

AN ORDINANCE ESTABLISHING ALBANY MUNICIPAL CODE CHAPTER 2.23, WHICH ESTABLISHES A CITY TREE COMMISSION; ESTABLISHING CHAPTER 7.98, WHICH SETS FORTH REGULATIONS RELATING TO THE PLANTING AND MAINTENANCE OF TREES; AND AMENDING SECTION 1.040.030, MISDEMEANORS, WHICH MAY BE PROSECUTED AND PUNISHED AS INFRACTIONS.

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1. Albany Municipal Code Chapter 2.23, City Tree Commission, is hereby established to read as follows:

Chapter 2.23

CITY TREE COMMISSION

Sections:

- 2.23.010 City Tree Commission established.
- 2.23.020 Purpose.
- 2.23.030 Term of office and compensation.
- 2.23.040 Duties and responsibilities.
- 2.23.050 Procedures.
- 2.23.060 Review by City Council.

2.23.010 City Tree Commission established. There is hereby established a City Tree Commission for the City of Albany, which shall consist of five members. The members shall be appointed by the Mayor and ratified by the City Council. At least one member of the City Tree Commission shall be a representative from the field of arboriculture, landscape architecture, or otherwise have a background and professional knowledge of trees and their care. Members shall be residents of the city of Albany.

2.23.020 Purpose. The City Tree Commission 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 removal of trees in the city of Albany.

2.23.030 Term of office and compensation. City Tree Commission members shall each serve a three-year term with the exception of the original members. The term of office of the first member appointed shall expire on December 31, 1994; the terms of office of the second and third members appointed shall expire on December 31, 1995; and the terms of office for the fourth and fifth members appointed shall expire on December 31, 1996. Commission members shall serve without compensation.

2.23.040 Duties and responsibilities. It shall be the responsibility of the City Tree Commission to:

- 1) study, investigate, develop, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees in parks, and in public areas, which includes the public right-of-way. The plan will be presented to the City Council and upon their acceptance and approval shall constitute the City Tree Plan for the City of Albany. The Commission, when requested by the City Council, shall consider, investigate, make finding, report, and recommend upon any special matter or question coming within the scope of its work,
- 2) develop criteria for the City Forester to apply in making decisions entrusted to his/her discretion,
- 3) designate Heritage Trees on public and private lands within the city,
- 4) promote the planting and proper maintenance of trees through special events including an annual local celebration of Arbor Day,
- 5) obtain the annual Tree City USA designation by the National Arbor Day Foundation, and
- 6) review the discretionary decisions of the City Forester.

2.23.050 Procedures. The City Tree Commission shall elect a chairperson and a vice-chairperson and shall develop its own meeting schedule. A majority of the members shall constitute a quorum. The Commission shall keep a journal of its proceedings, which shall be kept on file in the office of the City Recorder.

2.23.060 Review by City Council. The City Council shall have the right to review the conduct, acts, and decisions of the City Tree Commission. Any person may appeal any ruling or order of the City Tree Commission to the City Council who may hear the matter and make a final decision.

Section 2. Albany Municipal Code Chapter 7.98, Tree Regulations, is hereby established to read as follows:

Chapter 7.98

TREE REGULATIONS

Sections:

- 7.98.010 Purpose.
- 7.98.020 Definitions.
- 7.98.030 Street trees -- classification and spacing.
- 7.98.040 Private Utility Tree Policy.
- 7.98.050 Heritage Trees.
- 7.98.060 Distance between curb and sidewalk.
- 7.98.070 Distance from street corners and fire hydrants.
- 7.98.080 Pruning, corner clearance.
- 7.98.090 Permits.
- 7.98.100 Dead or dangerous tree removal on private property.
- 7.98.110 Abatement.
- 7.98.120 Protection of trees.
- 7.98.130 Planting in roadways having no gutter or curb.
- 7.98.140 Tree topping.
- 7.98.150 Exemptions.
- 7.98.160 Arborist certification.
- 7.98.170 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 removal of trees in the city of Albany.

7.98.020 Definitions. 1) Street Trees: Street trees are herein defined as trees, located in public rights-of-way within the City.

2) Public Trees: Public trees are herein defined as trees located on property designated as a public park and trees located in public right-of-way not defined as street right-of-way.

3) Heritage Trees: Heritage Trees are trees of significant historical value so designated by the City Tree Commission.

4) Dangerous Trees: A tree that is classified as a dangerous tree by the City Tree Commission.

7.98.030 Street trees -- classification and spacing. 1) The City Tree Commission shall develop and maintain a list of approved trees for planting along streets. The trees will be listed in three size classes based on mature height: small (under 30 feet); medium (30 to 50 feet); and large (over 50 feet). Lists of trees not suitable for planting will also be created by the City Tree Commission.

2) The City Tree Commission shall develop criteria on the spacing of street trees.

7.98.040 Private Utility Tree Policy. Upon obtaining a written 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 or printed notice to the owner or occupant of the premises. If the abutting property owner fails, neglects, or refuses to sign a written or printed notice, 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.

7.98.050 Heritage Trees. The City Tree Commission may designate certain trees 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 having significance to the community. The City Tree Commission shall have the authority to determine, select, and identify such trees that qualify as Heritage Trees. 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 removed as such. Heritage Trees may not be removed without the express consent of the City Tree Commission.

7.98.060 Distance between curb and sidewalk. The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three size classes listed in Section 7.98.030 (1). No tree may be planted in a planting strip with a width of less than the following: small trees, three feet; medium trees, five feet; and large trees, eight 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.

7.98.070 Distance from street corners and fire hydrants. The City Tree Commission shall establish standards for planting trees in vision clearance areas.

7.98.080 Pruning, corner clearance. 1) 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 fourteen feet above street surface, and eight feet above the sidewalk surface. Said owner shall remove all dead, diseased, or dangerous 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 ten 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 Section 7.98.040 of this chapter, Private Utility Tree Policy.

7.98.090 Permits. 1) A permit shall be obtained from the City Forester, applying criteria developed by the City Tree Commission, before planting, pruning, or otherwise affecting a street tree.

2) 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.

3) 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 removal will be borne by the person or persons who planted the tree.

4) Permits shall be valid for a period of 180 days following the date of issuance.

7.98.100 Dead or dangerous tree removal on private property. The City Tree Commission shall have the right to cause the pruning or removal of any dead or dangerous trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute an imminent threat to other trees within the city. The City Manager or his designee will notify in writing the owners of such trees. 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 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 tree and assess the cost against the property as provided hereafter.

7.98.110 Abatement. 1) **Deadline to Remove Dead or Dangerous Trees.** Within thirty (30) days after the date of service of the notice required in AMC Section 7.98.100, or as soon thereafter as a violation of AMC Section 7.98.100 may occur, the owner of the property shall cause the tree determined to be dead or dangerous in violation of AMC Section 7.98.100 to be removed.

2) **Requested Removal by City.** At the request of the owner, the City Manager or his/her designee will cause said dead or dangerous tree to be removed for a fee sufficient to cover the direct cost plus 30% for administrative overhead with a minimum fee of [_____].

3) **Removal by City.** The City Manager or his/her designee may cause to be removed any tree determined to be dead or dangerous that is in violation of AMC Section 7.98.100 at anytime following the deadline for removal set forth at subsection 1) of this section. The cost of the removal of said dead or dangerous 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 removal of the said dead or dangerous 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 remove said dead or dangerous tree.

(5) **Cost to Become a Lien.** Upon completion of the removal of a dead or dangerous tree under the provisions of AMC Section 7.98.100 hereof and in the event that the fee is not paid within thirty (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 as specified in AMC Section 7.98.110. 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 removal of a tree determined to be dead or dangerous under Section 7.98.100. 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.

7.98.120 Protection of trees. 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 removal of any building or structure it shall be unlawful for any owner or contractor to leave any street tree or public tree in the vicinity of such building or structure without a good and sufficient guard or protectors as shall prevent injury to such tree arising out of or by reason of such construction or removal.

4) Excavations shall not occur within ten 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 ten feet thereof.

5) All building material or other debris shall be kept at least four feet from any street tree or public tree.

7.98.130 Planting in roadways having no gutter or curb. No trees, shrubs, or plantings more than eighteen inches in height shall be planted in the public right-of-way abutting roadways having no established curb or gutter.

7.98.140 Tree topping. It shall be unlawful for any person, firm, or the City of Albany 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, applying criteria developed by the City Tree Commission.

7.98.150 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 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.

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, must approve the tree service contractor before the work begins. 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.

7.98.170 Penalties. Any person willfully violating any of the provisions of the Albany Municipal Code relating to the planting, pruning, trimming, or removal of trees shall be guilty of a misdemeanor punishable under the general penalty provided for in Chapter 1.04 of the Albany Municipal Code.


Section 3. Albany Municipal Code Section 1.04.030, Misdemeanors, which may be Prosecuted as Infractions, is hereby amended to include Subsection (l) as follows:

(l) Chapter 7.98, Tree Regulations

Passed by the Council: December 15, 1993

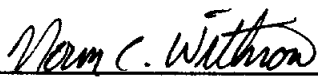
Approved by the Mayor: December 15, 1993

Effective Date: January 15, 1993



Mayor

ATTEST:



City Recorder