

CHAPTER 27

NUISANCE TREES

ADMINISTRATION

27.005 Definitions. As used in BCC Chapter 27:

- (1) “**Arboriculture**” means the study and care of wood trees, shrubs and vines.
- (2) “**Abatement**” means the treatment used to minimize the spread of a disease, infestation, or other condition within an infected tree or to healthy trees.
- (3) “**City**” means the city limits of Corvallis, within Benton County, Oregon.
- (4) “**County**” means the County of Benton, within the state of Oregon.
- (5) “**Nuisance Tree**” A tree that possesses a serious disease, insect or structural problem sufficient to make it a significant hazard to people or property.
- (6) “**Property**” means any private or public land within the County of Benton and outside the city limits of Corvallis. [Ord. 96-0120]

27.010 Public Nuisance. Certain diseases, infestations, and other conditions, including but not limited to Dutch Elm Disease, are hereby declared to be a public nuisance and are determined to be injurious or detrimental to the public health, safety or welfare of Benton County. [Ord. 96-0120]

27.015 Inspection. The County may inspect any tree on public or private property within the County of Benton and outside the City limits of Corvallis to determine if a nuisance tree exists. The County shall have the right to enter into or upon property at reasonable times to investigate, determine, or cause the removal of said nuisance. [Ord. 96-0120]

27.020 Abatements by County. To prevent the spread of a disease, infestation, or other condition, the County shall be permitted to prune, remove, inject, spray or otherwise abate a nuisance tree on public or private property in a manner consistent with sound arboricultural practices. [Ord. 96-0120]

27.105 Abatement Procedure.

- (1) On determination that a nuisance tree exists or may exist, the County shall post a notice in a conspicuous place on the property liable for the abatement of the nuisance.

(2) At the time of posting, the County shall cause a copy of the notice to be personally served upon or forwarded by registered or certified mail to an owner or agent of the owner of the real property, directed to his/her last known address or, if that address is unknown, to the owner or agent at the address of the property. An error in the name or address of the owner or agent, or the use of a name other than that of the true owner or agent of the property, or failure to sign a receipt for certified mail, or failure to pick up certified mail shall not render the notice void, but in such case the posted notice shall be deemed sufficient.

(3) The notice shall contain:

(a) A description of the real property, by street address or township, range, section or otherwise, on which the nuisance tree exists;

(b) A description of the nuisance;

(c) A description of the abatement process;

(d) A statement that the party notified must remove and abate the nuisance within fifteen (15) days of the date on the notice;

(e) A statement that in case of failure to remove the nuisance within the time set forth above, the County shall cause the nuisance to be abated and charge the cost of abatement, plus 11% overhead, against the property described above. The owner of the above-described property shall be personally liable for the cost of abatement and overhead;

(f) A statement that the property owner, agent of the owner, or occupant of the affected property may appeal the determination that a nuisance exists by filing written notice in duplicate with one copy received by the Board of Commissioners and one copy received by the County Parks Department within fifteen (15) days of the date on the nuisance notice;

(g) Date and signature of person issuing notice.

(4) Upon receipt of an appeal, the Board of Commissioners shall schedule an administrative review at its next available regularly scheduled meeting. Notice of time and place of the review shall be given to the person filing the appeal no less than five (5) days prior to the time set for the review. The person filing the appeal may appear and be heard by the Board of Commissioners prior to the Board of Commissioners' determination whether a nuisance in fact exists.

(5) The Board of Commissioners shall take action to abate the nuisance at any time from fifteen (15) days of posting of the notice or, in the event of an appeal, at any time from the Board of Commissioners' final determination that a nuisance exists. [Ord. 96-0120]

27.110 Abatement by Others. After notice of a nuisance tree has been issued, no person shall discard, remove, or otherwise abate a nuisance tree or any part thereof in any manner other than as stated on the nuisance tree notice unless agreed to in writing by the County. Violation of this section is a Class A Infraction. [Ord. 96-0120]

27.205 Notice of Assessment

(1) Accurate records shall be kept for all expenses incurred, including a charge of eleven (11%) percent for administrative overhead and a statement of costs shall be filed with the Director of the Department of Finance and Taxation.

(2) Upon receipt of the statement, the Director of the Department of Finance and Taxation shall cause to be posted on the property and to be mailed to the owner of the property, a notice setting forth the amounts in the statement and stating that the Board of Commissioners proposes to assess against the property the amounts set forth and that objections to the proposed assessment may be made in writing and filed with the Director of the Department of Finance and Taxation or before twenty (20) days from the date of mailing such notice.

(3) If objections are received on or before the expiration of such 20-day period, the Director of the Department of Finance and Taxation shall refer the matter to the Board of Commissioners for administrative review.

(4) Upon the conclusion of administrative review, or on the expiration of the 20-day period, if no objections have been received, the matter of the proposed assessment shall be determined by the Board of Commissioners in the regular course of business. Any objections to the proposed assessment not resolved by administrative review shall be heard and determined at that time. An assessment for such costs and overhead expenses or so much thereof as the Board of Commissioners determined is proper shall be made and shall be entered in the docket of liens, and upon such entry the same shall constitute a lien upon the property from which the nuisance was removed and abated, which lien shall be collected in all respects. An error in the name or address of the owner, or in the use of a name other than that of the true owner of such property, or the failure of the owner to receive notice of the assessment shall not render the assessment void, but the same shall be a valid and existing lien against the property.

(5) The person(s) who is the legally recorded owner(s) of the property at the time at which the notice is posted shall be responsible for the amount of the assessment, including all interest, overhead, and other charges.

(6) The total amount of the assessment is due and payable 30 days following Board of Commissioner's action determining the actual amount of the assessment. If the owner(s) is unable to pay the assessment in total, the owner(s) must enter into a loan agreement with Benton County within 45 days of Board of Commissioner's actions. The

Benton County Department of Finance and Taxation will determine the terms of the agreement based upon existing departmental procedures. [Ord. 96-0120]

27.210 Low Income Persons. The cost of abating a nuisance shall be adjusted for low income persons if, upon application to the Director of the Department of Finance and Taxation, the conditions set forth in 27.210(1) are met.

- (1) A person eligible for an adjustment of nuisance abatement costs shall:
 - (a) Have a total income for the preceding calendar year which did not exceed the most current Federally Approved Poverty Guidelines for Oregon in accordance with the 'size of family unit' at at least 175% of the Poverty Guidelines; and
 - (b) Furnish proof of income requirements set forth herein; and
 - (c) Own, or be in the process of purchasing, the property from which the nuisance is abated.
- (2) A person who qualifies pursuant to 27.210(1) shall be eligible for the following adjustments:
 - (a) If the total income is below 130% of the Poverty Guidelines, complete fee waiver.
 - (b) At 130% to 175% of the Poverty Guidelines, waived at 75% of fee.
- (3) The maximum amount which may be waived under this Section for any one parcel of real property or any one person shall be Seven Hundred Fifty Dollars (\$750) per calendar year.
- (4) No overhead charge or civil penalty shall be imposed for any real property for which a waiver, pursuant to this Section, shall have been approved. [Ord. 96-0120]