

CHAPTER 86. - TREES ON CITY OWNED PROPERTY

Sec. 86.001. - Title.

This chapter may be referred to as the "City Tree Code."

(Ord. No. 23-15, § 3, 10-12-2015)

Sec. 86.005. - Purpose.

The purpose of this chapter is to provide a unified, consistent, and efficient means for the planning, planting, maintenance, and removal of trees located on city property and to limit the adverse impacts to city trees and city infrastructure. It is hereby declared that the public interest and welfare requires that the City conduct a program for the planting, maintenance, preservation, and removal of city trees, and that the City promote the development of tree canopy cover of all trees on city property.

(Ord. No. 23-15, § 2(86.005), 10-12-2015)

Sec. 86.010. - Definitions.

Unless the context otherwise specifically requires, terms used in this chapter shall have the meanings set forth in this section; provided, however, where a term is not defined in this section, the term shall have its ordinary accepted meaning within the context in which it is used. *Webster's Third New Int'l Dictionary* (unabridged ed. 2002) shall be the standard reference to ordinary accepted meanings.

City property means real property and improvements, if any, owned by, dedicated to, managed by, or subject to an easement in favor of, the City for the public's use, including, but not limited to, City parks, City rights-of-way and other City properties within city limits.

City rights-of-way means an area that allows for the passage of people and vehicles that is dedicated or deeded, or for which there is an easement to the City or the public, for public use and under the control of the City. As used in this chapter, the term "right-of-way" includes streets, bike paths, walkways, landscaping strips, and all other land within the area designated as right-of-way by the deed, dedication, or easement, but does not include alleys. Easements for utilities or other non-roadway purposes are not included in this definition.

City tree means a tree on City property.

Construction activities include, but are not limited to, excavation, filling, tunneling, trenching, land clearing, compacting, demolition, storage of construction materials, utility work, grading, or other ground disturbing activity.

Critical Tree Zone (CTZ) means a defined area surrounding the trunk intended to protect the tree's trunk, roots, branches, and soil to ensure tree health and stability. It is the area defined by the tree's dripline or an area measured one-foot per one-inch diameter at breast height, whichever is greater.

Development means to construct or alter a structure, to make alterations or improvements to the land or to make a change in use or appearance of land, to divide or reconfigure land, or to create, alter, or terminate a right of access. The term "development" does not include:

- (a) Maintenance and repair, usual and necessary for the continuance of an existing use;

- (b) Reasonable emergency procedures necessary for the safety or operation of property; or
- (c) Interior or exterior remodeling that does not increase the square footage or height of a structure, or substantially alter the appearance of a structure.

Diameter at breast height (dbh) means the diameter of the tree trunk measured at 4.5 feet above the ground level.

Diseased tree means any tree with an infectious condition that without reasonable treatment or pruning is likely to spread to adjacent trees and cause such adjacent trees to become infected or a risk.

Emergency means a situation exists in which action must be undertaken immediately to prevent an imminent threat to public health, public safety, or property.

Ground disturbing activity means any activity that exposes soil through the use of mechanical equipment, including, but not limited to, grading, excavating, filling, clearing, or working of land. Such disturbance may be permanent (i.e., gravel mining, farming, gardening, sports fields, etc.); or temporary or short-term duration, such as construction, excavation, fill, grading, landscape installation, or other vegetative clearing activities.

Hedge means a row or grouping of closely spaced woody plants that are planted and maintained to form a barrier or screen, or to mark a boundary.

Heritage Tree means a tree designated as such by Council.

Infrastructure means streets, curbs, sidewalks, buildings, utilities, or other public improvements.

Plant means the placement of vegetation into the ground.

Prohibited tree means any tree listed in the administrative rules as prohibited.

Property owner means the owner(s) of record, as shown on the latest tax rolls or deed records of the county, of property containing or adjacent to a City tree.

Prune means to trim or remove branches or roots from a tree or other plant using approved practices to achieve a specified objective.

Public Works Design Standards means those promulgated by City Public Works Department as administrative rules through SRC [chapter 20J](#).

Risk tree means a tree or part thereof that has a high probability of failure due to an uncorrectable structural defect or disease which poses a potential threat to the public or City property in the event of failure.

Top and topping means the practice of reducing the length of major limbs to prevent the limb from assuming a terminal role in an effort to reduce the height of the tree.

Treat means to reestablish the normal function, vigor, and condition through the use of products or actions.

Tree means a woody plant that is commonly sold by the Oregon nursery trade as a tree and not maintained as a hedge, shrub, or topiary form. Pursuant to SRC [86.015\(f\)](#), the Director shall have the authority to determine whether a particular woody plant is considered a City tree.

Tree removal means to cut down a tree, or remove more than 30 percent of the crown, circumference of the bark down to the heartwood, or root system of a tree, or to damage a tree in any manner so as to cause the tree to decline, become unstable, or die.

Tree trimmer means any person engaged in the business of pruning, altering, removing, or providing tree surgery for City trees.

Variance means a situation where a modification to the requirements of this chapter is reasonably necessary to prevent undue hardship.

(Ord. No. 23-15, § 2(86.010), 10-12-2015)

Sec. 86.015. - Administration; rulemaking; responsibilities.

- (a) *General.* The Director shall have jurisdiction over all City trees, including the planting, removal, care, maintenance, and protection thereof. The Director shall administer and enforce this chapter and shall have the authority to render written and oral interpretations and to adopt administrative rules, design standards, and procedures for its proper administration and enforcement.
- (b) *Removal or treatment of City trees.* The Director may remove or permit the removal of any City tree, or plant or part thereof that is in an unsafe condition or is causing damage to City property, when the condition of the tree cannot otherwise be remedied by accepted arboricultural practices. The Director may, or permit another to, remove, treat, or cause to be treated any City tree or plant or part thereof that is currently infected with a fungus, disease, insect, or other pest such that it becomes a risk, as authorized by this chapter and administrative rules.
- (c) *Pruning of trees projecting into City property.* It is the responsibility of the property owner to maintain and prune trees, shrubs, or other plants on private property that project into City property in accordance with applicable administrative rules. If the Director determines pruning of any such tree, shrub, or plant is deemed necessary, the Director shall have the power to prune or cause or order the same to be pruned. The City may assume the responsibility for pruning and bill the cost of pruning to the property owner, if notice to the property owner has been provided under SRC 86.105.
- (d) *Disease and pest inspection on private property.* The Director shall have the authority, either by consent of the property owner or by appropriate legal process, to enter private property for the purpose of inspecting a tree thereon to determine if such tree may be a risk tree and threat to public safety or City property. Upon discovering that any such tree is a risk tree, an order shall be sent to the property owner advising the property owner of the conditions and the corrective measures to take. In the event the property owner fails to take the corrective measures indicated in the order, the Director shall have the power to cause the corrective measures to be made. If the Director undertakes the corrective measures, the Director may bill the cost to the property owner, if notice to the property owner has been provided under SRC 86.105.
- (e) *Planting street trees.* Pursuant to SRC 803.035(k), any person undertaking development adjacent to public streets shall provide street trees to the maximum extent feasible in accordance with the standards and specifications set forth in this chapter and applicable administrative rules.
- (f) *Determination of City tree.* The Director shall have the authority to determine whether a particular woody plant shall be considered a City tree. Such determination shall be final and not subject to local appeal.
- (g) *Maintenance around tree.* The property owner, the property owner's lessee, occupant, or person in charge of property containing or adjacent to the City right-of-way is responsible for maintaining, in such a way as not to cause a hazard to public health or safety, or public property, the area around City trees. This responsibility includes maintaining landscaping, shrubs, or bushes, in accordance with applicable administrative rules, unless this responsibility is expressly assumed in writing by the City.
- (h) *City not responsible.* The City is not responsible for maintaining trees, shrubs, vegetation, or landscaping on

private property.

(Ord. No. 23-15, § 2(86.015), 10-12-2015)

Sec. 86.020. - Role of the Salem Parks and Recreation Advisory Board.

- (a) *Duties.* In addition to the functions and duties assigned in SRC chapter 13, the Salem Parks and Recreation Advisory Board shall have the following duties:
 - (1) Issue decisions on appeals of decisions of the Director as set forth in this chapter.
 - (2) Issue decisions on applications referred to the Board by the Director.
 - (3) Issue recommendations on nominations for Heritage Tree designations.
 - (4) Provide advisory recommendations to the Director, and to the Council on matters relating to City trees.
- (b) *Rules of procedure.* The Director may establish rules of procedure for appeals before the Salem Parks and Recreation Advisory Board by administrative rule.

(Ord. No. 23-15, § 2(86.020), 10-12-2015)

Sec. 86.025. - Relationship to other regulations.

Where a conflict exists between the provisions of this chapter and other provisions of the Salem Revised Code, or state or federal law or regulations, the more restrictive provision shall govern.

(Ord. No. 23-15, § 2(86.025), 10-12-2015)

Sec. 86.030. - Prohibited activities.

- (a) It shall be unlawful for any person, except as expressly allowed by a written permit, exemption, or variance granted pursuant to the terms of this chapter, to willfully or negligently injure, destroy, top, or prevent the growth of a City tree, including, but not limited to, the following:
 - (1) Pouring or spraying of an injurious chemical on or around any City tree.
 - (2) Posting any sign on a City tree, tree stake, or tree guard.
 - (3) Attaching or fastening any structure or device to any City tree, tree stake, or tree guard.
 - (4) Piling materials or storing supplies or debris within the Critical Tree Zone that may cause injury or damage to the tree or damage the tree, tree stake, or tree guard.
 - (5) Using concrete, asphalt, brick, or impervious material that may cause injury or damage to the tree.
 - (6) Causing or permitting the growth of vines, ramblers, or other climbing plants on City trees.
 - (7) Construction within the Critical Tree Zone.
 - (8) Parking or maneuvering vehicles that may cause injury or damage to the City tree, not including parking or maneuvering on existing paved surfaces.
- (b) The Director may exempt electrical utility providers from the prohibitions related to pruning and topping.

(Ord. No. 23-15, § 2(86.030), 10-12-2015)

Sec. 86.035. - Certain trees prohibited.

It shall be unlawful for any person to plant any prohibited tree on City property. Established prohibited trees may be allowed to remain until the tree becomes dead, diseased, or a risk tree.

(Ord. No. 23-15, § 2(86.035), 10-12-2015)

Sec. 86.040. - Diseased trees and shrubs prohibited.

To ensure the health of City trees, it shall be unlawful for any property owner or occupant of private property to allow any tree, or other vegetation growing on the property owner's or occupant's property to become infected with a fungus, disease, insect, or other pest such that it could adversely affect a City tree.

(Ord. No. 23-15, § 2(86.040), 10-12-2015)

Sec. 86.050. - Activities requiring permits.

(a) A permit is required for the following activities:

- (1) *Permit required to prune or remove City trees or tree protection devices.* It shall be unlawful for any person, without a written permit from the Director, to prune or remove a City tree, or to remove a tree protection device from a City tree, or cause or authorize or procure any person to do so. The Director may, by administrative rule, develop criteria for City tree pruning that does not require a permit where the Director finds the actions are minor and are unlikely to cause damage to the City tree.
- (2) *Permit required for construction within Critical Tree Zone of City trees.* It shall be unlawful for any person, without a written permit from the Director, to undertake or cause or authorize or procure any person to undertake any construction activity within the Critical Tree Zone of City trees.
- (3) *Permit required to treat City trees.* It shall be unlawful for any person, without a written permit from the Director, to treat a City tree, including, but not limited to, applying chemicals or biological controls; installing hardware or devices for the preservation of a City tree or for the control of insects or diseases; or causing or authorizing or procuring any person to do such treatment. A permit to treat a City tree may be granted if the Director determines the treatment proposed is beneficial and unlikely to harm the City tree. Any work authorized by written permit shall meet all local, state, and federal regulations.
- (4) *Permit required to collect biological materials from City trees.* It shall be unlawful for any person, without a written permit from the Director, to remove plant material from a City tree or cause or authorize or procure any person to do so. A written permit is not required for the noncommercial gathering of fruit or windfall.
- (5) *Permit required to install lights or other attachments to City trees.* It shall be unlawful for any person, without a written permit from the Director, to install or otherwise physically place lighting or other attachments on a City tree or cause or authorize or procure any person to do so. If permitted, the installation and removal shall be accomplished without damage to the City tree. The correction of any damage to the tree or replacement of the tree shall be at the permit holder's cost and shall be accomplished by a tree trimmer licensed under SRC chapter 30. The City will not be responsible for damage to any attachments or associated devices related to the lighting under this permit. In addition, the City shall not be responsible for the cost associated with the repair or installation of replacement materials.
- (6) *Permit required to plant trees on City property.* It shall be unlawful for any person to plant trees, tree seeds, seedlings, or cause or authorize or procure any person to do so, in or upon any City property or alleys without obtaining from the Director a written permit to do so, or obtaining approval of a landscape plan pursuant to SRC 807.020, and without first complying in all respects with the conditions set forth in such permit or approval and with the provisions of this chapter.

- (b) City projects and programs will be considered in compliance with the permitting requirements of SRC 86.030(a) a section where the City project complies with applicable Public Works Design Standards and input from the City's Forester. The process for City projects to seek input from the City's Urban Forester shall be described in the administrative rules issued pursuant to this chapter.
- (c) The Director may refer any permit decision to the Salem Parks and Recreation Advisory Board at the sole discretion of the Director.
- (d) The Director may adopt administrative rules establishing the processes and procedures necessary to obtain a permit under this section, as well as the manner in which activities conducted pursuant to a permit are carried out. Activities conducted under a permit issued pursuant to this chapter must comply with the administrative rules issued pursuant to this chapter, as well as any other applicable administrative rules issued by the Director.
- (e) The Director may require additional information from an applicant depending on the circumstances of the request.
- (f) Removal of City trees under a written permit may be done by any licensed general contractor or licensed tree trimmer; any other work done to City trees under written permit must be performed by a City licensed tree trimmer in strict accordance with the terms of the permit, the provisions of this chapter, and all applicable design standards.

(Ord. No. 23-15, § 2(86.050), 10-12-2015)

Sec. 86.055. - Variances.

A variance to the requirements of this chapter may be permitted where it is necessary to prevent unreasonable hardship. A permit application which includes a request for a variance shall be submitted to the Director for review and decision, along with any applicable fee.

- (a) *Director's determination.* A variance to the requirements of this chapter may be permitted if the Director determines that:
 - (1) There is an unreasonable hardship or practical difficulty created by the physical characteristics of the land;
 - (2) The variance will not result in adverse effects that are unreasonably detrimental to the public health, safety, and welfare or to property or improvements in the vicinity; and
 - (3) The proposed variance is narrowly tailored to alleviate the unreasonable hardship on the applicant while preventing injury to City trees to the greatest extent practicable.
- (b) *Conditions.* In granting a variance, the Director may impose such conditions to mitigate any adverse impacts that may result from granting relief.
- (c) *Burden on applicant.* It shall be incumbent upon the applicant to prove that the applicant cannot secure reasonable use of the property; that the hardship claimed results from the application of the provisions of this chapter or administrative rule; that the hardship claimed is a result of conditions suffered by the applicant's property uniquely, and not by properties generally; and that the hardship claimed is not the result of the applicant's own actions.
- (d) *Appeal of variance decisions.* Appeals shall be governed by SRC 86.095.

(Ord. No. 23-15, § 2(86.055), 10-12-2015)

Sec. 86.060. - Fees.

Fees for applications and other related services provided by the City under this chapter, including variances and appeals, shall be set by resolution of the Council. Fees shall be paid at the time the application is submitted or, if no application is required, at the time the request for a particular service is made. For applications or services requiring payment of a deposit, the amount of the deposit shall be credited against the exact final calculated costs. If applicable, any unused portion of the deposit shall be refunded once all incurred fees are paid.

(Ord. No. 23-15, § 2(86.060), 10-12-2015)

Sec. 86.065. - Planting trees on City property.

- (a) Except as provided in this chapter, the City shall be responsible for planting City trees.
- (b) Any person required to or desiring to plant trees on City property must file a permit application with the City. Upon receipt of an application under this section, the Director shall investigate the location where the tree or trees are to be planted and may grant a permit only if the location will allow for the normal growth and development of each tree. The permit shall specify the location, variety, and grade of each tree and method of planting. The permit shall be valid for 180 days from date of issue.
- (c) Every property owner whose property abuts upon any street shall plant City trees conforming to the provisions of this chapter as a condition of final occupancy for construction of any building located upon the property. Applications for tree planting shall be made at the time of application for building permits. An inspection shall be made to verify that trees have been planted at the time of the final inspection. In lieu of planting City trees, the applicant may elect to pay a fee for the City to install any required trees as set by resolution of the Council.
- (d) Upon passing final inspection, trees planted on City property shall become the property of the City.

(Ord. No. 23-15, § 2(86.065), 10-12-2015)

Sec. 86.070. - Tree pruning and treating criteria.

A permit to prune a City tree may be granted if one or more of the following criteria are met, as determined by the Director:

- (a) A City tree is encroaching onto private property and causing injury to privately-owned trees or shrubs.
- (b) A City tree is having an adverse effect on adjacent infrastructure or buildings that may be resolved by pruning or treatment.
- (c) A City tree's branches pose a threat to utility lines, cables, or other overhead structures.
- (d) The pruning or treatment proposed is unlikely to harm the City tree.
- (e) A City tree is obstructing clearance areas/zones as established in applicable administrative rules or Public Works Design Standards.

(Ord. No. 23-15, § 2(86.070), 10-12-2015)

Sec. 86.080. - Review of applications for City tree removal.

Upon receipt of a complete permit application for City tree removal, the Director shall review the application, and if the application fails to meet the applicable criteria the application shall be denied, and a notice of denial shall be provided to the applicant, which notice shall identify the reasons for the denial. If the application meets the applicable criteria, the Director

shall provide written notice to the neighborhood association where the tree or trees are located, and post notice of the approval as near as practicable to the tree or trees to be removed.

- (a) The notice shall include the following:
 - (1) The name of the applicant;
 - (2) The location of the tree or trees subject to the decision;
 - (3) A reference to the criteria or standards applicable to the decision;
 - (4) A statement that interested persons may appeal the decision pursuant to SRC 86.095; and
 - (5) The effective date of the decision if no appeal is filed.
- (b) The notice shall be provided to the neighborhood association and posted a minimum of 30 days prior to the effective date of the decision.
- (c) Effective date. A decision to approve a permit application for City tree removal shall be effective no earlier than 30 calendar days after the decision has been issued, unless an appeal has been filed, and any appeal fee paid.

(Ord. No. 23-15, § 2(86.080), 10-12-2015)

Sec. 86.085. - Removal of city trees in historic districts and city owned designated historic sites.

- (a) In addition to the requirements in this chapter, an application to remove a City tree that is a historic contributing object or within a City owned historic site, as those terms are defined in SRC chapter 230, shall be subject to Historic Design Review under SRC chapter 230.
- (b) Replanting, in conformance with the Public Works Design Standards, shall be required upon removal of any City tree located within a local historic district, a National Register historic district, or a City owned designated historic site. Waiver of this requirement may only be granted through Historic Design Review under SRC chapter 230.

(Ord. No. 23-15, § 2(86.085), 10-12-2015)

Sec. 86.090. - City tree removal criteria.

- (a) A permit to remove a City tree may be granted if one or more of the following criteria are met, as determined by the Director:
 - (1) The tree is dead.
 - (2) The tree is in an advanced state of decline.
 - (3) The tree is structurally unsound and poses an imminent risk to person or property, as determined by a tree risk assessment, and when the risk cannot be mitigated or the tree cannot be made sound by accepted arboricultural practices.
 - (4) The tree is infected with an acute fatal disease that cannot be treated successfully or there is a strong potential that the pathogen could spread and kill other trees in the immediate vicinity (e.g., Dutch Elm Disease).
 - (5) The tree is infested with an insect that cannot be treated successfully or there is a high likelihood that the infestation could spread and kill other trees or vegetation in the immediate vicinity (e.g., Emerald Ash Borer).
 - (6) When City trees have been planted too close to each other based on administrative rules and the spacing causes an adverse effect on neighboring trees. The tree with the greatest vigor will remain unless it

- meets other criteria for removal. The applicant shall bear the cost of tree and stump removal.
- (7) When past pruning and other tree maintenance practices, other than required electrical line clearance, has destroyed the natural shape of the tree or caused the tree to go into decline.
 - (8) The Director may permit the removal of a City tree due to construction if there is no reasonable alternative. The applicant shall be required to bear all cost of the tree's removal and replacement.
 - (9) The Director may permit the removal of a City tree if the tree is having an adverse effect on adjacent infrastructure and that effect cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices.
- (b) Except as provided in SRC 86.085(b), if a tree is removed pursuant to subsection (a)(8) of this section, the tree will be replaced in conformance with the applicable administrative rules and Public Works Design Standards.
 - (c) The City shall not permit the removal of a City tree for any other reason, including, but not limited to, the following, unless the criteria for a variance has been approved:
 - (1) Dropping of leaves, flowers, seeds, bark, sap, stems, pests, or other matter.
 - (2) Improvement or maintenance of views.
 - (3) Competition with turf or impact on non-plant landscaping (e.g., mulch or gravel).
 - (4) Common allergies.
 - (5) Damage to items that have been placed too close to the trunk such as pavers, bricks, blocks and concrete.
 - (d) Removals by City.
 - (1) Where the City proposes to remove a City tree smaller than ten inches dbh, no posting shall be required.
 - (2) Where the City proposes to remove a City tree larger than ten inches dbh, the City shall post notice of the removal as near as practicable to the tree to be removed for a period of 15 days prior to the removal.
 - (3) No appeals of decisions related to removals by the City shall be allowed, unless part of another decision which provides for an appeal.

(Ord. No. 23-15, § 2(86.090), 10-12-2015)

Sec. 86.095. - Appeal of decisions or orders.

- (a) *General.* An appeal of a decision on a permit application issued by the Director shall be to the Salem Parks and Recreation Advisory Board. The appeal decision by the Salem Parks and Recreation Advisory Board is final; no further appeal or review shall be available. The Director shall send notice of the appeal decision issued by the Salem Parks and Recreation Advisory Board to the applicant, the applicable neighborhood association, and any person that participated in the appeal.
- (b) *Director order.* Except as otherwise provided for in this chapter, an appeal of an order issued by the Director shall be governed by SRC chapter 20.
- (c) *Standing to appeal.*
 - (1) *Permit application decisions.* The applicant, the applicable neighborhood association where the tree or trees are located, and any interested person shall have standing to appeal a decision on a permit application by filing a notice of intent to appeal with the Director. In the event a permit application or variance is denied by the City and the applicant appeals the denial, the City shall provide written notice of appeal to the applicable neighborhood association, and post notice of appeal for 30 calendar days as near as practicable to the tree or trees at issue. The notice of appeal shall include the following;

- (A) The name of the applicant;
 - (B) The location of the tree or trees subject to the decision;
 - (C) A reference to the criteria or standards applicable to the decision;
 - (D) The date, time and place of the hearing on the appeal; and
 - (E) A statement that any interested person may participate in the appeal by submitting written testimony, or by appearing in person to testify at the hearing.
- (2) *Director order.* The property owner or the person to whom the order is issued has standing to appeal an order issued by the Director under this chapter.
- (d) *Notice of intent to appeal.* A written notice of intent to appeal allowed by this chapter shall be filed with the Director not later than 30 calendar days after the date the decision was issued. The notice of appeal shall state the basis of the appeal and why the decision was in error, and shall be accompanied by the nonrefundable appeal fee as set by Council.
- (e) *Appeal procedures.* The Director shall provide rules of the procedure of appeals to the Salem Parks and Recreation Advisory Board under this chapter by administrative rule.

(Ord. No. 23-15, § 2(86.095), 10-12-2015)

Sec. 86.100. - Master city tree plan.

- (a) A master street tree plan may be prepared by the Director for the downtown historic district and central business district with the advice of the Salem Parks and Recreation Advisory Board. This plan shall be consistent with this chapter and shall include policies and guidelines that:
 - (1) Provide for the preservation of Heritage Trees.
 - (2) Encourage the preservation of trees in construction areas when said trees are desirable types and in healthy condition.
- (b) A master street tree plan may be prepared for other areas of the City, including other historic districts and City owned historic resources and sites.

(Ord. No. 23-15, § 2(86.100), 10-12-2015)

Sec. 86.105. - Enforcement.

- (a) *Order to abutting property owner to prune trees and shrubs.* Whenever the property owner, or the property owner's lessee, occupant, or person in charge of abutting property shall neglect or refuse to prune any tree, shrub, or plant provided in SRC 86.015, the Director may serve upon such owner, lessee, occupant, or person in charge of abutting property a written order to prune or remove such trees, shrubs, or plants within ten days after the giving of such order, and in case such owner, lessees, occupants, or person in charge of abutting property fail to do so, such persons shall be in violation of this chapter and subject to the penalties provided by SRC 86.120. Such order shall be served upon the property owner, lessees, occupants, or person in charge of the abutting property by regular mail to the last known address of said person or persons.
- (b) *Notice by City upon failure of abutting property owner.* If the property owner, or the property owner's lessee, occupant, or person in charge of the abutting property, shall fail and neglect to trim such trees, shrubs, or plants within ten days after receiving the order provided for in SRC 86.105(a), the Director may cause such trees, shrubs, or plants to be trimmed or removed.
- (c) *Costs of restoration.* Persons violating this chapter, or a permit issued hereunder, shall be responsible for restoring damaged areas in conformance with a plan approved by the Director that provides for repair of any

environmental or property damage and restoration of the site. Costs of restoration shall be not less than those determined equal to the monetary value of the regulated trees removed in violation of this chapter, or permit issued hereunder, as set forth in an appraisal acceptable to the Director and based upon applicable administrative rules. Each removal of a regulated tree in violation of this chapter shall result in a separate civil fine in addition to costs of restoration.

(Ord. No. 23-15, § 2(86.105), 10-12-2015)

Sec. 86.110. - Statement of costs; billing and collection procedures.

Where the Director takes action under SRC 86.105(b), the Director shall keep an accurate account of the costs of enforcing this chapter. The Director shall invoice each affected property owner for the amount due the City, which shall include an amount equal to ten percent of the cost of labor and materials to defray administrative costs of enforcing this chapter. The affected property owner shall have 15 business days to file objections to the costs. If no objections are filed within the 15-day period, the Director may pursue all remedies available at law or equity, including referral to a collection agency. Collection of costs, fees, and penalties may be, in addition to any other remedy provided for by law, pursued through a contract collection agency or small claims court or entered into the City's lien docket in the manner provided by SRC 20J.410 and a lien for the entire amount placed against the real property pursuant to SRC 20J.180.

(Ord. No. 23-15, § 2(86.110), 10-12-2015)

Sec. 86.115. - Payments and credits.

Upon collection of the debt pursuant to SRC 86.110, the amount of the debt collected shall be credited to the Salem City Tree Fund.

(Ord. No. 23-15, § 2(86.115), 10-12-2015)

Sec. 86.120. - Stop work orders; permit revocation; civil penalties; enforcement.

- (a) *Stop work orders and permit revocation.* The Director may suspend work or revoke a permit specifying the basis for the suspension or revocation that must be remedied prior to resuming other work on the project, upon a finding that:
 - (1) The work is not authorized by a valid permit;
 - (2) Inaccurate information was used to obtain the permit;
 - (3) The applicant is not complying with the terms of the permit or this chapter;
 - (4) The work is, or threatens to become, risk to property or public safety; is adversely affecting or about to adversely affect adjacent property or rights-of-way; or is otherwise adversely affecting the public health, safety, or welfare; or
 - (5) The permit was issued in error.
- (b) *Rescinding a stop work order or revocation.* Penalty fees shall be paid to the City and deposited to the Salem City Tree Fund as required before a stop work order or permit revocation is rescinded.
- (c) *Civil penalty.* Any person who fails to comply with the requirements of this chapter, or the terms of a permit issued hereunder; who undertakes an activity regulated by this chapter without first obtaining a permit; or who fails to comply with a stop work order issued pursuant to this chapter, shall be subject to a civil penalty.
 - (1) Unauthorized City tree removal shall be subject to a civil penalty not to exceed \$2,000.00 per violation in

addition to the value of the tree as calculated in accordance with applicable administrative rules (or in the absence of administrative rules, in accordance with the most current edition of Council of Tree and Landscape Appraisers "Guide for Plant Appraisal").

(2) All other violations shall be subject to a civil penalty not to exceed \$2,000.00 per violation. Each day that a violation continues shall constitute a separate violation.

(d) *Civil penalties against agents.* Any person who acts as the agent of, or otherwise assists, a person who engages in an activity that would be subject to a civil penalty may likewise be subject to a civil penalty.

(e) *Injunctive relief.* The City may seek injunctive relief against any person who has willfully engaged in violation of this chapter, such relief to be in effect for a period not to exceed five years.

(Ord. No. 23-15, § 2(86.120), 10-12-2015)

Sec. 86.125. - Remedies not exclusive.

The remedies provided in this chapter are cumulative and not mutually exclusive and are in addition to any other right, remedies, and penalties available to the City under any other provision of law.

(Ord. No. 23-15, § 2(86.125), 10-12-2015)

Sec. 86.130. - Violations.

Violation of any of the provisions of this chapter is an infraction. Each day that a violation continues shall constitute a separate infraction.

(Ord. No. 23-15, § 2(86.130), 10-12-2015)

Sec. 86.135. - Emergencies.

Where the Director determines that an emergency exists, the Director is empowered to act with all necessary speed to address the emergency situation, including suspension or waiver of permit requirements when necessary to eliminate an imminent hazard to public health, safety or welfare. Compliance with the provisions of this chapter may not be required where strict compliance with the provisions would impair the ability of the Director to address an imminent threat to public health, safety or property. Risk trees are not in danger of imminent failure and do not constitute an emergency.

(Ord. No. 23-15, § 2(86.135), 10-12-2015)