



# CITY OF BEAVERTON

## CITY ORDINANCES

ORDINANCE #3842-AMENDING CHAPTER FIVE OF B.C. BY AMENDING AND

ADDING PROVISIONS RELATING TO TREES IN OR NEAR PUBLIC RIGHT-OF-WAY

NUMBER OF PAGES 4

ORDINANCE NO. 3842

AN ORDINANCE AMENDING CHAPTER FIVE OF THE BEAVERTON CODE BY AMENDING AND ADDING PROVISIONS RELATING TO TREES IN OR NEAR THE PUBLIC RIGHT-OF-WAY.

WHEREAS, The City Council of the City of Beaverton has requested an ordinance be prepared to clarify existing City policy relating to trees that are in or near the public right-of-way; now, therefore,

**THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:**

**Section 1.** BC 5.05.015, Definitions, is hereby amended by adding the following new definitions to the existing text as follows:

Adjacent - Nearby or close to. A street tree shall be considered adjacent to property if the tree would be within the lateral boundaries of the property if those boundaries were extended to meet the nearest portion of roadway.

Bicycle Path - The portion of the public right-of-way that is not part of a roadway and is designated by official signs or markings for use by persons riding bicycles.

Roadway - The portion of the public right-of-way that is improved and designed for use by motor vehicles.

Sidewalk - The portion of the public right-of-way designed for preferential or exclusive use by a pedestrian.

Street Tree - A tree that is at least six feet tall with a one-inch caliper at six inches above ground level, planted in the portion of the public right-of-way located between a roadway and the property abutting the right-of-way.

Tree - Any woody perennial plant with a single main stem from which branches extend."

**Section 2.** BC 5.05.098, Vegetation and the Public Right of Way, is hereby added as a new section to read as follows:

**5.05.098 Vegetation and the Public Right of Way.**

A. An owner or person in charge of property shall:

1. Keep any tree, bush or groundcover on the property from unreasonably interfering with any vehicular or pedestrian traffic occurring within the public right-of-way.

2. Trim or prune any tree or bush planted on the property so that no portion of the tree or bush is less than ten feet above any roadway or less than eight feet above any sidewalk or bicycle path.

3. Trim or prune any groundcover planted on the property so that no portion of the groundcover lies on any sidewalk, roadway or bikepath.

B. No owner or person in charge of property shall allow to stand any dead, decaying, or hazardous tree or shrub that is a danger to any person or property, including any person or property within the public right-of-way."

**Section 3.** BC 5.05.100, Trees, is hereby amended to read as follows:

"5.05.100, Street Trees; Abutting Property Owner's Duties and Liabilities.

A. Any owner or person in charge of property that abuts a portion of the public right-of-way shall properly, safely and reasonably perform the following in regard to any adjacent street tree:

1. Maintain the street tree in a healthy condition;
2. Inspect the street tree for insects, disease, defect or hazard;
3. Treat or repair the street tree;
4. Remove or dispose of the street tree, if appropriate and after a permit has been obtained from the City;
5. Replace the street tree as may be required by the City;
6. Trim or prune the street tree so that no branch of the tree is less than ten feet above any roadway or less than eight feet above any sidewalk or bicycle path.

B. All duties required by this section shall be done in accordance with applicable law and reasonable arboricultural standards, including the standards of the International Society of Arboriculture or the National Arborist Association.

C. A person who is injured or otherwise damaged by reason of any violation of this section shall have a cause of action against the appropriate person described in subsection 'A' of this section for the actual damages sustained and, when appropriate, punitive damages."

**Section 4.** BC 5.05.102, City Immunity from Liability, is hereby added as a new section to read as follows:

"5.05.102 City Immunity from Liability.

A. No recourse whatsoever shall be had against the City, its Council, Mayor, employees or agents for damage or loss to person or property arising out of the negligent or otherwise wrongful maintenance, inspection, treatment, repair, removal, replacement, trimming or pruning of any street tree or for any act or omission in violation of this ordinance.

B. In consideration for the City planting street trees, or causing street trees to be planted, a person in charge of property that abuts a portion of the public right-of-way adjacent to where a street tree is planted shall indemnify, defend, and hold the City, its Council, Mayor, employees or agents harmless against any claim, suit or action made against the City, its Council, Mayor, employees or agents as a result of any person's failure to satisfy

any obligation imposed by this ordinance."

**Section 5.** BC 5.05.230(A), Summary Abatement, is hereby amended to read as follows:

"5.05.230 Summary Abatement.

A. A City representative may proceed summarily to abate a nuisance that imminently endangers human life or property."

**Section 6.** BC 5.05.255, Violations, is hereby amended to read as follows:

"5.05.255 Violations.

A. Violation of this ordinance constitutes a Class 1 civil infraction and shall be processed according to the procedure set forth in BC 2.10.010 - .050.

B. Each violation of a separate provision of this ordinance shall constitute a separate civil infraction, and each day that a violation of a provision of this ordinance is committed or is permitted to continue shall constitute a separate civil infraction."

**Section 7.** BC 5.05.260, Separate Violations, is hereby amended to read as follows:

"5.05.260 Additional Remedies.

A. The remedies provided by this ordinance and the Civil Infraction Ordinance set forth at BC 2.10.010-.050 are in addition to and not in lieu of any other remedy available to the City for conduct in violation of any provision of this ordinance.

B. The requirement to abate a nuisance is not a penalty for violation of this ordinance, but is an additional remedy available to the City for such violation. A finding of violation of this ordinance and the imposition of a forfeiture pursuant to the Civil Infraction Ordinance set forth at BC 2.10.010 - .050 does not relieve a person from the duty to abate a nuisance; however, abatement of a nuisance within ten days of notice to abate, or abatement within ten days of council's determination that a nuisance exists after a written protest has been filed, shall preclude issuance of a uniform infraction citation and complaint relating to the same nuisance."

First reading this 5th day of April, 1993.  
Passed by the Council this 12th day of April, 1993.  
Approved by the Mayor this 13th day of April, 1993.

ATTEST:

APPROVED:

Ann L. Johnson  
ANN L. JOHNSON, City Recorder

Rob Drake  
ROB DRAKE, Mayor

Deputy City Recorder