

TMC Chapter 13.10 – Trees

13.10.000 - Title. *(Ord. 684 § 2 (part), 2000)*

This chapter shall be known as The City of Troutdale Tree Ordinance and may be so pleaded and referred to.

13.10.005 - Definitions. *(Ord. 747 § 1 Att. 1 (part), 2004; Ord. 684 § 2 (part), 2000)*

- A. As used in this chapter, singular includes the plural and vice versa.
- B. As used in this chapter:
 - "City" means the city of Troutdale, Oregon.
 - "Council" means the city of Troutdale council.
 - "Director" means director of community development of the city of Troutdale, or the director's designee.
 - "Person" means and includes any individual, firm, association, corporation, agency or organization of any kind.
 - "Planting strip" means the area of land between the curb and sidewalk.
 - "Removal" means the act of cutting down a tree or the use of any procedure the natural result of which is to cause the death or substantial destruction of the tree. Removal does not include normal trimming or pruning.
 - "Street" means and includes public sidewalks, malls, parking or planting strips, alleys or any right-of-way.
 - "Street tree" means a tree located within the public right-of-way.
 - "Topping" means the cutting back of limbs to stubs larger than three inches in diameter within a tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.
 - "Tree" means a living, standing woody plant typically having a single trunk at least one and one-half inches in diameter at a point six inches above ground level at the base of the trunk.
 - "Tree board" means the citizen committee duly appointed by the council.
 - "Underdeveloped property" means any vacant platted subdivision lot or partition parcel or any developed property able to be partitioned into two or more lots.

13.10.010 - Purpose. *(Ord. 684 § 2 (part), 2000)*

This chapter establishes policies, regulations and standards necessary to ensure that the city will continue to sustain the benefits provided by its urban forest. The provisions of this chapter are enacted to:

- A. Establish and maintain city street trees in a healthy and nonhazardous condition through good arboricultural practices;
- B. Establish and maintain appropriate diversity in tree species and age classes to provide a stable and sustainable urban forest;
- C. Promote efficient and cost effective management of the urban forest;
- D. Establish and preserve historic and significant trees;
- E. Regulate the removal of trees from undeveloped and underdeveloped property.

13.10.020 - Street tree plan—Established—Contents. *(Ord. 684 § 2 (part), 2000)*

- A. It is in the best interests of the city that a street tree plan be developed and established for the planting, maintenance and replacement of trees in and along its streets.
- B. The director may prepare or cause to be prepared a street tree plan for the planting and maintenance of trees in the streets of the city.
- C. The tree board will periodically review the street tree plan.
- D. The street tree plan shall include, but shall not be limited to, a series of maps of city streets upon which is designated a scheme for the planting of trees. Such maps shall show the interval between trees and the place where each tree is to be planted.
- E. A survey of the street trees presently existing in the city and their condition may be taken.

13.10.030 - Director—Administration. *(Ord. 684 § 2 (part), 2000)*

The director shall be responsible for the administration and enforcement of this chapter.

13.10.040 - Standards manual. *(Ord. 684 § 2 (part), 2000)*

The city shall maintain a standards manual to be used as a reference for acceptable arboricultural practices. This manual will include lists of appropriate trees for different conditions; a list of "Banned Trees"; tree selection, planting and pruning guidelines; safety and utility clearances for planting and other pertinent information. The director may revise the standards manual from time to time.

13.10.050 - License required. *(Ord. 684 § 2 (part), 2000)*

It is unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing trees within the city without first applying for and procuring a business license, as provided in Chapter 5.04 of this code. No license shall be required of any public service company including electric utilities and their agents and contractors or city employees doing such work in the pursuit of their public service endeavors.

13.10.060 - Installation authority. *(Ord. 684 § 2 (part), 2000)*

The director may plant trees in the streets of Troutdale in accordance with the street tree plan. In addition to using city personnel, the director may hire independent contractors.

13.10.070 - Contributions and funding for trees. *(Ord. 747 § 1 Att. 1 (part), 2004; Ord. 684 § 2 (part), 2000)*

- A. Street tree funds raised by a local improvement district and street tree fees collected from new developments shall be expended by the director for the planting and maintenance of street trees in accordance with Section 13.10.100.
- B. A separate fund shall be established and maintained for revenues and expenditures created by the street tree program.
- C. The city may accept contributions of funds or materials which are specifically designated for the purpose of planting or maintaining street trees within the city.

13.10.080 - Installation, removal or maintenance—Permit required—Term. *(Ord. 684 § 2 (part), 2000)*

No person shall plant, remove, destroy, cut, prune or mechanically excavate within ten feet of a street tree without first obtaining a permit from the city. All applications for such permit shall describe work to be done and the variety, size and precise location of each tree to be planted. If the director finds that the proposed planting is in accord with the street tree plan; or that trees proposed to be planted have a reasonable likelihood of prospering and such permit specifies the location, variety and grade of each tree and method of planting, including among other things the supplying of suitable soil, then a permit may be granted. The permit shall be good only for the planting season stated and for the work described in the application.

13.10.090 - Permit—Application—Issuance conditions. *(Ord. 747 § 1 Att. 1 (part), 2004; Ord. 684 § 2 (part), 2000)*

- A. Application. Any person desiring for any purpose to plant, remove, destroy, cut, prune or mechanically excavate within ten feet of any street tree shall make application to the director on forms furnished by the city, except that an application shall not be required of persons acting in their capacity as employees of the city. Such application must state the number and kind of trees to be planted, removed, trimmed, or pruned, the names of permittee and/or contractor, and the time by which the proposed work is to be done and such other information as may be required by the director. Any work done under such written permit must be performed in strict accordance with the terms and provisions of this chapter. In issuing or denying a permit, the director shall apply all the standards as set forth in this chapter and the objective of the street tree plan.
- B. Appeal. If the director denies any permit as required by this chapter, the director shall at once notify the applicant who may appeal to the council in writing within ten days thereafter. The council shall proceed to hear and determine the appeal, calling upon the director to give the reasons therefore. In all cases the decision of the council shall be final.

13.10.100 - Trees in new developments. *(Ord. 747 § 1 Att. 1 (part), 2004; Ord. 684 § 2 (part), 2000)*

- A. For all new developments, trees shall be planted in the public right-of-way or within the yard setback area and/or any buffer area adjacent to the right-of-way. All such plantings shall be done in accordance with the planting specifications for street trees as provided by the director.
- B. A developer of a residential subdivision shall not be responsible for the planting of street trees, but instead, shall pay an assessment to the city to provide for street tree planting. The tree assessment shall be in accordance with the fee schedule adopted by resolution of the city council. The residential developer shall be assessed for one tree per each thirty linear feet, or fraction thereof, of public street frontage, but the developer shall be assessed no less than one tree per lot within the residential subdivision. On streets within or bordering the residential subdivision where there is no planting strip or where utility and/or driveway locations preclude the placement of required street trees within the right-of-way, street trees may be planted within front or side yard setback areas, within any additional buffer area adjacent to the right-of-way, or within any other publicly-owned property in the vicinity of the development that will benefit the residents of the development.

13.10.110 - New streets. *(Ord. 684 § 2 (part), 2000)*

Where a planting strip is proposed in the design of a street improvement, it shall be a minimum of three feet wide. Plans and specifications for planting such areas shall be integrated into the general plan of improvements, and it shall be the duty of the community development department to coordinate the design of such improvements with the parks and facilities division.

13.10.120 - Protection of trees. *(Ord. 684 § 2 (part), 2000)*

It is unlawful for any person to attach or keep attached to any tree in or upon any public street or to the guard or stake intended for the protection of such tree any ropes, wires, chains or other device whatsoever, except for support of the tree.

13.10.130 - Historic and significant trees. *(Ord. 684 § 2 (part), 2000)*

- A. The director shall as soon as possible after the passage of the ordinance codified in this chapter, and from time to time thereafter, prepare or cause to be prepared a list of trees within the city which because of their age, type or historic association are of special note. Such trees, upon approval of the council, and in accordance with state law, will be designated "historic or significant trees."
- B. When the owner of a historic or significant tree requests or consents to have the tree designated as historic or significant, the council may require the owner, as a condition of approval, to execute and record a restrictive covenant or other appropriate document that protects the tree from removal.
- C. Upon a tree being designated as a historic or significant tree, a plaque so designating shall be placed upon or near such tree by the city.
- D. A historic or significant tree designation may be removed in accordance with state law following a public hearing before the city council. A historic or significant tree may not be removed for at least one hundred twenty days after the public hearing.
- E. If a historic or significant tree is on private property, the cost of maintenance will be shared equally by the property owner and the city.
- F. This section is intended to give, and does give full and complete authority to the director over any and all historic or significant trees in the city.

13.10.140 - Height and projection guidelines. *(Ord. 684 § 2 (part), 2000)*

Limbs of trees may project over the sidewalk area at an elevation of not less than seven and one-half feet above the sidewalk level, and over the street area at an elevation of not less than eleven feet above the street level. However, on any street designated as an arterial or one way street, and where parking has been prohibited, limbs of trees shall be trimmed to a height of not less than fourteen feet above the street level. No wires or other things shall be maintained over the street level at any elevation less than eleven feet. However, on any street designated as an arterial or one way street, and where parking has been prohibited, no wires or other things shall be maintained over the street level at an elevation of less than fourteen feet.

13.10.150 - Pruning and maintenance—General requirements. *(Ord. 684 § 2 (part), 2000)*

- A. Care and maintenance of street trees is the continuing responsibility of the adjacent property owner. The director may direct any property owner to plant, trim, prune, treat, maintain or remove street trees adjacent to his or her property when a nuisance condition is found to exist. Failure to comply with the direction of the director may result in nuisance abatement proceedings under Chapter 8.28 and may result in the city abating the nuisance and assessing the cost against the benefitted property as provided in that chapter.
- B. Topping. No person, firm, or city department shall top any street tree, park tree, or other tree on public property; however, trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be topped at the determination of the director.
- C. Trees standing in or upon any street or private grounds and having branches projecting into the street shall be trimmed by the owners of the property adjacent to or in front of which such trees are growing and shall be done according to the requirements for tree branch clearance over street and sidewalk areas.

13.10.160 - Encroachments onto public utilities. *(Ord. 684 § 2 (part), 2000)*

Tree limbs that grow near high voltage electrical conductors shall be maintained clear of such conductors by the electric utility company in compliance with any applicable franchise agreements. A public utility maintaining its utility system in a street may trim or cause to be trimmed, any tree located in the street which interferes with any light, pole, wire, cable appliance or apparatus used in connection with or as a part of the utility system.

13.10.170 - Liability of property owner. *(Ord. 684 § 2 (part), 2000)*

Property owners adjacent to street trees shall be liable to any person who is injured or otherwise suffers damage by reason of the property owner's failure to trim a street tree. Furthermore, property owners shall be liable to the city for any judgment or expense incurred or paid by the city by reason of the property owner's failure to satisfy the obligations of this chapter.

13.10.180 - Liability limitations of city. *(Ord. 684 § 2 (part), 2000)*

Nothing in this chapter shall be deemed to impose any liability upon any member of the council or the city, or any of its officers or employees, nor to relieve the owner or occupant of any private property from the duty to keep his private property, sidewalks, planting strip and street trees in front of such private property in a safe condition so as not to be hazardous to public travel nor to relieve such property owner of the obligation to pay the cost of planting, removal and replanting of street trees in the planting strip adjacent to the property of the property owner, or to relieve the property owner of liability to persons injured or otherwise damaged by reason of the property owner's failure to keep his private property, sidewalks, planting strips and trees in front of such private property in a safe condition so as not to be hazardous to public travel.

13.10.190 - Inspection of street trees. *(Ord. 684 § 2 (part), 2000)*

A continuing inspection of street trees shall be made by the parks and facilities division. If a tree is not being cared for or maintained as required in this chapter, or if any nuisance is found to exist, the city shall notify the property owner and request that the tree be properly cared for, maintained, or that the nuisance conditions be abated in accordance with Chapter 8.28 of this code. The owner of any parcel of land may notify the city, in writing, that he or she desires the city to remove a nuisance and agrees to pay the reasonable and necessary expense thereof, including ten percent for overhead. A deposit shall accompany the notice to guarantee payment.

13.10.200 - Abatement of nuisances. *(Ord. 684 § 2 (part), 2000)*

In enforcing the provisions of this chapter the director may proceed against the property on which or in front of which a street tree is located and found to constitute a nuisance as set forth under the ordinances of the city.

13.10.210 - Dead or dangerous trees— Abatement. *(Ord. 684 § 2 (part), 2000)*

Any tree located in the street area or which encroaches from private property into the street area, which because of age, disease or other debilitating cause, death, insecure root system, or any other condition which, in the opinion of the director, causes its continued existence to be detrimental to the public interest, constitutes a nuisance that shall be abated in accordance with Chapter 8.28 of this code. In addition to requiring abatement, the director may require that the removed tree be replaced with a new tree at the expense of the property owner.

13.10.220 - Diseased trees. *(Ord. 684 § 2 (part), 2000)*

Any tree located on a street or on private property that is infested with a disease or insects, or that is, in the opinion of the director, infectious and may spread such disease or insects to other trees in the city, constitutes a nuisance that shall be abated in accordance with Chapter 8.28 of this code. The abatement under this section may include treating the infested tree in lieu of removing it. If the infested tree is removed, the director may require the property owner to replace the infested tree at the property owner's expense.

13.10.230 - Emergency conditions. *(Ord. 684 § 2 (part), 2000)*

In case of an emergency caused by a street tree being in a hazardous or dangerous condition, such tree may be removed with the permission of any member of the police department, fire district, parks and facilities division or public works department.

13.10.240 - Replacement of trees. *(Ord. 684 § 2 (part), 2000)*

The approval of a street tree removal by the director may be conditioned on replacement with a new street tree of approved variety if the director finds the replacement necessary to maintain an ornamental tree system on the street, block or portion thereof. If approval by the director is so conditioned, the street tree removal permit shall contain such condition. Costs of replacement are the responsibility of the property owner.

13.10.250 - Injuring or cutting prohibited. *(Ord. 684 § 2 (part), 2000)*

It is unlawful for any person, without a prior written permit from the director, to remove, destroy, cut, break or injure any street tree, or to remove, except as provided in this chapter, any tree that is planted or growing in or upon any street or cause or authorize or procure any person to do so; or injure, misuse or remove any device set for the protection of any tree in or upon any street.

13.10.260 - Violation—Penalty. *(Ord. 684 § 2 (part), 2000)*

Any person, firm or corporation violating any provision of this chapter shall, upon conviction, be fined a sum not exceeding one thousand dollars or be imprisoned in jail for a period not exceeding six months, or be punished by both such fine and imprisonment. If the violation of any provision of this chapter results in the injury, mutilation, or death of a tree regulated herein, the cost of repair or replacement shall be borne by the party in violation in addition to any fine that is imposed. The replacement value of a tree shall be determined in accordance with the latest version of the "Guide For Plant Appraising" published by the International Society of Arboriculture.

13.10.270 - Tree removal. *(Ord. 684 § 2 (part), 2000)*

- A. The intent of this section is to regulate the removal of trees, other than street trees, as defined in Section 13.10.005, and other than historic or significant trees, as designated pursuant to Section 13.10.130, on undeveloped and underdeveloped property. Street trees shall be regulated as provided in applicable sections of this chapter.
- B. The requirements of this section apply only to trees having a trunk six inches or more in diameter, maximum cross section, measured at a point four and one-half feet above the ground on the upslope side of the tree. If a tree splits into multiple trunks below four and one-half feet, the trunk is measured at its most narrow point beneath the split.
- C. No person shall remove a tree from undeveloped or underdeveloped property without first obtaining a tree removal permit from the director pursuant to this section. No tree removal permit is required to remove trees on developed property.
- D. An application for a tree removal permit in conjunction with a land use permit shall be considered as part of the land use permit and shall be subject to the application, notice, hearing and appeal procedures applicable to the proposed development pursuant to the Troutdale Development Code. An application for any land use permit shall show trees regulated by this section on a site plan. A tree removal permit may be granted in the following circumstances:
 - 1. If a tree is diseased, hazardous, in danger of falling, in close proximity to existing structures or proposed construction, or interferes with utility services or pedestrian or vehicular traffic safety;
 - 2. If the tree removal will have no significant impact on erosion, soil retention, stability of earth, flow and character of surface waters and streams, protection of nearby trees and windbreaks; and, if the tree removal will have no significant impact on the environmental quality of the area, including scenic and wildlife habitat values;
 - 3. If the tree removal is necessary in order to construct reasonably required improvements; or
 - 4. If, in the opinion of the fire marshal, tree removal is necessary to protect existing or proposed structures.
- E. An application for a tree removal permit not in conjunction with a land use permit shall be processed pursuant to the Type II procedure, with appeal rights as set forth in the Troutdale Development Code, and shall be permitted on a limited basis consistent with the preservation of the site's future development potential and consistent with the following criteria:
 - 1. Wooded areas associated with natural drainage-ways and water areas shall be retained to preserve riparian habitat and to minimize erosion;
 - 2. Wooded areas that will likely provide an attractive on-site amenity to occupants of future development shall be retained;
 - 3. Wooded areas along ridgelines and hilltops shall be retained for their scenic and wildlife habitat values;
 - 4. Wooded areas along property lines shall be retained to provide buffers from adjacent properties;
 - 5. Trees shall be retained in sufficiently large areas and dense stands so as to ensure against windthrow;
 - 6. Clear cuts of developable areas shall be avoided so as to retain a wooded character of future building sites, and to preserve housing and design options for future city residents.