

ORDINANCE NO. 2062

AN ORDINANCE AMENDING CENTRAL POINT MUNICIPAL CODE SECTION 12.36 IN PART REGARDING TREES

RECITALS:

- A. Pursuant to CPMC, Chapter 1.01.040, the City Council, may from time to time make revisions to its municipal code which shall become part of the overall document and citation.
- B. Upon review, the staff and city attorney for the City of Central Point determined that amendment to Chapter 12.36 Trees is advisable to expand the definition of nuisance trees, allow homeowners to apply for removal and replacement of a nuisance tree and/or allow the City to require a homeowner to remove a tree the City deems to be a nuisance.
- C. Words ~~lined through~~ are to be deleted and words **in bold** are added.

THE PEOPLE OF THE CITY OF CENTRAL POINT DO ORDAIN AS FOLLOWS:

SECTION 1. Chapter 12.36 is amended in part as set forth below and incorporated herein by reference.

**Chapter 12.36
TREES**

Sections:

- 12.36.010 Purpose.
- 12.36.020 Applicability.
- 12.36.030 Definitions.
- 12.36.040 Tree removal/replacement.
- 12.36.045 City's power is permissive.
- 12.36.050 Review criteria.
- 12.36.060 Permit exemptions.
- 12.36.070 Tree topping.
- 12.36.080 Protection of trees.
- 12.36.090 Street and frontage tree planting--When required.

12.36.100 Street tree standards.

12.36.110 Street tree plans.

12.36.120 Street tree planting.

12.36.130 Street tree maintenance.

12.36.010 Purpose.

The purpose of this chapter is to establish and maintain the maximum amount of tree cover on public and private lands in the city; provide tree-lined streets throughout the city; select, situate and maintain trees appropriately to minimize hazard, nuisance, damage, and maintenance cost; to enhance the appearance of the city; to promote a diverse, healthy, and sustainable community forest; and to educate the public regarding community forest issues. (Ord. 1821 §1(part), 2001).

12.36.020 Applicability.

The provisions of this chapter shall apply to:

A. Individual significant or historic trees as defined in this chapter;

B. All trees planted in or upon any public area or right-of-way;

C. All trees **and shrubs** planted in or upon any private property which directly affect public infrastructure including but not limited to sewers, water mains, sidewalks, streets, public property, or clear vision distances at street intersections, **and private utility and irrigation lines, including but not limited to frontage trees and private trees which are deemed hazardous trees or shrubs or nuisance trees as defined in this Chapter;**

D. All trees on developable land and subject to or undergoing development review such as site plan review, tentative subdivision review, or partition review. (Ord. 1821 §1(part), 2001).

12.36.030 Definitions.

“Approved tree list” means those trees identified in city of Central Point publication, City of Central Point Recommended Street Tree Guide which will be approved and amended by city council resolution.

“Critical root zone” is generally a circular region measured outward from a tree trunk representing the essential area of roots that must be maintained or protected for the tree’s survival. Critical root zone is one foot of radial distance for every inch of tree diameter measured at four and one-half feet above

ground level, with a minimum of eight feet. For significant trees, the formula changes to one and one-half feet for every inch of tree diameter at four and one-half feet above ground level, with a minimum of twelve feet.

“Crown” means the leaves and branches of a tree or shrub; the upper portion of the tree from the lowest branches on the trunk to the top. May also be referred to as “canopy.”

“Diameter-at-breast-height (DBH)” is tree trunk diameter measured in inches at a height of four and one-half feet above the ground. 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.

“Drip line” means a vertical line extending from the outermost edge of the tree’s original canopy to the ground.

“Frontage 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 mean ground level at the base of the trunk, that is located on private property adjacent to the street right-of-way **and was installed as a condition of development approval.**

“Hazardous tree or shrub” means a tree or shrub or part thereof growing on private or public property which endangers, obstructs or impairs the free and full use of a public area, including **public or private utilities and irrigation lines** within these areas, or is afflicted with or weakened by a disease or injury or is considered dead.

“Historic tree” means selected trees placed on a city inventory based on the age, species, location, health and historic significance.

“Major pruning” means removal of over twenty percent of the tree’s canopy, any tree topping, or disturbance of over ten percent of the root system.

“Nuisance Tree” ~~A tree is considered a public nuisance~~ **means a tree or part thereof growing on private or public property** which by reason of its condition interferes with the use of any public area; or which is infected with a plant disease; or which is infested with injurious insects or pests which therein threaten public or private property, or which endangers the public health, safety and welfare, **or which has failed to thrive. Nuisance trees include fruit, nut or deciduous trees which drop a significant**

amount of fruits, nuts or pinecones onto public sidewalks or public streets creating a reasonable tripping hazard and/or unreasonable burden of maintenance or cleaning of public sidewalks and/or other public property, or are otherwise inappropriate for their location.

“Private tree” means a tree located on private property, other than a frontage tree, ~~hazardous tree~~, historic tree or significant tree.

“Public tree” means a tree located ~~within a public right-of-way~~ or on public land, such as a city park.

“Significant trees” means selected trees placed on a city inventory based on the age, species, health and location.

“Street 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 mean ground level at the base of the trunk, that is located within the street right-of-way.

“Topping” means the severe cutting back of limbs to stubs three inches in diameter within the tree’s crown to such a degree so as to remove the natural canopy and disfigure the tree.

“Tree” means any woody plant, including shrubs and bushes, having a trunk five inches or more in diameter four and one-half feet above ground level at the base of the trunk. 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.

“Tree board” means an appointed citizen committee formed for the purpose of hearing concerns and making decisions regarding trees. The Central Point planning commission currently serves in this capacity.

“Tree establishment” includes watering, feeding, initial pruning, pesticide or herbicide management, and replacement of trees, if necessary, for a period of three years from the date of planting. (Ord. 1980 §1(part), 2013; Ord. 1821 §1(part), 2001).

12.36.040 Tree removal/replacement.

The provisions of this section shall apply to any historic tree, significant tree, street tree, frontage tree required as a condition of development, public tree, **nuisance tree** or hazardous tree **or shrub**, unless otherwise specified.

A. The removal or major pruning **by a property owner or association of owners responsible for maintenance** of any tree other than a private tree shall require city approval, unless specifically designated as exempt by this chapter. Persons wishing to remove or prune such trees shall file an application for a permit with the Central Point city manager. **Where the application is filed by an association of owners responsible for maintenance, the owner of the property upon which the tree is located must consent in writing to the application.** The applicant shall include information describing the location, type, and size of the subject tree or trees, and the reasons for the desired action.

The city shall review the application for the permit within thirty **(30)** calendar days and either approve, approve with conditions or modifications, deny the application or request additional information based on the criteria stated in Section 12.36.050. Any decision to deny the application shall be in writing along with the reasons for the denial and a description of the appeal process.

An applicant may appeal an adverse determination to the Central Point planning commission. A written notice of appeal shall be filed with the city manager within fifteen **(15)** calendar days following the date of distribution of a city's decision. The applicant shall have the burden of proving that the city made an incorrect decision. Based on the planning commission's findings and conclusions, the planning commission may affirm, reverse or modify the decision being appealed.

B. All trees other than private trees shall be removed or pruned following accepted pruning standards adopted by the city.

C. The applicant shall be responsible for all costs associated with the tree removal or pruning and shall ensure that all work is done in a manner which ensures safety to individuals and public and private property.

D. Approval of a request to remove a tree may be conditioned upon replacement of the tree with another tree from the city's approved tree list, or a requirement to pay to the city an amount sufficient to fund the planting and establishment by the city of a tree, or trees, of similar value. The value of the existing tree to be removed shall be calculated using the methods set forth in the edition then in effect of the "Guide for Plan Appraisal" published by the International Society of Arboriculture Council for Tree Landscape Appraisers.

E. The applicant is responsible for grinding stumps and surface roots at least six inches below grade. At least a two-inch-thick layer of topsoil shall be placed over the remaining stump and surface roots. The areas shall be crowned at least two inches above the surrounding grade to allow for settling and shall be graded smooth. The applicant shall restore any damaged turf areas and grades due to vehicular or mechanical operations. The area shall be reseeded.

F. Other conditions may be attached to the permit approval by the ~~Central Point planning commission~~ city as deemed necessary.

G. The city shall have the right to cause the pruning or removal of any potentially hazardous or nuisance tree, or parts of a tree or shrub, on **public or private** property within the city, when such trees constitute a threat to human life, safety, or property. Except in an emergency when immediate action is necessary for safety, the Central Point city manager or his designee will notify in writing the owners of such trees.

Where such hazardous tree or shrub or nuisance tree is located within public right-of-way maintained by private property owners, or a private property owners' associations, the city shall notify in writing the property owner of record whose property frontage includes said tree. Said owners at their own expense shall do pruning or removal within thirty **(30)** days after the date of notice. In the event of failure of owners to comply with such provisions, or in the above mentioned emergency situation, the city shall have the authority to remove or cause to be removed such trees and assess the cost of removal, **and replacement of such tree**, plus reasonable and actual administrative charges as a lien against the property.

H. In the event that it becomes necessary for the Central Point city manager or his designee to undertake the inspection, pruning or removal of a potentially hazardous or nuisance tree from any private property within the city, the city manager or his designee shall have the right at reasonable times to enter into or upon said property to inspect, prune or remove said potentially hazardous or dead tree. (Ord. 1980 §1(part), 2013; Ord. 1969 §1(part), 2013; Ord. 1821 §1(part), 2001).

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

Under no circumstances shall this chapter obligate city, or any employee or agent thereof, to undertake any particular action to enforce any of the terms of this chapter. All authority granted to city, its agents and employees, shall be permissive and not mandatory, and 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.

12.36.050 Review criteria.

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

- A. The tree is unsafe, dead, or diseased as determined by a certified arborist. Verification of tree health may be required, at the expense of the applicant, by a certified arborist acceptable to the city;
- B. The tree is in conflict with public improvements **such as public utilities, sidewalks, public areas, or rights of way;**
- C. The proposed removal or pruning is part of an approved development project, a public improvement project where no alternative is available, or is part of a street tree improvement program; or
- D. The tree is deemed a nuisance tree or a hazardous tree or shrub as defined in this Chapter; or**
- E. The tree is in conflict with private utilities or irrigation lines.**

12.36.060 Permit exemptions.

A. Hazardous Tree. If an imminent danger exists to the public or any private property owner or occupant, the city may issue an emergency removal permit. The removal shall be in accordance with International Society of Arboriculture (ISA) standards.

B. Maintenance. Regular pruning maintenance which does not require the removal of over twenty percent of the tree's canopy, tree topping, or the disturbance of over ten percent of the tree's root system is exempt from the provisions of this chapter. (Ord. 1821 §1(part), 2001).

12.36.070 Tree topping.

It is unlawful for any person, firm, or the city to top any tree other than a private tree; however, trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions may be exempted from normal pruning practices at the determination of the Central Point planning commission, applying criteria developed by the city. (Ord. 1821 §1(part), 2001).

12.36.080 Protection of trees.

A. It is unlawful for any person to remove, destroy, break, or injure any tree or part of a tree other than a private tree. Individuals convicted of removing or destroying a tree or part of a tree without city approval shall be subject to paying to the city an amount sufficient to fund the planting and establishment of a tree, or trees, of similar value. The value of the removed or destroyed tree shall be calculated using the methods set forth in the edition then in effect of the "Guide for Plant Appraisal" published by the International Society of Arboriculture Council of Tree Landscape Appraisers.

B. It is unlawful for any person to attach or keep attached to any tree other than a private tree, or to the guard or stake intended for the protection of such tree, any rope, wire, chain, sign, or other device, except as a support for such tree.

C. During the construction, repair, alteration or removal of any building or structure it is unlawful for any owner or contractor to leave any tree other than a private tree in the vicinity of such building or structure without a good and sufficient guard or protectors as shall prevent injury to such tree arising out of or by reason of such construction or removal.

D. Excavations shall not occur within one and one-half times the drip line of any tree other than a private tree without approval of the city, applying criteria developed by the planning commission. Utility pole installations are exempted from these requirements. During such excavation or construction, the excavator or builder shall guard any such tree within said area around the drip line, or as may be required by the planning commission.

E. All building or other debris shall be kept outside one and one-half times of the drip line of any tree other than a private tree.

F. Every effort should be made to retain existing trees on public or private property as an integral part of overall community forest canopy and the development process. The planning commission shall make every effort to modify setback requirements to include existing trees. (Ord. 1980 §1(part), 2013; Ord. 1821 §1(part), 2001).

12.36.090 Street and frontage tree planting--When required.

A. All new multifamily development, commercial or industrial development, subdivisions, partitions, or parking lots fronting a public roadway which has a designated curbside planting strip or planting island shall be required to plant street trees in accordance with the standards listed in Section 12.36.100.

B. Frontage trees shall be required as a condition of new development. The standards for the planting of such trees are those listed in Section 12.36.100. The number and location of frontage trees shall be determined by the Central Point planning commission during the site plan, tentative plan or other discretionary permit review process for new development. (Ord. 1821 §1(part), 2001).

12.36.100 Street tree standards.

A. The species of the street trees to be planted shall be chosen from the approved street tree list unless approval of another species is given by the Central Point planning commission.

B. Street trees shall be a minimum of one and one-half inches in caliper measured at six inches above ground level. All trees shall be healthy grown nursery stock with a single straight trunk, a well developed leader with tops and roots characteristic of the species cultivar or variety. All trees must be free of insects, diseases, mechanical injury, and other objectionable features when planted.

C. Small or narrow stature trees (under twenty-five feet tall and less than sixteen feet wide branching) should be spaced no greater than twenty feet apart; medium sized trees (twenty-five feet to forty feet tall, sixteen feet to thirty-five feet wide branching) should be spaced no greater than thirty feet apart; and large trees (over forty feet tall and more than thirty-five feet wide branching) should be spaced no greater than forty feet apart. Within residential developments, street trees should be evenly spaced, with variations to the spacing permitted as approved by the city for specific site limitations and safety purposes. Within commercial and industrial development staggered, or irregular spacing is permitted, as may be approved by the Central Point planning commission.

D. When located adjacent to a local residential street or minor collector street, street trees shall be planted within a curb-side landscape strip measuring a minimum of three feet in width. Street trees adjacent to major collector streets or arterial streets shall be placed a minimum of four feet from the back edge of the sidewalk. In no case shall a tree be planted closer than two and one-half feet from the face of a curb.

E. Street trees shall not be planted within ten feet of fire hydrants, utility poles, sanitary sewer, storm sewer or water lines, or within twenty feet of street light standards or street intersections, or within five feet of an existing street tree. Variations to these distances may be granted by the public works director and as may be required to ensure adequate clear vision.

F. Existing street trees shall be retained unless approved by the city manager for removal during site development or in conjunction with a street construction project. Sidewalks of a variable width and elevation may be utilized as approved by the city manager or his designee to save existing street trees. Any street tree removed through demolition or construction within the street right-of-way shall be replaced at a location approved by the city with a tree, or trees, of similar value. As an alternative the property owner may be required to pay to the city an amount sufficient to fund the planting and establishment by the city of a tree of similar value. The value of the removed tree shall be calculated using the methods set forth in the edition then in effect of the "Guide for Plant Appraisal" published by the International Society of Arboriculture Council of Tree Landscape Appraisers. The developer or applicant shall be responsible for the cost of the planting, maintenance and establishment of the replacement tree.

G. Sidewalk cuts in concrete for tree planting shall be a minimum of four feet by six feet, with the long dimension parallel to the curb.

H. Street trees, as they grow, shall be pruned to provide at least eight feet of clearance above sidewalks and fourteen feet above local streets, sixteen feet above collector streets, and eighteen feet above arterial streets. This provision shall be waived in the case of newly planted trees so long as they do not interfere with public travel, sight distances, or endanger public safety as determined by the city.

I. Maintenance of street trees, other than those located in the downtown core area (defined as that area bordered by Manzanita, Oak, Front and 6th Streets) shall be the continuing obligation of the abutting property owner. (Ord. 1984 §1, 2014; Ord. 1969 §1(part), 2013; Ord. 1821 §1(part), 2001).

12.36.110 Street tree plans.

A. Submittal.

1. Subdivisions and Partitions. Street tree planting plans shall be submitted to city staff for review and approval prior to the filing of a final subdivision or partition plat.

2. Commercial, Industrial, Parking Lots, and Multifamily Residential Development. Landscape plans, to include street tree planting as may be required by this chapter shall be submitted to the landscape review committee for review and approval prior to the issuance of a building permit.

B. Street Tree Plan Content. At a minimum, the street tree plan should:

1. Indicate all existing trees, noting location, species, size (caliper and height) and condition;
2. Indicate whether existing trees will be retained, removed, or relocated;
3. Indicate the measures to be taken during site development to ensure the protection of existing trees to be retained;
4. Indicate the location, species, and size (caliper and height) of street trees to be planted;
5. Indicate the location of proposed and existing utilities and driveways; and
6. Indicate the location of rights-of-way, existing structures, driveways, and trees including their species, size, and condition, within twenty feet of the subject site. (Ord. 1821 §1(part), 2001).

12.36.120 Street tree planting.

A. Residential Subdivisions and Partitions.

1. Planting Schedule. Street trees required of residential subdivisions and partitions shall be installed prior to submittal of a final subdivision plat or partition plat. As an alternative the applicant may file a surety bond or other approved security to assure the planting of the required street trees, as prescribed in the Central Point Municipal Code.

B. Commercial, Industrial, Multifamily, Parking Lot Development.

1. Planting Schedule. Street trees required of a commercial, industrial, multifamily, or parking lot development shall be installed at the time all other required landscaping is installed. (Ord. 1821 §1(part), 2001).

12.36.130 Street tree maintenance.

Street trees shall be continually maintained, including necessary watering, feeding, weeding, pruning, pesticide, herbicide application for pest and disease management with removal and replacement of any dead or dying tree, by the developer or property owner for three full growing seasons following planting, or as may be required by the city. (Ord. 1980 §1(part), 2013; Ord. 1821 §1(part), 2001).

SECTION 2. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Recitals A-C) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

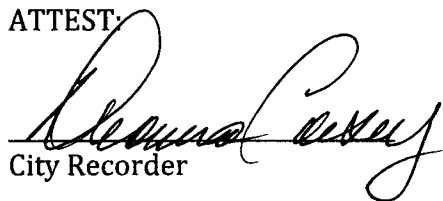
SECTION 3. Effective Date. The Central Point City Charter states that an ordinance enacted by the Council shall take effect on the thirtieth day after its enactment. The effective date of this ordinance will be the thirtieth day after the second reading.

PASSED by the Council and signed by me in authentication of its passage this 15th day of November 2019.



Mayor Hank Williams

ATTEST:



City Recorder