

**ORDINANCE 3244
SERIES 2019**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA GRANDE, UNION COUNTY, OREGON, ESTABLISHING THE POLICIES, REGULATIONS AND STANDARDS TO ENSURE THAT THE CITY WILL CONTINUE TO RECEIVE THE BENEFITS PROVIDED BY ITS COMMUNITY FOREST; HEREBY TITLED: LA GRANDE COMMUNITY FORESTRY ORDINANCE; REPEALING ORDINANCE NUMBER 2794, SERIES 1990; AND ALL OTHER ORDINANCES OR PARTS OF ORDINANCE IN CONFLICT HERewith, AND DECLARING AN EFFECTIVE DATE

THE CITY OF LA GRANDE ORDAINS AS FOLLOWS:

SECTION 1. TITLE

This Ordinance shall be known as the Community Forestry Ordinance of the City of La Grande.

SECTION 2. DEFINITIONS

ANSI A300. American National Standard for Tree Care Operations covering standard practice for tree, shrub and other woody plant maintenance. These standards are intended to apply to any person, or entity engaged in the business, trade, or performance of repairing, maintaining, or preserving trees.

ANSI Z133. American National Standard for Safety for Tree Care Operations. These safety requirements are intended to apply to any person or entity engaged in the business, trade or performance of pruning, trimming, repairing, maintaining and removing trees, and cutting brush.

Appraised Value. The value attached to a tree as determined by use of the Council of Tree and Landscape Appraisers Guide for Plant Appraisal most recent edition.

Arborist. A specialist in the care and maintenance of trees and other woody plants.

City Manager. The City Manager of the City of La Grande, Oregon or designee.

Commercial Tree Service. An independent contractor, as defined by ORS 701.025; engaged to remove, prune, plant or treat trees and shrubs.

Community Forestry. Managing trees and forest resources in and around the urban community for the environmental, social and economic benefits trees provide society.

Critical Root Zone. The area under a tree extending from the base of a tree in all directions to an imaginary line 10 feet outside of the dripline

Hazard Tree. Any tree, public or private, with visibly defined structural defects likely to cause failure of all or part of the tree, and be a danger to public safety.

Line Clearance Tree Trimmer. An individual who has received specialized training to work within 10 feet of energized power lines and equipment (OSHA 1910.269).

Major Pruning. Removal of branches two inches in diameter or greater; removal of roots two inches in diameter or greater; or removal of any size branches constituting more than 15 percent of a tree's foliage bearing area.

Person. Any individual, agent, association, firm, partnership, corporation or other entity capable of owning, occupying or using property in the City of La Grande.

Person in Charge of Property. An owner, agent, occupant, lessee, sub-lessee, contract purchaser, or other person having possession or control of property or supervision of a construction project or property. Under a rental or lease arrangement, the person in charge is the person actually in control of the property or part thereof.

Private Property. Land or belongings owned by a private person or group and kept for their exclusive use.

Public Places. A building, way, place or accommodation, publicly or privately owned, open and available to the general public.

Public Right-of- Way. The area of land, the right to possession of which is secured by the City for right-of-way purposes and includes the traveled portion of the public streets and alleys, as well as the border area, which includes, but is not limited to, any sidewalks and planting strips.

Shrub. A woody perennial plant usually having several major stems and less than 15 feet in height.

Street. The entire width of every public right-of-way of any dedicated street or alley.

Street tree. Any tree on land lying within the public right-of-way of any dedicated street or alley.

Topping. The reduction of a tree's size by cutting an older branch or stem back to a stub or to a lateral branch not large enough to assume apical dominance. Topping is not an acceptable pruning practice.

Tree. A woody perennial plant, typically having a single stem (trunk) growing to 15 feet or higher and bearing lateral branches (crown) at some distance from the ground.

Urban Forest. All publicly and privately-owned trees within an urban area, including individual trees as well as stands of remnant forest.

SECTION 3. FINDINGS

The City finds trees are important elements of the environment which promote and protect public health, safety, and general welfare of the community by providing:

- A. A vital contribution to the aesthetic character of the community and the region's natural beauty;
- B. Cost-effective protection against severe weather conditions with cooling effects in the summer months and insulating effects in winter;
- C. Economic support of local property values;
- D. Improved air and water quality with the absorption of pollutants, assimilation of carbon dioxide and generation of oxygen;
- E. A reduction of excessive noise and adverse impacts caused by noise pollution;
- F. A reduction of the adverse impacts of land disturbing activities such as runoff from impervious surfaces, soil erosion, land instability, and sedimentation pollution; and
- G. Habitat, cover, food supply and corridors for a diversity of wildlife.

SECTION 4. STATEMENT OF PURPOSE

Now Therefore this Ordinance establishes regulations and standards necessary to ensure that the City continues to realize the benefits provided by La Grande's urban forest. It is not intended to resolve or regulate disputes over trees on private property that do not affect general public safety. This ordinance is enacted to:

- A. Promote the general welfare of the City by establishing, maintaining and increasing the canopy coverage provided by trees;

- B. Preserve and enhance the City's environmental, economic and social character with mature trees;
- C. Protect public safety, health & welfare provided by trees;
- D. Encourage site and utility planning, building, and development practices to prevent indiscriminate removal or destruction of trees and avoid unnecessary disturbance to trees within the City;
- E. Maintain trees in a healthy, non-hazardous condition through application of tree care standards contained in ANSI A300;
- F. Establish and maintain appropriate species diversity and age classes in order to provide a stable and sustainable community forest;
- G. Establish a process by which trees are to be planted, pruned and removed;
- H. Implement the goals and objectives of the City's Comprehensive Plan.

SECTION 5. APPLICABILITY AND ENFORCEMENT

- A. This Ordinance provides full power and authority over all trees and shrubs located within public right-of-way and public places; and to trees and shrubs located on private property that constitute a hazard or threat to public safety.
- B. The City Manager, or designee, shall be charged with the enforcement of this Ordinance.

SECTION 6. ESTABLISHMENT AND DUTIES OF THE CITY'S URBAN FORESTER

The Director of the Parks & Recreation Department shall designate an individual as the Urban Forester and authorize such person to perform the duties imposed and exercise the powers granted by this Ordinance. The Urban Forester, subject to the provisions of this Ordinance and available resources, is hereby authorized to carry out the following duties:

- A. Administrative/Management Duties:
 - 1. Assist the Community Landscape and Forestry Commission in developing and maintaining a Community Forestry Management Plan;
 - 2. Administer a program of public outreach and education relating to Community Forestry and the planting and care of trees;
 - 3. Maintain a licensing program for commercial tree services as set forth in Section 11;

4. Administer and maintain a permitting procedure for all planting, pruning, protection and removal of trees as set forth in Section 10;
5. Establish and maintain an inventory of all public trees;
6. Maintain a Community Forestry budget to be contained within, but as a separate division of, the budget of the La Grande Parks & Recreation Department;
7. Facilitate the proper selection, planting and maintenance of trees in residential, commercial and industrial developments within City limits, the Urban Forester shall review and provide comment on development applications when such applications are submitted to the City Planning Department;
8. Maintain the public power utility tree removal and replacement program;
9. Perform all necessary acts to ensure that all public trees conform with the Community Forestry Master Plan and this Ordinance;

B. Tree Planting/Maintenance/Removal/Protection Duties:

1. Establish and maintain specifications for tree planting on public property;
2. Order the pruning or removal of public trees to ensure public health, safety and welfare while considering the health of the tree and other elements of the infrastructure;
3. Declare trees as public nuisances as defined in Section 15. Abatement of public nuisances shall be completed as identified in the current Nuisance Ordinance;
4. To avoid creating public nuisances or damaging public trees, the Urban Forester is authorized to require their protection (including the critical root zone) from construction or other harmful practices.

SECTION 7. COMMUNITY LANDSCAPE AND FORESTRY COMMISSION

The City Council of La Grande shall establish the Community Landscape and Forestry Commission (CLFC) to serve as an advocate for the City's community forest, and to advise the City Manager, in connection with issues related to the community landscape and forest.

- A. The CLFC shall encourage improvements through long-term planning and policy development, as approved by the City Council;
- B. The CLFC shall review, maintain, and update as appropriate the Community Landscape and Forestry Master Plan as part of the City's Comprehensive Plan;

- C. The CLFC shall assist the Urban Forester in updating the three-year management plan and implementing the annual work plan for tree care activities;
- D. The complete duties and responsibilities of the CLFC are stated in the current Advisory Commissions Resolution for the City of La Grande.

SECTION 8. STANDARDS AND GUIDELINES

The City La Grande Community Forestry Manual shall detail current policies, standards, guidelines, and best management practices for the pruning, planting, care, and removal of trees in the public right-of-way and public places, which by this reference is incorporated within this Ordinance. The Community Landscape and Forestry Commission will assist the Urban Forester in updating the Community Forestry Manual, including a list of recommended street trees, and a list of prohibited street trees.

SECTION 9. RESPONSIBILITY OF PROPERTY OWNERS

Any person in possession of private property shall maintain trees upon adjoining public right-of-way and any trees upon private property which may affect public property, in a safe, healthy condition in compliance with the provisions of this Ordinance. Property owners shall have the following responsibilities for public and private trees:

A. Obtain Permits

- 1. Meet all requirements and obtain all permits necessary for work done on any public trees as required in Section 10 of this Ordinance;
- 2. Meet all requirements and obtain all permits necessary for any tree planting on public property as required in Section 10 of this Ordinance.

B. Routine Tree Maintenance

- 1. Prune and maintain public trees according to ANSI A300 Tree Care Operations. Deviations from these standards require prior approval by the Urban Forester;
- 2. Topping, heading, shearing or rounding over are not acceptable forms of tree pruning and are not allowed on public trees unless first approved by the Urban Forester;
- 3. Prune trees and shrubs to comply with the clear vision area required by the current Land Development Code;
- 4. Prune branches that overhang sidewalks or streets to provide sufficient vertical clearance over the sidewalk and street so as not to interfere with public travel. Current clearance requirements are detailed in the Community Forestry Manual;

5. Young trees may remain untrimmed, provided said trees do not interfere with public right-of-way clearance or the clear vision area requirements;
6. Remove dead limbs or other limbs that are considered a public nuisance as defined in Section 15;
7. Control pests on trees located on public right-of-way adjoining the owner's private real property;
8. Provide water sufficient to keep trees located on public right-of-way adjoining the owner's private real property in a healthy, growing condition.
9. Remove trees located on public right-of-way adjoining the owner's private real property that are considered a public nuisance as defined in Section 15;
10. Remove stump(s) in the public right-of-way adjoining the owner's private real property to at least flush with ground level and remove all debris. In the event that a replacement tree is to be replanted at the site of the stump, the stump shall be ground to a depth of 15 inches below grade.

C. Protection/Preservation

1. Obtain a permit from the Urban Forester before performing any activity which may harm any part of a public tree (inclusive of the critical root zone);
2. Notify the Urban Forester when any part of a public tree is damaged or destroyed.

D. Responsibilities for privately owned trees

1. Removal or pruning of trees located on the owner's private real property that are considered a public nuisance as defined in Section 15;
2. Pruning of trees and shrubs to comply with the clear vision area required by the current Land Development Code;
3. Pruning of branches that overhang sidewalks or streets to provide sufficient vertical clearance over the sidewalk and street so as not to interfere with public travel;
4. Control of pests on trees located on the owner's private real property which may, upon determination by the Urban Forester, pose a threat to public trees;
5. Removal of all debris (wood, branches & leaves) from public property.

SECTION 10. PERMITS

A. Activities Requiring Permits:

1. Any person desiring to plant, perform major pruning, remove or treat a street tree, or any tree in the public right-of-way, shall first obtain a Street Tree Work Permit from the Urban Forester. Permit violations may trigger penalties and fines as detailed in the current Enforcement Provisions and Penalties Ordinance and Administrative Fees and Enforcement Penalties Resolution.
2. In addition, no person shall remove, prune or maintain any tree, shrub or vegetation within a public street or alley which requires blocking of any street, sidewalk, or alley, without also obtaining a permit from the Public Works Department as required by the current Activities in Public Right-of-Way Ordinance.
3. Permission to plant, prune, remove or treat a street tree on a county road or state highway within the city limits must be obtained from the City in accordance with this Ordinance, and from the Union County Road Department and/or the Oregon Department of Transportation.
4. In the event of a storm, freeze or other weather event resulting in damage to street and public trees, the City Manager may declare an emergency suspension of the permit requirements, for removal and pruning of damaged trees only.

B. General Permit Conditions and Restrictions

1. Each person or property owner engaged in planting, pruning, removing or treating street trees shall comply with the following general conditions and restrictions:
2. The permittee shall abide by all the terms, conditions and restrictions contained in the permit, and abide by ANSI A300 for Tree Care Operations, ANSI Z133 Safety for Tree Care Operations, ANSI Best Management Practices and the City of La Grande Community Forestry Manual specifications and guidelines as well as all state and local safety regulations.
3. The permittee shall indemnify and hold the City, its officers, agents, officials and employees, harmless from any claim or award for damages or injuries to property or persons, including costs and attorney's fees, allegedly arising in whole or in part out of the use, occupation, or disruption of parking strip areas by permittee, or those acting on his or her behalf or with his or her approval or ratification, or allegedly arising in whole or in part out of the failure by the permittee to abide by the terms of this permit.
4. The permit shall be revocable at any time, with cause, at the discretion of the Urban Forester and no expenditure of money, lapse of time, or any act shall act as an estoppel against the City or be held to give permittee or the owner of any property any vested right.

C. Permit Issuance and Conditions

1. On receiving a request for a Street Tree Work Permit containing all relevant facts relating to the request, the Urban Forester may issue a permit or permits to the property owner or their authorized designee to plant, prune, treat or remove trees in the public right-of-way. A separate permit for traffic control may be required by the current Activities in Public Right-of-Way Ordinance.
2. The Urban Forester shall give consideration to the Community Forestry Manual specifications and guidelines, referenced in Section 8 of this Ordinance, and the landscaping requirements of the current Land Development Code, in granting such permits.
3. A permit to remove trees shall include a provision that the permittee replace the tree(s) removed with tree(s) from the Recommended Street Tree List, referenced in Section 8 of the Ordinance, if there is adequate space to support a mature tree.
4. A permit to plant trees shall include the areas in which planting shall be allowed, the type of plantings allowed, and any other condition or restriction deemed necessary or expedient to protect the public interest.
5. If a tree is not planted in compliance with this Ordinance, the Urban Forester may order such tree to be removed and/or replanted in accordance with the Community Forestry Manual specifications and guidelines, at the owner's expense.
6. If a tree is removed from the public right-of-way without a permit, the Urban Forester may order such tree replaced with a suitable tree, at the owner's expense. If a tree is not pruned or treated in accordance with ANSI A300 for Tree Care Operations the Urban Forester may order restitution as detailed in the current Enforcement Provisions and Penalties Ordinance and Administrative Fees and Enforcement Penalties Resolution.

SECTION 11. LICENSING OF PRIVATE TREE SERVICES

It shall be unlawful for any person to engage in the business or occupation of planting, pruning, treating or removing trees within the City limits, on public or private land, without first applying for and procuring a Commercial Tree Service Permit from the Parks and Recreation Department.

- A. Before any Commercial Tree Service Permit shall be issued, each applicant shall first show possession of any and all valid licenses required by the State of Oregon for the scope of the applicant's work. For tree removal and pruning, the applicant must show possession of a valid license from the Oregon Construction and Contractors Board or the Oregon Landscape

Contractor's Board. For pesticide application, the applicant must show possession of a Commercial Pesticide Applicators License from the Oregon Department of Agriculture.

- B. Before any Commercial Tree Service Permit shall be issued, each applicant shall also first file evidence of a commercial general liability and a business automobile liability insurance policy from a company acceptable to the City and authorized to do business in the State of Oregon. The limits of the insurance shall be set by Resolution of the City Council. Certificates shall be furnished evidencing such insurance and bearing an endorsement naming the City as additional insured. The insurance shall be in full force and effect during the period covered by the permit.
- C. As a condition of the Commercial Tree Service Permit, tree services shall work in a professional fashion according to the City's tree guidelines, ANSI A300 Tree Care Operations and ANSI Z133.1.
- D. The City Manager reserves the right to deny or revoke a Commercial Tree Service Permit if the contractor does not adhere to the standards for tree care established in this Ordinance.
- E. Permit fees shall be established by Resolution of the City Council. The permit fee shall be paid annually in December for the upcoming year. Midyear applications shall require the full permit fee.
- F. No permit shall be required of any public agency or City employee doing such work in the pursuit of their public utility endeavors.

SECTION 12. PRUNING FOR OR BY UTILITY

- A. Upon obtaining a written permit from the City Manager, the utility maintaining its utility system may prune or cause to be pruned, any tree located in or overhanging the street which interferes with any light, pole, wire, cable, appliance or apparatus used in connection with or as part of a utility system.
- B. The grantee shall use proper arboricultural practices in accordance with ANSI A300 for Tree Care Operations, ANSI Z133 Safety for Tree Care Operations, ANSI Best Management Practices, as well as all state and local safety regulations.
- C. The grantee shall adhere to the current franchise agreement with the City of La Grande.

- D. No tree in the public right-of-way, or on private property, shall be pruned without the notification of the abutting owner or occupant of the premises. The owner or occupant has 30 days after receipt of notice to have said trees pruned by a qualified line clearance tree trimmer licensed with the City of La Grande, at the owner's or occupant's expense, and in accordance with the terms of this Ordinance. If the owner or occupant fails, neglects or refuses to have such tree pruned as required by the notice, the utility may prune, or cause to be pruned, the tree at its expense in accordance with the conditions of the permit.
- E. The City Manager may waive the single tree permit process if the utility adequately demonstrates to the City Manager the ability to meet the performance requirements of this section, and to apply consistently proper arboricultural practices to the pruning of trees.

SECTION 13. ABUSE, HARM, MUTILATION OR DESTRUCTION

It shall be unlawful for any person to abuse, harm, mutilate or destroy any tree in or upon any public right-of-way or public place. Unlawful acts could include but not be limited to:

- A. Damage, mutilate or destroy any public tree;
- B. Attach any device or structure (i.e. tree houses, lights) to or on public trees except as may be authorized by the Urban Forester by duly promulgated rule or regulation;
- C. Use climbing spurs for any purpose other than tree removal;
- D. Store, spill or dump substances, whether liquid or solid, which may be harmful to trees, on any part of a public tree or within the critical root zone of a public tree;
- E. Damage public trees through construction activities in violation of the conditions of a permit issued pursuant to this Ordinance. Such activities include, but are not limited to:
 - 1. Making excavations or cuts in the soil near roots of public trees unless otherwise approved by the Urban Forester;
 - 2. Damage to the roots of a public tree by compacting or placing fill within the critical root zone of a tree;
 - 3. Pruning activity on public trees not in accordance with ANSI A300, including, but not limited to: topping, heading, rounding or shearing unless otherwise approved by the Urban Forester.

SECTION 14. LANDSCAPING AND TREE PROTECTION DURING CONSTRUCTION

- A. Trees and other landscaping shall be installed in all residential and commercial development in accordance with the current Land Development Code.
- B. Required landscaping plans shall identify all trees existing in or within fifty feet (50') of areas proposed for grading or other construction. A tree protection plan for the trees to be retained shall follow the guidelines set forth in *Tree Protection on Construction and Development Sites, a Best Management Practices Guidebook for the Pacific Northwest*.
- C. Trees to be removed during development will be replaced to prevent a net loss of canopy cover at maturity. In the event that there is not adequate space to replace those trees removed, the developer will pay a replacement fee set by a Resolution of the City Council.

SECTION 15. PUBLIC NUISANCES

The following are hereby declared public nuisances under this Ordinance:

- A. Any tree or shrub located in the public right-of-way, public place, or on private property which compromises the security or usefulness of any public street, alley, utility or sidewalk, or which in any way may be dangerous to life or property as determined by the Urban Forester;
- B. Any tree or part thereof, on public or private property, which obstructs the free passage of pedestrian or vehicular traffic, which obstructs the clear vision site area, which obstructs public safety signage, or which obstructs public street lighting;
- C. Any tree, on public or private property, which harbors pests which reasonably may be expected to injure or harm public trees;
- D. Any stump that is not removed to at least flush with ground level and all debris removed.
- E. Any debris (wood, branches, leaves) left or piled in the public right-of-way.

SECTION 16. ABATEMENT OF PUBLIC NUISANCES

The City Manager, or designee, is authorized to cause the abatement of public nuisances in accordance with the current Nuisance Ordinance. The failure by the property owner to abate a nuisance within 30 days after notice is given to do so by the City Manager, or designee, shall be deemed a violation of this Ordinance, and the City Manager or designee may at any time thereafter may order restitution as

detailed in the current Enforcement Provisions and Penalties Ordinance and Administrative Fees and Enforcement Penalties Resolution. The City Manager or designee may arrange to abate the nuisance and assess the cost against the property.

SECTION 17. COMPLIANCE AND LIABILITY

It is not only the duty of all property owners within the City to comply with each and every provision of this Ordinance, but such property owners are also hereby declared to be liable for all damages to any person, firm or corporation resulting or arising from such property owner's failure to comply with the provisions of this Ordinance.

SECTION 18. PENALTY

Any person violating any provision of this Ordinance shall be subject to the provisions of the Enforcement Provisions and Penalties Ordinance and Administrative Fees and Enforcement Penalties Resolution. In the event that a tree or trees are damaged, destroyed or wrongfully removed, the appraised value of the plant may be additionally applied to this penalty. The appraised value shall be determined by using the Council of Tree and Landscape Appraisers Guide for Plant Appraisal, current edition. The appraised value shall be determined by an ISA Certified Arborist or ASCA Consulting Arborist trained in the plant appraisal process.

SECTION 19. APPEALS

- A. Any person affected by an order, grant, denial, or revocation of a license or permit by the Urban Forester may appeal such decision to the Community Landscape and Forestry Commission.
- B. A decision by the City Manager to deny or revoke a Commercial Tree Service Permit may be appealed to the City Council.
- C. Such appeals shall be filed in writing along with the required appeal fee and submitted to the Director of the La Grande Parks & Recreation Department within 10 days of the date of notification of the Urban Forester's ruling.
- D. The appeal shall be heard by the Community Landscape and Forestry Commission. Action by the Urban Forester and the appellant shall be delayed until the decision of the Community Landscape and Forestry Commission is rendered.
- E. The Community Landscape and Forestry Commission may in conformity with the provisions of this Ordinance reverse or affirm or modify wholly or partly, the order, grant, denial or revocation of any license or permit.

- F. Any person affected by the decision of the Community Landscape and Forestry Commissioners may appeal the decision to the City Council.
- G. Such appeal shall be filed in writing with the required appeal fee and submitted to the City Recorder within 10 days of the date of notification of the decision of the Community Landscape and Forestry Commission.
- H. The appeal shall be heard by the City Council. Action by the Urban Forester and the appellant shall be delayed until the decision of the City Council is rendered.
- I. The City Council may in conformity with the provisions of this Ordinance reverse or affirm or modify wholly or partly, the order, grant, denial or revocation of any permit and the decision of Community Landscape and Forestry Commission.
- J. The decision of the City Council shall be final.
- K. Appeal fees shall be set by a Resolution of the City Council.

SECTION 20. SUPPLEMENTAL MATERIALS

The City shall adopt and revise or update supporting administrative policies, standards, guidelines and supplemental material, which by this reference are incorporated within this Ordinance. Specific supplements are listed in the Community Forestry Manual.

SECTION 21. SEVERABILITY

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.

SECTION 22. EFFECTIVE DATE

This Ordinance shall become effective thirty (30) days after its adoption by the City Council of the City of La Grande, Union County, Oregon, and its approval by the Mayor, specifically, February 7, 2019.