a failure to receive the notice of the proposed assessment render the assessment void and any lien imposed pursuant to this section shall be a valid lien against the property. The notice shall contain a summary of the costs which are proposed to be assessed against the owner's property and shall advise of the City's intent to assess said costs against the real property upon which the work was performed and shall further advise the owner or owners of their right to a hearing before

the City Council concerning the proposed assessment and the date and time of said hearing.

(7) Summary Abatement. The procedure provided by in this section is not exclusive but is in addition to abatement procedure provided by other ordinances. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993. Formerly 7.98.1100, 7.98.110).

**7.98.150 City's power and authority is permissive, not mandatory.**

Under no circumstances shall this chapter obligate the City of Albany, or any employee or agent thereof, to undertake any particular action to enforce any of the terms of this chapter. All authority granted to the City, its agents and employees, shall be permissive and not mandatory, and the City, its agents and employees shall have complete discretion to determine whether or not enforcement action of any type should be undertaken and if so, the nature of the enforcement action itself. The remedies provided in these regulations shall be cumulative and in addition to any and all remedies available at law or equity. (Ord. 5495 § 1, 2001; Ord. 5181 § 1, 1995. Formerly 7.98.105).

**7.98.160 Arborist certification.**

A tree contractor shall have on staff an arborist certified by the International Society of Arboriculture to be qualified to prune, treat, or remove street or public trees within the City. The certified arborist must oversee all pruning work and certify that all work meets the City's pruning specifications. If a certified arborist is not on the staff of the contractor, the City Forester, applying criteria developed by the City Tree Commission [and outlined in the Urban Forestry Management Plan](#), must approve the tree service contractor before the work begins. In cases where the professional opinion of a certified arborist differs from that of the City Forester, the City Forester may refer the matter to the City Tree Commission for a decision. Nothing in this section shall prevent the employees of public agencies who are not certified arborists from pruning trees on the grounds of those public agencies. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993).

**7.98.170 Permit approval.**

The ~~Public Works~~ [Parks and Recreation](#) Director or designee shall approve or conditionally approve permits when it has been demonstrated that one or more criteria in AMC 7.98.180 have been met. (Ord. 5495 § 1, 2001).

**7.98.180 Tree pruning or removal permit criteria.**

Tree pruning or removal will be approved when:

- (1) It has been determined by the City Forester or by a certified arborist, without objection from the City Forester, that a tree is hazardous, dangerous, or significantly impacted by aggressive pests or pathogens, with a potential to spread and no other viable options are reasonably available to minimize hazard or alleviate risk of pest or pathogen to spread; or
- (2) ~~A logging permit issued by the Oregon Department of Forestry has been submitted to the City Forester;~~ or
- (3) Trees are overcrowded and it is determined by the City Forester or a certified arborist that pruning or removal will have a positive impact on the overall site and will ~~not compromise~~ [promote](#) the health of residual [remaining](#) trees; or
- (4) When necessary pursuant to a building permit for an improvement for which a site plan approval is not required; or

(5) Variance Clause. When unique circumstances specific to the applicant's situation have been expressed in writing with the application and the City Tree Commission has approved pruning or removal. Unique circumstances that could allow for a variance may include but are not necessarily limited to:

(a) A tree that is causing significant negative impacts to improvements or personal property;

(b) Personal health reasons such as severe allergic conditions; or

(c) The tree is invasive, having significant negative impact to surrounding vegetation.

(6) When subsequent conditions may reasonably be expected to occur that would render the tree eligible for pruning or removal under the criteria in (a) through (e) above. In such cases, a conditional permit may be granted pursuant to 7.98.200 which will allow pruning or removal if the anticipated conditions occur.

(7) In all other cases, a tree pruning or removal permit shall be denied. (Ord. 5495 § 1, 2001).

#### **7.98.200 Conditional permit approval.**

The City Forester may specify conditions to the approval of tree pruning or removal. Such conditions may include, but not necessarily be limited to, a requirement for certified arborist oversight during construction activities, specific construction methods such as critical root zone protection and protective fencing, post-pruning or removal site cleanup, maintenance of replacement trees, and/or post-construction evaluation of tree health. (Ord. 5495 § 1, 2001).

#### **7.98.205 Permit fees.**

Fees for pruning or removal permits shall be established by Council resolution. (Ord. 5495 § 1, 2001).

#### **7.98.210 Appeals.**

Any person who is denied a permit or is granted a permit with conditions may appeal the denial or imposition of condition by filing a written notice of appeal to the City Forester. The notice must be received within 15 calendar days of the date of denial or the date of issuance of the permit with conditions imposed. The appeal must describe in writing the specific basis upon which the appellant asserts that the decision was in error. The specific basis may include but not necessarily be limited to private need, which is unique to the property owner's circumstances as stated in AMC 7.98.180(1)(e). The City Tree Commission will review all appeals. Appeals of decisions made by the City Tree Commission are made to the City Council in accordance with AMC 2.23.060. (Ord. 5495 § 1, 2001).

#### **7.98.220 Penalties.**

Any person willfully violating any of the provisions of this code relating to the planting, pruning, trimming, or pruning or removal of trees shall be guilty of a misdemeanor punishable under the general penalty provided for in Chapter 1.04 AMC. Violation of AMC 7.98 et seq. is strict liability offense and no other culpable mental state is required. (Ord. 5495 § 1, 2001; Ord. 5096 § 2, 1993. Formerly 7.98.170).

(1) In addition to penalties provided for in Chapter 1.04 AMC, the City may require the person to pay a mitigation fee. The mitigation fee shall be an amount established equal to the value of any tree(s) removed as determined by the City Forester using methods set forth in the current edition of "Guide for Plant Appraisal," the official publication of the International Society of Arboriculture.

(2) The City may also require payment of a tree replacement fee. The tree replacement fee shall be assessed by the City Forester using any reasonable means to estimate compensation for the tree loss. All replaced trees must be a minimum two-inch (2") caliper. Planting procedures and maintenance of trees must meet current City standards, and the life of each replacement tree be guaranteed through bond, letter of credit, or cash for no less than two years.

**Footnotes**

1. Code reviser's note: Ordinance 2758 was repealed by Ordinance 3382.
2. Prior legislation: Ords. 4346 and 4601.
3. Prior legislation: Ords. 2823, 3298, 3603, 4416, 4521, 4527, 4714, 4756, 4858, 4897, 4905, 5026 and 5083.