

ORDINANCE NO. 11-62

AN ORDINANCE REGULATING THE  
PLANTING, MAINTENANCE, PROTECTION,  
CONTROL, AND REMOVAL OF TREES IN AND  
UPON THE PUBLIC STREETS AND OTHER  
PUBLIC PLACES IN THE CITY OF EAGLE  
POINT AND PROVIDING FOR THE  
VIOLATION THEREOF

THE CITY OF EAGLE POINT ORDAINS AS FOLLOWS:

Section 1. Title of Ordinance. This ordinance shall hereafter be referred to and cited as the STREET TREE ORDINANCE of the City of Eagle Point, Oregon.

Section 2. Permission to Plant Trees. No trees or shrubs shall hereafter be planted in or removed from any public parking strip or other public place in the City without permission from the Street Tree Committee.

Section 3. Definitions of General Terms.

3.1 STREET TREES: "Street Trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or other ways within the City.

3.2 PARK TREES: "Park Trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.

Section 4. Creation and Establishment of a Street Tree Committee. There is hereby created and established a Street Tree Committee for the City of Eagle Point, which shall consist of five members, who shall be appointed by the mayor with the approval of the City Council. This shall sometimes be referred to in this ordinance as "the committee". Members shall serve without compensation. A majority of the members shall constitute a quorum for the transaction of business. All public records and open meeting laws of the State of Oregon shall apply.

Section 5. Terms of Office. The term of the members of the Street Tree Committee shall be two years, except that the term of three of the members appointed to the first committee shall be

one year and the term of two of the members of the first committee shall be two years. If a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

Section 6. Duties and Responsibilities. The Committee shall study, investigate, develop and/or update, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of Street Trees and Park Trees. This plan will include a list of recommended and prohibited species of trees. Such plan will be presented to the City Council and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the City of Eagle Point, Oregon. The Committee, when requested by the City Council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work.

Section 7. New Development. Whenever Site Plan and Landscape Approval is required under the Zoning Ordinance, Subdivision Ordinance, or any other land development requirement of the City of Eagle Point, the Site Plan and Landscape Approval Committee may refer the application for such approval to the Street Tree Committee for its review and recommendations.

Section 8. Tree Planting Standards.

8.1 Classification of Trees. For the purpose of this ordinance, and the official comprehensive city tree plan to be adopted in accordance herewith, there shall be three size classes based on mature height: small (under 30 feet); medium (30 to 50 feet); and large (over 50 feet).

8.2 Spacing. Except for special plantings designed or approved by a landscape architect or urban forester, and approved by the Street Tree Committee, no trees may be planted closer than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet.

8.3 Distance from Curb and Sidewalk. No trees may be planted closer to any curb or sidewalk than the following: small trees, 2 feet; medium trees, 3 feet; and large trees, 4 feet.

8.4 Distance from Street Corners and Fireplugs. No Street Tree shall be planted within 25 feet of any street corner, measured from the point of nearest intersection curbs or curblines. No Street Tree shall be planted within 10 feet of any fireplug.

8.5 Utilities. No Street Trees other than small trees may be planted under or within 10 feet of any overhead utility wire. No Street Tree may be planted over or within 5 lateral feet of any underground water line, sewer line, transmission line, or other utility.

Section 9. Topping. Except as permitted herein, no person or firm shall top any Street Tree, Park Tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than 3 inches in diameter within the tree's crown so as to remove the normal canopy. At the determination of the Street Tree Committee, trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where alternative pruning practices are impractical, may be exempted from this prohibition.

Section 10. Public Tree Care. The City shall have the right to plant, prune, maintain and remove trees, plants, and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The Street Tree Committee may remove, or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvement, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of Street Trees by adjacent property owners, providing the selection and location of said trees is in accordance with the planting standards and the list of recommended species, or is specifically approved by the Street Tree Committee.

Section 11. Pruning Corner Clearance. Every owner of any tree overhanging any street or right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 10 feet above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public.

Section 12. Dead, Dangerous or Diseased Tree Removal on Private Property. The City shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with the visibility of any traffic control device or sign, or obstructs the view of any street or alley intersection.

The City shall have the right to cause the removal of any dead or diseased trees growing in a parking strip or any public place, or in private property when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the City.

The City may remove or trim such tree, or may require the property owner to remove or trim any such tree on private property, or in a parking strip abutting upon said owner's property. Failure of the property owner to remove or trim such tree within thirty (30) days after receiving notice by the City Administrator or his/her designate shall be deemed a violation of this ordinance, and the Public Works Department may then remove or trim said tree and charge the costs thereof to the property's owner or occupant.

Section 13. Appeals. Appeals from orders made hereunder may be made by filing written notice thereof with the City Administrator within ten (10) days after such order is received, stating in substance that appeal is being made from such order to the City Council. The Administrator shall thereupon call such appeal to the attention of the City Council at its next regular meeting. The Council, at its option, may consider such appeal on the record, or it may allow additional evidence to be presented by the Appellant, a representative of the Street Tree Committee or Public Works Director.

Section 14. Abuse or Mutilation of Trees. It shall be a violation of this ordinance to abuse, destroy or mutilate any tree, shrub, or plant in a public parking strip or any other public place, or to attach or place any rope or wire (other than used to support a young or broken tree), sign, poster, handbill, or other thing to or on any tree growing in a public place, or to cause or permit any wire charged with electricity to come in contact with such tree, or to allow gaseous, liquid, or solid substance which is harmful to such trees to come in contact with their roots or leaves.

Section 15. Removal of Stumps. All stumps of Street and Park Trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

Section 16. Interference With the Street Tree Committee. It shall be unlawful for any person to prevent, delay or interfere with the Street Tree Committee, the Public Works Department, or any of its agents while engaging in and about the planting,

cultivating, mulching, pruning, spraying, or removing of any Street Trees, Park Trees, or trees on private grounds, as authorized by this ordinance.

Section 17. License and Bond. It shall be unlawful for any private person or firm to engage in the business or occupation of pruning, treating, or removing Street or Park Trees within the City without first applying for and procuring a license. The license fee shall be in accordance with the City business fee schedule and must be paid in advance, provided, however, that no license shall be required of any public utility company acting within the scope of its franchise agreement with the City. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$500,000 for bodily injury and \$100,000 property damage, indemnifying the City or any person injured as herein described.

Section 18. Penalty. Any person violating any provision of this ordinance shall, upon conviction or a plea of guilty, be subject to a fine not to exceed \$200.00 per violation. In addition, if the violation results in the injury, mutilation or death of a public Street Tree or Park Tree, the cost of repair or replacement shall be borne by the party in violation.

Section 19. Conflict. If any provision of this ordinance conflicts with standards or requirements of any other ordinance of the City of Eagle Point, the more restrictive or stringent standard or requirement shall apply.

Section 20. Validity. If any section of this ordinance is declared invalid by any court of competent jurisdiction, such decision shall be deemed to apply to that section only and shall not affect the validity of the ordinance as a whole or any part thereof other than the part declared invalid.

PASSED by the Council and signed by me in open session in authentication of its passage this 8<sup>th</sup> day of September, 1992.

Walter B Barker  
Mayor

ATTEST:

V. Dita Larnell  
Recorder

APPROVED by me this 8<sup>th</sup> day of September, 1992.

Walter B Barker  
Mayor