

ORDINANCE NO 468

AN ORDINANCE PROVIDING REGULATIONS FOR PLANTING AND PROTECTION OF TREES WITHIN THE CITY OF CRESWELL; AND CREATING A TREE BOARD

THE CITY OF CRESWELL ORDAINS AS FOLLOWS:

Section 1. Adoption The rules and regulations as proposed and attached hereto and a part hereof are adopted in whole.

Section 2. Severability. The invalidity of any section, clause, sentence, or provisions of this ordinance shall not affect the validity of any other part of the City of Creswell Development Code.

Section 3. Purpose. It is the purpose of this ordinance to promote and protect the public health, safety, and welfare of the residents of the City of Creswell by providing for regulation of planting, maintenance, and removal of trees within the City of Creswell.

Section 4. Definitions For the purposes of this ordinance, the following definitions apply:

Park Trees: Trees, shrubs, bushes and all other woody vegetation in public parks and all other areas owned by the City and open to the public.

Public Right-of-Way: Streets and alleys including that portion of the dedicated right of way which is not currently used as a street or alley.

Street Trees: Trees, shrubs, bushes, and all other woody vegetation located on land lying on public right- of-way within the City of Creswell.

Section 5. City Tree Board; Composition and Procedures

1. The Tree Board Shall be appointed by the City Council and shall consist of 7 members
 - a. One member of the Tree Board shall also be a member of the City Council
 - b. One member of the Tree Board shall also be a member of the Parks Advisory Board
 - c. At least one member of the Tree Board shall be knowledgeable in arboriculture, urban forestry, landscape architecture, or otherwise have a background and professional knowledge of trees and their care.
 - d. Members of the Tree Board shall be composed of citizens with an interest in trees.
 - e. One member of the Tree Board may live outside the City Limits of Creswell.
2. The members of the Tree Board shall be appointed for a term of four years. Vacancies, except at the expiration of a term, shall be filled with a temporary appointment made by the City Council for the remainder of the unexpired term.

Committee members may be reappointed for additional terms for four years each.

3. A member of the Tree Board may resign at any time by submitting a letter of resignation to the Council. A member of the Tree Board may be removed by City Council for nonperformance of duty. A member of the Tree Board who is absent from three consecutive meetings without excuse is considered to be in non-performance of duty. The possible need for removal may be brought to the attention of City Council by the Tree Board.
4. The Tree Board members, by majority vote, shall elect a Chairperson, Vice-Chairperson and a Secretary for a one year term at the beginning of each year, and may reelect the incumbent. The Chairperson shall preside over Tree Board meetings and retain the right to vote. The Vice-Chairperson shall preside in the Chairpersons' absence. The Secretary shall be responsible for taking minutes at each meeting.
5. Regular meetings shall be held at a frequency necessary to carry out Tree Board duties. Meetings shall be called at the request of the chairman, or four active Tree Board members, or at the request of the Public Works Director.
6. Four members of the Tree Board shall constitute a quorum for conducting any business.
7. The Tree Board may make and alter rules and regulations for its operation consistent with the City Charter, ordinances, and Resolutions, subject to review and approval of City Council.

Section 6. Tree Board Duties

1. The Tree Board shall have the primary responsibility to study, investigate, develop, and to update periodically, a written plan for the care, preservation, pruning, planting, replanting, removal and disposition of all street and park trees.
2. As part of the plan, a list of acceptable species as approved by the City of Creswell is attached to this ordinance.
3. The plan developed by the Tree Board shall be presented to the City Council and upon Council acceptance and approval the plan shall constitute the official tree plan for the City of Creswell.
4. The plan, and the provisions of this ordinance, will be reviewed completely at least once every five years after the initial approval.

Section 7. Permits

1. A permit shall be obtained from the Public Works Director before planting, pruning or otherwise affecting a street tree. **There shall be no fee required for this permit.**
2. With a permit, adjacent property owners may plant street trees so long as the selection, location, and planting of such trees in accordance with this ordinance.

3. Any street tree planted subsequent to adoption of this ordinance and not in compliance therewith shall be removed at the expense of the person who planted it.

Section 8. Planting, Maintenance and Removal

1. **The spacing of street trees will be in accordance with Section 3.2.400 of the City of Creswell Development Code, which states that Street tree spacing shall be based upon the type of tree(s) selected and the canopy size at maturity and, at a minimum, the planting area shall contain sixteen (16) square feet, or typically, a (4) foot square. Trees shall be spaced no more than an average of thirty (30) feet apart, except where planting a tree would conflict with existing trees, retaining walls, utilities and similar physical barriers. All street trees shall be placed outside utility easements.**
2. **No street trees, unless approved by the Public Works Director, shall be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.**
3. **No street trees between 3 and 8 feet of height shall be placed in "vision clearance areas", as noted in Chapter 3 of the City of Creswell Development Code.**
4. The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.
5. The Public Works Director may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest.
6. It shall be unlawful as a normal practice for any person, firm, or City department to top any street tree, part tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Tree Board.
7. All stumps of street and park trees shall be removed below the surface of the ground so the top of the stump shall not project above the surface.

Section 9. Protection of Trees

1. It shall be unlawful for any person to remove, destroy, break or injure any street tree or park tree.
2. It shall be unlawful for any person to attach or keep attached to any street or park tree or to the guard or stake intended for the protection of such tree,

any rope, wire, chain, sign or other device whatsoever, except as a support for such tree.

3. During the construction, repair, alteration or removal of any building or structure, it shall be unlawful for any owner or contractor to leave any street tree in the vicinity of such building or structure without a good and sufficient guard or protectors as to prevent injury to such tree arising out of or by reason of such construction or removal.
4. Excavations shall not be placed within six feet of any street tree without approval of the Public Works Director. During such excavation or construction, any such person shall guard any street tree within six feet thereof.
5. All building material or other debris shall be kept at least four feet from any street tree.

Section 10. Appeals

1. Any decision under this ordinance made by the Public Works Director may be appealed to the Tree Board. Any decision of the Tree Board may be appealed to the City Council. Appeals must be in writing and filed within 14 days of the decision being appealed. A decision of the City Council shall be final.

**PASSED BY THE COMMON COUNCIL AND APPROVED BY THE MAYOR
THIS 11th DAY OF OCTOBER, 2010.**


Bob Hooker, Mayor

ATTEST:


Roberta Tharp, City Recorder