

Council Business Meeting

October 16, 2018

Agenda Item	Second Reading of an Ordinance Amending AMC 9.08.120 and AMC 13.16.070 to Resolve Inconsistencies and Increase Vertical Clearance Height of Trees and Other Vegetation above Public Streets and Alleys	
From	Dave Lohman	City Attorney
Contact	david.lohman@ashland.or.us	

SUMMARY

The proposed ordinance is to reconcile two Ashland Code provisions concerning the trimming or removal of trees and other vegetation impacting public streets, alleys and to bring the City's required minimum vertical clearance above City streets and alleys into compliance with Oregon Revised Statutes. The Ordinance No. 3157 was approved by Council at First Reading on October 2, 2018.

POLICIES, PLANS & GOALS SUPPORTED

Provide, promote, and enhance the security/safety, environmental health, and livability of the community. (Quality of Life Administrative Goal)

PREVIOUS COUNCIL ACTION

At its October 2, 2018 meeting, the City Council acted on the First Reading of Ordinance No. 3157, amending AMC 9.08.120 and AMC 13.16.070, and passed the ordinance as presented on to second reading for enactment. If the Council approves second reading, the ordinance amendments will become effective 30 days after the ordinance is signed.

In 2002, AMC 13.16.070 established the vertical clearance distance for trees and shrubs above public streets at fourteen feet and above alleys at twelve feet. In 2010, AMC 9.08.120 was enacted to set the minimum vertical clearance distance for branches that hang above sidewalks or streets at not less than eight feet above sidewalks and not less than 12 feet above streets.

BACKGROUND AND ADDITIONAL INFORMATION

There are no changes to AMC 9.08.120 and AMC 13.16.070 Ordinance No. 3157 amendments approved by the City Council at its First Reading on October 2, 2018.

ORS 818.080 establishes maximum allowable height of vehicles, including load, as fourteen (14) feet for any vehicle on public roadways. The City of Ashland operates some large vehicles just under 14 feet tall. On occasion, the City's own vehicles or private service vehicles cause damage to tree or shrubs which overhang streets or alleys a distance of 13.5 feet or less. As to clearance heights for trees and shrubs above streets and alleys, the two current City Code provisions establish standards that are inconsistent with each other and with vehicle height allowance in the state statute. For clarity and consistency, the code provisions on clearance heights above public streets and alleys subject to vehicle use should be reconciled and conformed to the maximum height allowed for trucks.

FISCAL IMPACTS

The added costs of these minor Code revisions are expected to be negligible for the City and for affected property owners. In all but an estimated dozen or so cases, the actual clearance heights above City streets and alleys subject to vehicle use are already close to 14 feet. City ordinances already require at least 12 feet of clearance above City streets and alleys. Under the proposed new standard, affected property owners will be required to undertake only a little more trimming than they are already supposed to be doing. The slightly higher clearance standard seems likely to result in reduced damage to trees and vehicles so as to offset additional tree maintenance costs from a community-wide perspective. A few individual property owners, however, may have to pay a little more for trimming than in the past.

STAFF RECOMMENDATION

Staff recommends Option 1 below.

ACTIONS, OPTIONS & POTENTIAL MOTIONS

1. I move to approve Second Reading of proposed Ordinance No. 3157, [as amended] which is titled “An Ordinance Amending AMC 9.08.120 and AMC 13.16.070 to Resolve Inconsistencies and Increase Vertical Clearance Height of Trees and Other Vegetation above Public Streets and Alleys, for enactment.

OR

2. I move to amend proposed Ordinance No. 3157 as follows:

REFERENCES & ATTACHMENTS

Attachment 1: Proposed Ordinance 3157

Attachment 2: Council Minutes dated October 2, 2018 [\[Link\]](#)

1 **ORDINANCE NO. 3157**

2 **AN ORDINANCE AMENDING AMC 9.08.120 AND AMC 13.16.070 TO RESOLVE**
3 **INCONSISTENCIES AND INCREASE VERTICAL CLEARANCE HEIGHT OF TREES**
4 **AND OTHER VEGETATION ABOVE PUBLIC STREETS AND ALLEYS**

5 Annotated to show deletions and additions to the Ashland Municipal Code sections being
6 modified. Deletions are ~~bold lined through~~, and additions are **bold underlined**.
7

8 **WHEREAS**, By adopting consistent vertical height clearance of vegetation over public streets
9 and alleys, promotes the safety and welfare of the citizens by diminishing damage to commercial
10 vehicles and power line outages;

11 **WHEREAS**, Oregon Revised Statute 818.080 establishes maximum allowable height of
12 vehicles, including load, as fourteen (14) feet for any vehicle on public roadways;

13 **WHEREAS**, Ashland Municipal Code Section 9.08.120 (“Trees – Hedges”) regulates heights of
14 trees, bushes, or hedges on property abutting upon a street or public sidewalk.

15 **WHEREAS**, Ashland Municipal Code section 13.16.070 (“Dangerous Trees – Nuisance
16 Removal”) regulates trees or shrubs detrimental to the usefulness of any public street, sidewalk,
17 or utility and requires that trees or shrubs have at least 14 vertical feet of clearance over any
18 public street and at least 12 feet of vertical clearance over that portion of any alley subject to
19 vehicle use.

20 **WHEREAS**, Amendments to the Ashland Municipal Code are warranted in order to resolve the
21 inconsistencies among ORS 818.080, AMC 9.08.120 and AMC 13.16.070.

22 **THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:**

23 **SECTION 1.** Ashland Municipal Code Section 9.08.120 Trees - Hedges is hereby amended as
24 follows:

25 **9.08.120 Trees – Hedges**

26 A. No owner or person in charge of property that abuts upon a street or public sidewalk shall
27 permit trees, bushes, **shrubs**, or hedges on such property to interfere with street or sidewalk
28 traffic **or restricting the usefulness of any public street, sidewalk, sewer, or utility**. In
29 addition, it shall be the duty of such owner or person to remove, from any tree on such property,
30 all branches that overhang the sidewalk ~~or street~~ to a height of not less than eight feet above the
sidewalk. ~~and not less than twelve feet above the street. For purpose of the preceding sentence,~~

1 the duty to remove branches extends to trees on any parking strip adjoining the street or sidewalk
2 that abuts such property.

3 B. No owner or person in charge of property shall allow to stand a dead or decaying tree that is
4 a hazard to the public or to persons or property on or near the property.

5 C. No owner or person in charge of property shall place or maintain thereon, along a street or
6 public sidewalk, a thorn-bearing hedge or a hedge in excess of four (4) feet in height.

7 D. **Failure of the property owner to remove or trim a tree, bush, shrub or hedge which**
8 **does not meet the requirements of this section within thirty (30) days of receiving notice**
9 **thereof from the City is a violation of this section, and the City may then remove or trim**
10 **the tree, bush, shrub or hedge and assess the costs thereof against the property. In**
11 **addition,** any violation of this section is punishable as provided under AMC 9.08.990.

12 **SECTION 2.** Ashland Municipal Code Section 13.16.070 is hereby amended as follows:

13 **13.16.070 Dangerous Trees-Nuisance-Removal-Vertical Clearance Above Streets and**
14 **Alleys**

15 Any tree or shrub growing in any public property, on private property, or in a planting strip
16 abutting public property, which is endangering or which may endanger the security of usefulness
17 of any public street, sewer, sidewalk or utility, is declared to be a public nuisance; and the City
18 may remove or trim the tree or shrub, or may require the property owner to remove or trim the
19 tree or shrub. Trees, or shrubs, **or other vegetation** extending over any public street, ~~except an~~
20 **or** alley, shall be trimmed in such a manner as to provide a minimum **fourteen (14)** feet vertical
21 clearance over ~~the street. Trees or shrubs extending over an alley shall be trimmed in such a~~
22 **manner as to provide a minimum 12 feet vertical clearance over** that portion of the **street or**
23 alley subject to vehicle use. Failure of the property owner to remove or trim the tree, **shrub, or**
24 **other vegetation** which does not meet the requirements of this section ~~or shrub~~ within **thirty**
25 **(30)** days of receiving notice **thereof from** the City Recorder is a violation of this ~~chapter~~
26 **section,** and the City Administrator may then remove or trim the tree or shrub and assess the
27 costs **thereof** against the property. **In addition, any violation of this section is punishable as**
28 **provided under AMC 13.16.100.**

29 **SECTION 3. Codification.** In preparing this ordinance for publication and distribution, the
30 City Recorder shall not alter the sense, meaning, effect, or substance of the ordinance, but within

1 such limitations, may:

- 2 (a) Renumber sections and parts of sections of the ordinance;
- 3 (b) Rearrange sections;
- 4 (c) Change reference numbers to agree with renumbered chapters, sections or other parts;
- 5 (d) Delete references to repealed sections;
- 6 (e) Substitute the proper subsection, section, or chapter numbers;
- 7 (f) Change capitalization and spelling for the purpose of uniformity;
- 8 (g) Add headings for purposes of grouping like sections together for ease of reference; and
- 9 (h) Correct manifest clerical, grammatical, or typographical errors.

10 **SECTION 4. Severability.** Each section of this ordinance, and any part thereof, is severable,
 11 and if any part of this ordinance is held invalid by a court of competent jurisdiction, the
 12 remainder of this ordinance shall remain in full force and effect.

13 The foregoing ordinance was first read by title only in accordance with Article X, Section 2(C)
 14 of the City Charter on the ____ day of _____, 2018, and duly PASSED and ADOPTED
 15 this ____ day of _____, 2018.

16 _____
 17
 18 Melissa Huhtala, City Recorder

19
 20 SIGNED and APPROVED this ____ day of _____, 2018.

21
 22 _____
 23 John Stromberg, Mayor

24 Reviewed as to form:

25
 26 _____
 27 David H. Lohman, City Attorney