

**CITY OF DAMASCUS
ORDINANCE NO. 2009-41**

**AN ORDINANCE OF THE CITY OF DAMASCUS, OREGON, TEMPORARILY REGULATING
THE CLEAR-CUTTING OF TREES AND PROVIDING PENALTIES THEREFOR**

THE CITY OF DAMASCUS ORDAINS AS FOLLOWS:

Section 1. This Ordinance is controlling for the purpose of regulating the clear-cutting of trees within the City of Damascus and hereby supersedes and replaces City of Damascus Ordinance No. 2009-38.

Section 2. Purpose. As a result of the public's perception that the City of Damascus may, in the future, regulate the cutting of trees, some owners of forestland have undertaken, or applied to undertake, clear-cutting of their lands. Such clear-cutting has resulted in complaints from neighboring property owners (1) that such activities have resulted in trespasses, including equipment intrusion and tree-cutting, on neighboring properties; and (2) that such activities tend to expose trees on neighboring properties to wind damage and/or uprooting due to the loss of windscreening resulting from clear-cutting. This Ordinance prohibits the clear-cutting of trees within the urban growth boundary (UGB) of the City for the purpose of preventing trespassing within the UGB as a result of clear-cutting activity and protecting the citizens of the City from personal injury and property damage due to an increased susceptibility to wind and other hazards to public peace, health and safety associated with such activity, until such time as the City can consider and adopt long-term legislation regulating forest practices, tree preservation and habitat protection.

This Ordinance is expressly not intended as (1) a moratorium on construction or land development (ORS 1957.505 through 197.541); (2) a land use regulation (ORS 197.005); (3) a regulation implementing Metro Code Title 13 (Nature in Neighborhoods); or (4) land use regulations for forest practices (ORS 527.722).

Section 3. Definitions. As used in this Ordinance, the following words and phrases shall mean:

- 3.1 Clear-Cutting. The removal of more than ten (10) trees, from a parcel or from adjoining parcels in common ownership, within any twelve (12)-month period; or the removal of more than five trees from a parcel that leaves less than an average of one tree per 1,000 square feet of lot area, distributed throughout the entirety of the site.
- 3.2 Removal. The act of removing a tree by digging up or cutting down, or any act that causes a tree to die precipitously, including, but not limited to, damage inflicted on the root system by machinery; storage of materials or soil compaction; changing the ground level in the area of the tree's root system; damage inflicted on the tree permitting infections or infestation; excessive pruning; or any other action that is deemed harmful to the tree.
- 3.3 Tree. Any woody, perennial plant – deciduous or evergreen – characterized by having a main stem or trunk of six (6) inches diameter breast height ("DBH") or more in diameter at 4.5 feet above natural grade. As used herein, "tree" shall be inclusive of the plural "trees."

Section 4. Clear-Cutting Prohibited. No person shall cause or engage in clear-cutting of trees within the UGB of the City.

Section 5. Exceptions. This Ordinance shall not apply to tree removal in excess of the limits described in Section 3.1 of this Ordinance when a tree cutting permit is issued for the following reasons:

- a) Development – A permit may be issued by the City Manager where the tree removal is in connection with development of an approved subdivision or partition, or is otherwise necessary to accommodate any other development of the subject property for which a development or building permit has been approved, and is in compliance with the terms and conditions of such subdivision, partition or permit approval.
- b) Hazardous Trees – The City Manager may issue a permit to remove a hazardous tree. The applicant shall provide an arborist report to document the condition of the tree. The requirement for an arborist report may be waived if the City Manager or their designee determines the tree is obviously hazardous.

Section 6. Penalty.

- 6.1 Fine for Violation. Any person who causes or engages in clear-cutting within the UGB of the City shall, upon conviction, be subject to a fine of not less than \$500 dollars.
- 6.2 Separate Offense. Each tree removed in violation of the Ordinance shall constitute a separate violation.

Section 7. Severability. The sections of this Ordinance are severable. The invalidity of a section shall not affect the validity of the remaining sections.

Section 8. Effective Date. This Ordinance shall take effect thirty (30) days after passage.

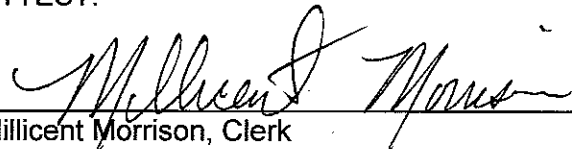
Section 9. Duration. The terms and provisions of this Ordinance shall be applicable within the UGB of the City until and shall expire at 12:01 a.m. on June 17, 2010 unless continued by separate ordinance.

APPROVED AND ADOPTED this 21st day of December, 2009.



Jim Wright, Mayor

ATTEST:



Millicent Morrison, Clerk