

7.375 Sidewalks, Curbs and Access Connections - Owner's Responsibility to Maintain.

- (1)** The owner of land abutting a sidewalk shall maintain the sidewalk and curb in good repair and safe condition. Access connection(s) shall be maintained in good repair and safe condition by the owner of land served by the access connection(s).
- (2)** The owner shall be liable for injury, damage or loss to person or property caused by the owner's negligent failure to comply with subsection (1) of this section.
- (3)** The city shall not be liable for injury, damage or loss to any person or property caused in whole or in part by the defective or dangerous condition of any sidewalk, curb or access connection.
- (4)** The city engineer may serve notice on the owner to reconstruct or repair the abutting or adjoining sidewalk, curb or access connection as conditions may require. A notice to reconstruct or repair and the owner's duty to repair shall be governed by sections 7.152 to 7.154 of this code.
- (5)** Neither the duty of the owner to maintain the sidewalk, curb and access connection in good repair and safe condition, nor liability for owner's failure to do so is dependent upon the notice from the city to reconstruct or repair.
- (6)** The owner shall defend and hold harmless the city from all claims for loss or damage arising from the owner's failure to comply with subsection 7.375(1).

(Section 7.375 amended by Ordinance No. 19393, enacted July 28, 1986; amended by Ordinance No. 20458, enacted March 8, 2010, effective April 10, 2010.)

7.280 Street Tree Program - Policy, Standards, Procedure.

- (1) Policy. In order to create attractive and healthy neighborhood environments, no approval shall be granted for a development that involves the creation of a street unless the applicant has submitted and received approval of a street tree plan that ensures street trees will be planted and established in accordance with the standards and procedures provided for in this section and the adopted policies of the Urban Forest Management Plan. Street trees shall be planted in accordance with the approved street tree plan as each lot or area is developed, and shall be required on streets that abut the development as well as on new streets within the development site.
- (2) Standards. The city manager, or designee, shall by administrative rules adopted pursuant to section 2.019 of this code establish standards and specifications that ensure that new trees planted are of the highest quality, require low maintenance, and do not interfere with public safety. The standards shall include, but not be limited to, the type of trees that may be planted, and requirements for planting and establishment of the trees. As used in this section, "establishment" includes watering, initial pruning, and replacement of trees, if necessary, for a period of three years from the date of planting.
- (3) Procedure. Upon approval of the street tree plan, and prior to approval of the final plat for subdivisions, planned unit developments, partitions, or approved development plans, the applicant shall:
 - (a) Pay to the city a fee established by the city manager pursuant to section 2.020 of this code that is equal to the cost of the purchase, installation and establishment of the street trees required by the approved street tree plan. Thereafter, the city shall assume responsibility for the purchase, installation and establishment of the street trees; or
 - (b) Purchase, install and establish the street trees in accordance with the approved street tree plan, upon (i) first paying to the city a fee established by the city manager pursuant to section 2.020 of this code to reimburse the city for its costs in connection with plan review, inspection, administration and monitoring, and (ii) filing with the city a security bond or deposit in an amount determined by the city to be sufficient to ensure performance under the approved street tree plan.

Existing large-scale street trees on or adjacent to a development site shall be retained unless approved for removal by the city pursuant to section 6.300 to 6.330 of this code during site development or in conjunction with a street construction project. Any street tree removed by permit through demolition or construction within the street right-of-way shall be replaced within the street right-of-way at a location approved by the city with a tree of similar value. The value of the

existing street tree to be removed 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 shall be responsible for the cost of the planting, maintenance and establishment of the replacement tree.

(Section 7.280 added by Ordinance No. 20056, enacted August 5, 1996, effective September 4, 1996.)

Tree Preservation

6.300 **Definitions.** As used in section 6.305 to 6.330 of this Code, the following definitions apply:

Fell. To remove or sever a tree or the intentional use of any procedure the natural result of which is to cause the death or substantial destruction of the tree. Fell does not in any context include normal trimming, pruning, or topping of trees.

Heritage tree. Any tree of exceptional value to our community based on its size (relative to species), history, location, or species, or any combination of these criteria. The specific methodology for classifying a tree as a heritage tree shall be established by administrative rule of the city manager adopted pursuant to section 2.019 of this code.

Logging plan. A document describing the equipment to be used on site, the access roads, grading, skid paths and any other environmental change that will be affected to permit logging, as well as mitigation efforts designed to protect from the negative effects of the logging process all wetlands, riparian zones, habitat, neighboring residences, and such other areas as the city manager or designee determines is appropriate.

Occupied parcel. Real property within the boundaries of an ad valorem tax lot description as found in the Lane County, Oregon, ad valorem tax records with one or more dwellings thereon, or a parcel which has been approved for a dwelling.

Parcel. Real property within the boundaries of an ad valorem tax lot description as found in the Lane County, Oregon, ad valorem tax records.

Plot plan. Final subdivision plat, final PUD plan, or final major or minor partition, encompassing an entire contiguous ownership.

Street tree. A living, standing woody plant typically having a single trunk at least 1-1/2 inch 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.

Tree. A living, standing, woody plant having a trunk 25 inches in circumference (or approximately eight inches in diameter) at a point 4-1/2 feet above mean ground level at the base of the trunk.

(Section 6.300 added by Ordinance No. 17072, enacted May 20, 1974; amended by Ordinance No. 18122, enacted February 22, 1978; Ordinance No. 18123, enacted March 13, 1978;

Ordinance No. 18779, enacted April 22, 1981; Ordinance No. 19927, enacted July 12, 1993; and Ordinance No. 20056, enacted August 5, 1996, effective September 4, 1996.)

6.305 Tree Felling Prohibition.

- (1) Except as provided in section 6.330, no person may fell more than five trees within a period of 12 consecutive months from a parcel of private property consisting of 20,000 or more square feet of area without a permit.
- (2) Except as provided in section 6.330, no person may fell one or more trees from a parcel of private property consisting of less than 20,000 square feet of area without a permit.
- (3) Notwithstanding subsections (1) and (2) of this section and section 6.330(b) of this code, no person shall remove a street tree without first obtaining a permit from the city manager specifically authorizing the removal of a street tree. Permit approval may be conditioned upon replacement of the street tree with another tree pre-approved by the city, or a requirement 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 existing street tree to be removed 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.
- (4) Notwithstanding subsections (1) and (2) of this section and section 6.330(b) of this code, no person shall fell a heritage tree from within the public right-of-way except where such removal, and authorization for its removal, has been granted by the city because its removal is necessary to protect the public health, safety, or welfare.

(Section 6.305 added by Ordinance No. 17072, enacted May 20, 1974; amended by Ordinance No. 18122, enacted February 22, 1968; Ordinance No. 18123, enacted March 13, 1978; Ordinance No. 19927, enacted July 12, 1993; and Ordinance No. 20056, enacted August 5, 1996, effective September 4, 1996.)

6.310 Procedure for Obtaining Tree Felling Permit.

- (1) A person shall apply to the city manager or designee for a tree felling permit, on an application form developed by the city manager or designee.
- (2) The application shall be accompanied by an application fee in an amount established by the city manager pursuant to section 2.020 of this code.
- (3) The application also shall be accompanied by a logging plan if the applicant proposes to fell more than ten trees.
- (4) If the applicant proposes to fell ten or less trees, then the city manager or designee shall act on the permit within ten business days of receiving a completed application. The city manager or designee may extend the response time to up to 30 days if he/she determines that public notice of the application should be given and public comment taken pursuant

to subsection (6) of this section, because substantial impacts on neighboring properties or on other natural values are anticipated.

- (5) If the applicant proposes to fell more than ten trees, then the city manager or designee shall act on the permit within 30 days of receiving a completed application, but only after giving public notice of the application and an opportunity to provide comments as provided in subsection (6) of this section.
- (6) Where public notice and a comment period is required before acting on an application, the city manager or designee shall identify abutting properties and others which are partly or wholly within 200 feet of the site on which the trees are to be felled. Written notice of the application shall be mailed by the city manager or designee to the owners and occupants of the identified properties, as well as to persons who have requested such notice. The notice shall provide that persons may submit written comments on the application as directed in the notice, for a period of 15 days from the date of the notice.

(Section 6.310 added by Ordinance No. 17072, enacted May 20, 1974; amended by Ordinance No. 18123, enacted March 13, 1978; Ordinance No. 18779, enacted April 22, 1981; and Ordinance No. 19927, enacted July 12, 1993.)

6.320 Criteria for Permit Issuance.

- (1) The city manager or designee shall approve, approve with conditions, or deny a permit application based on consideration of the following criteria:
 - (a) The condition of the trees with respect to disease, hazardous or unsafe conditions, danger of falling, proximity to existing structures or proposed construction, or interference with utility services or pedestrian or vehicular traffic safety;
 - (b) The topography of the land and the effect of felling on erosion, soil retention, stability of earth, flow and character of surface waters and streams, protection of nearby trees and windbreaks;
 - (c) The effect the trees' removal has on the environmental quality of the area, including scenic and wildlife habitat values;
 - (d) The necessity to remove trees in order to construct proposed improvements, or to otherwise utilize the applicant's property in a manner consistent with its zoning, this code, the Metro Plan, and other applicable adopted plans;
 - (e) Fire safety considerations where, in the opinion of the fire marshal, removal is necessary to protect existing or proposed structures;
 - (f) The adequacy of the applicant's proposals, if any, to plant new trees or native vegetation to mitigate the environmental effects of removal of the trees to be felled; and
 - (g) That the felling would be compatible with generally accepted principles of horticulture, silvaculture, ecology, or landscape architecture;

- (h) The compatibility of the felling with guidelines adopted by the Oregon Department of Forestry.
- (2) In the event a plot plan for full development of the site has not been approved by the city, felling of trees shall be permitted only on a limited basis consistent with the preservation of the site's future development potential and preservation of important natural values as prescribed in the Metro Plan and this code, and consistent with the following criteria:
 - (a) Wooded areas associated with natural drainage ways and water areas shall be retained to preserve riparian habitat and to minimize erosion;
 - (b) Wooded areas that will likely provide an attractive on-site amenity to occupants of future developments shall be retained;
 - (c) Wooded areas along ridgelines and hilltops shall be retained for their scenic and wildlife habitat values;
 - (d) Wooded areas along property lines shall be retained to provide buffers from adjacent properties;
 - (e) Trees shall be retained in sufficiently large areas and dense stands so as to ensure against windthrow;
 - (f) Clear cuts of developable areas shall be avoided so as to retain a wooded character of future building sites, and preserve housing and design options for future city residents.
- (3) The city manager or designee may attach conditions to the approval of a permit to ensure the replacement of trees, landscape or otherwise reduce the effects of the felling, and may require the posting of a bond to ensure that all conditions are met.

(Section 6.320 added by Ordinance No. 17072, enacted May 20, 1974; amended by Ordinance No. 18053, enacted September 26, 1977; Ordinance No. 18123, enacted March 13, 1978; and Ordinance No. 19927, enacted July 12, 1993.)

6.325 **Appeal.** Any person who is denied a permit, or is granted a permit with conditions, may appeal the denial or imposition of conditions, by filing a written notice of appeal with the city manager or designee within 15 days of the date of denial or the date of issuance of the permit with conditions imposed. In addition, any person who provided comments on an application pursuant to section 6.310(6), and who is dissatisfied with the action of the city manager or designee in granting a permit, whether with or without conditions, also may appeal by following the same procedures. The appeal shall be governed by section 2.021 of this code. The appeal must include the specific basis or bases upon which the appellant asserts that the decision was in error.

(Section 6.325 added by Ordinance No. 17072, enacted May 20, 1974; amended by Ordinance No. 18123, enacted March 13, 1978; Ordinance No. 19926, enacted June 28, 1993; and Ordinance No. 19927, enacted July 12, 1993.)

6.330 **Trees, Felling - Exceptions.** The requirements and restrictions of sections 6.305 to 6.310 of this code or rules adopted thereunder do not apply to:

- (a)** The action of any city officer or employe or of any public utility necessary to remove or alleviate an immediate danger to life or property; to restore utility service; or to reopen a public thoroughfare to traffic;
- (b)** An occupied parcel of private property consisting of less than 20,000 square feet of area;
- (c)** Felling of trees that are nuisances under section 6.010 of this code;
- (d)** Felling of trees that are in violation of section 7.640 of this code;
- (e)** Any felling necessary to install or maintain improvements such as streets and sewers within publicly owned and accepted rights-of-way or utility easements;
- (f)** That portion of a PUD and/or PUD subdivision development for which final approval has been obtained.

(Section 6.330 amended by Ordinance No. 17072, enacted May 20, 1974; amended by Ordinance No. 18053, enacted September 26, 1977; Ordinance No. 18122, enacted February 22, 1978; Ordinance No. 18123, enacted March 13, 1978; Ordinance No. 18779, enacted April 22, 1981; Ordinance No. 19393, enacted July 28, 1986, effective January 28, 1987; and Ordinance No. 19927, enacted July 12, 1993.)

ADMINISTRATIVE ORDER NO. 58-10-01-F
of the
City Manager of the City of Eugene

**AMENDMENT OF FEES FOR MAINTENANCE SERVICES FOR
SIDEWALK AND DRIVEWAY APRON REPLACEMENT AND
GRINDING, AND REPEAL OF ADMINISTRATIVE ORDER NO.
58-99-14-F.**

The City Manager of the City of Eugene finds as follows:

A. Section 2.020 of the Eugene, Code, 1971, authorizes the City Manager to determine and set fees and charges to be imposed by the City for services, goods, use of municipal property, and licenses and permits. In accordance with the procedures set forth therein, and the further authority of Section 7.130 of the Eugene Code, 1971, on July 30, 1999, Administrative Order No. 58-99-14-F was adopted establishing the Schedule of Rates for Maintenance Services for Sidewalk Replacement and Grinding (“the Fee Schedule”). These maintenance services are provided on request to private parties and other governmental agencies that construct projects that become public improvements upon completion and are charged for on a per square foot basis for replacement, and a flat rate for grinding.

B. On March 3, 2010, I issued Administrative Order No. 58-10-01, proposing to amend the Fee Schedule established by Administrative Order No. 58-99-14-F, by revising the sidewalk replacement rate and grinding rate, and adding a driveway apron replacement rate. Notice of the proposed amendments was provided to the Mayor and City Councilors, made available to any persons who had requested such notice, and made available for review by interested persons at the office of the City Manager, 777 Pearl Street, Room 105, Eugene OR 97401, during normal business hours. In addition, on March 5, 2010, the Notice was published in the Register-Guard and posted at two locations at City Hall.

C. The Notice provided that comments would be received for 15 days from the date of publication and posting. No comments were received within the time or in the manner described in the Notice.

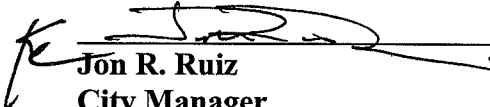
D. Based on the above findings, the Fee Schedule should be amended as proposed in order to recover the full cost of maintenance services for sidewalk replacement and grinding. In determining the charges, I have considered the applicable policies, enactments and directives of the City Council, the amounts charged for these services by the City in the past, the full costs of providing these services supported by the fees, the amounts charged by other comparable providers, and the revenue needs of the City as determined by the adopted City budget.

On the basis of these findings, I order that:

1. The fees set forth on the Schedule of Rates for Maintenance Services for Sidewalk Replacement and Grinding attached as Exhibit A to this Order are the fees to be charged for the described services as of the effective date of this Order.

2. Administrative Order No. 58-99-14-F is repealed as of the effective date of this Order.

Dated and effective this 29 day of March, 2010.


Jon R. Ruiz
City Manager

**SCHEDULE OF RATES FOR MAINTENANCE SERVICES
FOR SIDEWALK AND DRIVEWAY APRON REPLACEMENT AND GRINDING**

Sidewalk Replacement.....	\$300 mobilization fee plus \$7 per sq. ft. @ 4" (minimum 25 sq.ft) (additional thickness add material costs) (1 time mobilization fee)
Driveway Apron Replacement	\$300.00 mobilization fee plus \$10 per sq. ft. (1 time mobilization fee; fee waived if sidewalk replacement is being performed)
Grinding	\$20 per ln. ft. (min. 5 ln. ft.)