

TITLE 7

**PUBLIC WAYS AND PROPERTY**

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CHAPTER 1

**PUBLIC RIGHTS OF WAY**

SECTION:

- 7-1-1 Definitions
- 7-1-2 Jurisdiction
- 7-1-3 Scope of Regulatory Control
- 7-1-4 City Permission Required for Encroachment
- 7-1-5 Obligations of City

7-1-1: **DEFINITIONS:** For the purpose of this chapter, the following shall mean:

CITY: The city of Irrigon, Morrow County, Oregon.

PERSON: An individual, corporation, association, firm, partnership, joint stock company, and similar entities.

PUBLIC RIGHTS OF WAY: Include, but are not limited to: streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements and all other public ways or areas, including subsurface and air space over these areas.

WITHIN THE CITY: Territory over which the city now has or acquires jurisdiction for the exercise of its powers. (Ord. 135, 2-11-1997)

7-1-2: **JURISDICTION:** The city has jurisdiction and exercises regulatory control over all public rights of way within the city under the authority of the city charter and state law. (Ord. 135, 2-11-1997)

7-1-3: **SCOPE OF REGULATORY CONTROL:** The city has jurisdiction and exercises regulatory control over each public right of way whether the city has a fee, easement, or other legal interest in the right of way. The city has jurisdiction and regulatory control over each right of way whether the legal interest in the right of way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means. (Ord. 135, 2-11-1997)

7-1-4: **CITY PERMISSION REQUIRED FOR ENCROACHMENT:** No person may occupy or encroach upon a public right of way without the permission of the city. The city grants permission to use rights of way by franchises, licenses and permits. (Ord. 135, 2-11-1997)

7-1-5:           **OBLIGATIONS OF CITY:** The exercise of jurisdiction and regulatory control over a public right of way by the city is not official acceptance of the right of way, and does not obligate the city to maintain or repair any part of the right of way. (Ord. 135, 2-11-1997)

CHAPTER 2

**COMMUNITY PARK, LAW ENFORCEMENT**

SECTION:

- 7-2-1 Definitions
- 7-2-2 Jurisdiction
- 7-2-3 Scope of Regulatory Control

7-2-1: **CITY AUTHORITY TO ENFORCE:** The Irrigon community park and recreation district, as per letter of May 30, 1979, signed by the chairman of the board, and attached as exhibit A to the ordinance codified herein, hereby grants the city law enforcement agency authority to enforce city, county, state and posted federal regulations. (Ord. 72, 9-9-1980)

7-2-2: **RULES AND REGULATIONS:** The posted federal rules and regulations governing the use of the Irrigon community park, together with the appropriate Oregon motor vehicle laws and/or general offenses regulations set out in [title 5, chapter 1](#) of this code, which are now or hereafter enacted are hereby adopted by reference and made a part of this chapter. See exhibit B attached to the ordinance codified herein. (Ord. 72, 9-9-1980)

7-2-3: **PENALTIES:** Penalties for violations of rules and regulations shall be in accordance with section 327.27 of exhibit B attached to the ordinance codified herein and/or established bail schedules of the city, county or state for which cited. (Ord. 72, 9-9-1980)

CHAPTER 3  
CITY PARKS

## SECTION:

- 7-3-1 Definitions
- 7-3-2 Jurisdiction
- 7-3-3 Scope of Regulatory Control
- 7-3-4 City Permission Required for Encroachment
- 7-3-5 Obligations of City
- 7-3-6 Jurisdiction

7-3-1: **HOURS:** All city parks will be closed from the hours of twelve o'clock (12:00) midnight until six o'clock (6:00) A.M. It is unlawful for any individual to use, congregate, or be present at or in any of the city of Irrigon parks while closed. (Ord. 178-07, 7-17-2007)

7-3-2: **PERMISSION TO USE PARKS AFTER CLOSURE:** Any person desiring use of a city park during the hours of park closure may obtain special permission for its use by making arrangements with the city administration. The administration may put such restrictions on after hour use of the parks as it deems proper. (Ord. 178-07, 7-17-2007)

7-3-3: **RESPONSIBILITY FOR MINORS:** No parent, guardian, or person having the care and custody of a minor under the age of eighteen (18) years shall allow such minor to be in or upon any city park during the hours the parks are closed. (Ord. 178-07, 7-17-2007)

7-3-4: **TEMPORARY PARK CLOSURE:** In order to provide for the health, safety and convenience for the public, the city of Irrigon hereby grants to the Morrow County sheriff the authority to close city parks for up to twenty four (24) hours due to real or perceived threats to the safety of Morrow County deputies or citizens in general. The city further gives the sheriff authority to extend the closure of any city park for up to three (3) consecutive twenty four (24) hour periods, if necessary. Additional extensions may be authorized when the closure order is signed by the Morrow County sheriff, the mayor, and the city manager.

When a closure of any park is required beyond one week, the closure must be authorized by formal council action. (Ord. 181-07, 11-16-2007)

7-3-5: **ALCOHOL AND CONTROLLED SUBSTANCES PROHIBITED:**

- A. Prohibition Of Alcoholic Beverages: No person shall sell, possess or consume any alcoholic beverage in any park.
- B. Controlled Substances:

1. Definitions: For purposes of this section, "controlled substance" shall have the meaning provided in Oregon Revised Statutes 475.005(6), and "prescription drug" shall have the meaning provided in Oregon Revised Statutes 689.005(6) as these statutes are currently enacted or as they are amended in the future.

2. Prohibition Of Controlled Substances: No person shall commit any of the following acts in a city park:

a. Sell, distribute, make available or offer to provide a controlled substance or prescription drug to another;

b. Package, possess or store a controlled substance;

c. Transport a controlled substance or materials intended to be used in the packaging of a controlled substance;

d. Solicit another to provide, make available, sell or distribute a controlled substance or prescription drug to any person; or

e. With the intent to engage in any act prohibited by this subsection B2, seek, meet, approach or encounter another.

C. Possession Of Lawful Medications: Nothing in subsection B2 of this section shall prohibit the possession in a city park of medications prescribed to the person or to a person under that person's care, if and under such conditions as possession of such substance is otherwise lawful. (Ord. 182-07, 11-16-2007)

7-3-6: **PENALTIES:**

A. Violation of sections [7-3-1](#) and [7-3-3](#) of this chapter are a civil infraction punishable by a fine of one hundred dollars (\$100.00) for each violation. (Ord. 178-07, 7-17-2007; amd. Ord. 181-07, 11-16-2007; Ord. 182-07, 11-16-2007)

B. Any person violating section [7-3-5](#) of this chapter may be assessed a civil infraction by the court in an amount not exceeding five hundred dollars (\$500.00). (Ord. 182-07, 11-16-2007)

**CHAPTER 4**  
**URBAN FORESTRY**

**SECTION:**

- 7-4-1 Title; Purpose; Intent
- 7-4-2 Definitions
- 7-4-3 Urban Forestry Commission
- 7-4-4 Public Nuisances
- 7-4-5 Public Tree Destruction
- 7-4-6 Tree List
- 7-4-7 Penalties

**7-4-1: TITLE; PURPOSE; INTENT:**

- A. Title: This chapter shall be known as the *CITY OF IRRIGON URBAN FORESTRY ORDINANCE*.
- B. Purpose: The city council and mayor of the city of Irrigon recognize the importance of the urban forest to the quality of life within the city and do hereby declare it to be an objective of the city that:
  - 1. City property be landscaped to enhance the natural beauty of the city;
  - 2. City departments coordinate their activities to encourage efficient and quality landscaping;
  - 3. Landscaped city property be effectively managed;
  - 4. The street environment be made hospitable through landscaping; and
  - 5. Residents of the city are encouraged to participate in beautification efforts through installing and maintaining quality landscaping on private property.
- C. Intent: It is the intent of the city that this chapter shall be construed as to promote:
  - 1. The planting, maintenance, restoration, and survival of desirable trees and shrubs within the city;
  - 2. The protection of community residents from personal injury and property damage;

3. The protection of the city from property damage caused or threatened by the improper planting, maintenance, or removal of trees and shrubs located in and upon public areas and rights of way within the city. (Ord. 199-10, 3-16-2010)

7-4-2: **DEFINITIONS:** For the purpose of this chapter the following terms, phrases, words, and their derivation shall have the meaning given in this section:

**MAY:** Is discretionary.

**PARKING/PLANTING STRIP:** The area between the curb and sidewalk, unpaved streets, side city property; private property line that is city owned; and/or area inside the private property line where an easement is given to the city for the purpose of planting trees.

**PRIVATE TREES:** Any and all trees growing on private property within the city limits as of or after the effective date hereof from which this section or successor sections derives and which are not defined or designated in this chapter as street trees, park trees or public trees.

**PUBLIC RIGHT OF WAY:** A portion of property reserved for public use and accepted for such use by the city to provide circulation and travel to abutting properties, including, but not limited to, streets, alleys, sidewalks, provisions for public utilities, cut and fill slopes, and open public spaces.

**PUBLIC TREES:** All trees growing on any street, park, or any public place owned and/or managed by the city of Irrigon as of or after the effective date hereof or successor ordinances.

**PUBLIC UTILITY:** Any public, private or cooperatively owned line, facility or system for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil products, water, waste or storm water, which directly or indirectly serves the public or any part thereof within the corporate limits of the city.

**SHALL:** Is mandatory.

**TREE TOPPING:** The specific reduction in the overall size of a tree and/or the severe cutting back of branches or limbs to such a degree so as to remove the normal canopy and disfigure the tree.

**URBAN FORESTRY:** The cultivation and management of trees and related plants for their present and potential contribution to the physiological, sociological, and economic well being of urban society. In its broadest sense, urban forestry is one essential component of a multimanagerial system that includes watersheds within the city, wildlife habitats,



outdoor recreation opportunities, landscape design, recycling of municipal vegetative wastes and tree care in general.

**URBAN FORESTRY PROGRAM:** The program which is a part of the public works department and which is responsible for the care and maintenance of the urban forest resources located on city property. (Ord. 199-10, 3-16-2010)

**7-4-3: URBAN FORESTRY COMMISSION:**

- A. **Creation Of Commission:** There is created the city urban forestry commission, hereinafter referred to as the "commission". (Ord. 199-10, 3-16-2010)
- B. **Appointments:** The commission shall consist of the public works department, city hall staff and at least one community member who shall reside in the Irrigon area. The maximum number serving on the committee may be established by resolution. Appointment of committee members shall be by recommendation of the commission and shall be confirmed by city council. (Ord. 213-12, 2-21-2012)
- C. **Meetings:** The commission shall meet at least quarterly. Meetings shall be held at a public place as designated by the commission. The commission shall cause minutes of its meetings to be recorded.
- D. **Election Of Commission Officers:** Each year the commission, at its first regular meeting after January 1, shall select a chairperson.
- E. **Powers And Duties:** The commission shall have the following powers and duties to:
  1. Recommend to the council the adoption and alteration of all rules, regulations, and ordinances which it shall, from time to time, deem in the public interest and most likely enhance and beautify the urban forest, as well as for the purposes of carrying out this chapter;
  2. Recommend to the council code provisions regarding the planting, maintenance, and removal of trees and other vegetation on city property;
  3. Recommend to the council code provisions for the review and approval of projects on private property where open space and/or landscaping is required as a condition for the development, as well as to recommend policies for the enforcement of approved plans;
  4. Encourage landscaping installation and maintenance on private property by providing information on the value of landscaping and on the proper planting and care of trees and other vegetation;
  5. Promote appreciation of trees and the urban forest through annual Arbor Day observances and other activities;

6. In all instances, to serve as an advocate of the city's urban forest. (Ord. 199-10, 3-16-2010)

7-4-4: **PUBLIC NUISANCES:**

A. Public Nuisance Defined And Designated: The following are defined and declared to be public nuisances under this chapter:

1. Any tree or shrub located on private property having a destructive or communicable disease or other pestilence which endangers the growth, health, life or well being of trees, shrubs, or plants in the city;

2. The roots of any tree or shrub, located on private property, which cause the surface of the public street, curb or sidewalk to be upheaved or otherwise disturbed;

3. Any tree, shrub or portion thereof located on private property which, by reason of location or condition, constitutes an imminent danger to the health, safety or well being of the general public; or

4. Any tree, shrub, or portion thereof located on private property that obstructs streetlights, traffic signs, and the free passage of pedestrians or vehicles.

B. Responsibility For Remedy Of Public Nuisance: The owner of property upon which the nuisance is determined to exist shall be responsible for such nuisance and shall be responsible for its abatement.

C. Notice To Abate: The city may serve a notice in writing upon the owner, occupant or agent of any lot, building or premises informing them of the nuisance and requiring that the nuisance be abated. The owner shall have thirty (30) days from the date of the notice to abate said nuisance.

Failure to give a notice as provided herein shall not relieve the individual creating the nuisance from the obligation to abate such nuisance, or from the penalty provided for maintenance thereof.

Notice of appeal may be filed with the city within fourteen (14) days of service of notice. The appeal shall be decided by the city council as to whether or not a nuisance exists.

D. Expense Of Abatement Responsibility Of Offender: In case of neglect or refusal of any person(s) to abate any nuisance as defined by this chapter, after written notification has been served, and within the time specified in the notice, the city may abate or procure the abatement thereof. The expense of such abatement shall be collected from the person(s) so offending as provided by law in the case of public nuisance abatements. (Ord. 199-10, 3-16-2010)

7-4-5: **PUBLIC TREE DESTRUCTION:**

A. Abuse Or Mutilation Of Public Trees:

1. Unless specifically authorized in writing by the public works department, or his designee, no person shall intentionally damage, cut, carve, transplant or remove any public tree; attach any rope, wire, nails, advertising posters, or other contrivance; allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any such tree.

2. It shall be unlawful for any person, firm, or city department to top any public tree. Trees damaged by storms or other natural causes, or certain trees under utility wires or their obstructions where other pruning practices are impractical, may be exempted from this chapter at the determination of the public works department, or his designee. (Ord. 199-10, 3-16-2010)

7-4-6: **TREE LIST:** Below is a list of tree species, grouped by size class. Keep in mind the particular limitations of the planting site when selecting a tree for planting. The provided list is not all inclusive; it is provided as a beginning guide for homeowners. To plant a species not on the list every effort will be made to accommodate the selection provided the species is viable in this zone and appropriate for the location.

CITY OF IRRIGON  
RECOMMENDED STREET TREE LIST

<u>Common Name</u>	<u>Form</u>	<u>Spread</u>	<u>Growth Rate</u>
Small trees - 30 feet or less:			
"Accolade" flowering cherry	V-shaped	20' - 30'	Fast
Amanogowa cherry	Columnar	10' - 20'	Fast
European mountain ash	Oval	10' - 20'	Medium
European mountain ash "cardinal royal"	Oval	10' - 20'	Medium
Flowering plum "thundercloud"	Rounded	20' - 30'	Fast
Globe Norway maple	Rounded	10' - 20'	Slow
Kobus magnolia	Oval	10' - 20'	Fast
Kwanza cherry	V-shaped	10' - 20'	Fast
Norway maple	Columnar	10' - 20'	Fast

Southern magnolia "Victoria"	Rounded	10' - 20'	Medium
Western redbud	Rounded	10' - 20'	Medium
Medium trees - 30 feet to 50 feet:			
Aristocrat pear	Pyramidal	20' - 30'	Fast
Armstrong red maple	Columnar	10' - 20'	Fast
Bowhall red maple	Columnar	10' - 20'	Fast
Chanticleer pear	Columnar	20' - 30'	Fast
Columnar sargent cherry	Columnar	10' - 20'	Fast
Emerald queen Norway maple	Rounded	30' - 40'	Fast
European pyramidal hornbeam	Pyramidal	20' - 30'	Medium
European white birch	Oval	20' - 30'	Medium
Flame ash "raywood"	Rounded	20' - 30'	Fast
Green ash "patmore"	Oval	30' - 40'	Fast
Green ash "summit"	Oval	20' - 30'	Fast
Jacquemonti birch	Oval	20' - 30'	Medium
Japanese pagoda tree	Rounded	30' - 40'	Slow
Little leaf linden	Pyramidal	20' - 30'	Medium
Maidenhair ginkgo (male only)	Pyramidal	30' - 40'	Slow
Nyssa sylvatica	Pyramidal	20' - 30'	Slow
Paper birch	Oval	30' - 40'	Medium
Red sunset maple	Rounded	30' - 40'	Fast
Sargent cherry	Rounded	20' - 30'	Fast
"Shademaster" honey locust	V-shaped	30' - 40'	Fast
Sugar maple	Oval	30' - 40'	Slow
Sugar maple "goldspire"	Columnar	20' - 30'	Fast
Sugar maple "green mountain"	Oval	30' - 40'	Fast
"Sunburst" honey locust	V-shaped	30' - 40'	Fast
"Village green" zelkova	V-shaped	Over 40'	Fast

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White ash "autumn purple"	Oval	30' - 40'	Fast
Large trees - over 50 feet:			
American sweetgum	Oval	30' - 40'	Fast
Big leaf maple	Rounded	Over 40'	Fast
Dawn redwood	Pyramidal	30' - 40'	Fast
European ash "Aurea"	Rounded	Over 40'	Fast
London plane tree	Pyramidal	30' - 40'	Fast
Northern red oak	Pyramidal	30' - 40'	Fast
Pacific dogwood	Pyramidal	20' - 30'	Slow
Pin oak	Pyramidal	30' - 40'	Medium
Scarlet oak	Oval	Over 40'	Medium
Scotch pine	Pyramidal	30' - 40'	Medium
Sycamore maple	Rounded	Over 40'	Medium
Tulip tree	Oval	Over 40'	Fast

(Ord. 199-10, 3-16-2010)

7-4-7: **PENALTIES:** Any person who violates any provision of this chapter or who fails to comply with any notice issued pursuant to provision of this chapter, upon being found guilty of violation, shall be subject to a fine not to exceed five hundred dollars (\$500.00) for each separate offense.

Each day that a violation of this chapter continues shall constitute a separate violation.

If, as the result of the violation of any provision of this chapter, the injury, mutilation, or death of a tree, shrub, or other plant located on city owned property is caused, the cost of repair or replacement of such tree, shrub, or other plant shall be borne by the party in violation. (Ord. 199-10, 3-16-2010)