CITY OF SUMNER WASHINGTON

FORESTRY COMMISSION MEETING
AGENDA
CITY HALL – 1104 MAPLE STREET
FEBRUARY 11, 2021 4:30 PM

Copy to: Ryan Windish, Community Development Director

Forestry & Parks Commission is inviting you to a scheduled Zoom meeting.

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CALL TO ORDER

Roll Call: Bridges, Elfers, Haase, Kenna, Stewart, Tomkins

COMMISSION BUSINESS

1. Approval of Minutes of the January 14th, 2021 meeting
2. Ordinance No. XXXX - Street Tree Code Amendment SMC 12.42

REPORTS

1. Commission Comments
2. Staff Comments

ADJOURNMENT

Forestry & Parks Commission Meeting

1/14/2021
4:39-5:24pm
Zoom

Meeting called by:	Chair Theresa Haase	**Type of meeting:**	Forestry & Parks Commission
Facilitator:	Derek Barry	**Note taker:**	Derek Barry
Timekeeper:	Derek Barry		

Attendees: Chair Theresa Haase, Commissioner Ben Bridges, Community Services Manager Derek Barry

Minutes

Agenda item: Approval of December 2020 meeting minutes **Presenter:** Derek Barry

Discussion:

Approved the minutes of the December 2020 meeting

Conclusions:

Commissioner Bridges moved to approve minutes, Chair Haase seconded.

Agenda item: Public Comment **Presenter:** Theresa Haase

Discussion:

No public comments

Conclusions:

Public comment was opened and closed with no interested parties.

Agenda item: Tree Code Discussion **Presenter:** Derek Barry

Discussion:

Policy update on the street tree code continues with discussion of sidewalk code. Staff is working with consultant that was hired for sidewalk code update. Staff will send most current draft version to commissioners to review for February meeting. Education and public outreach will be a big part of the code changes. Commissioner Bridges wondered how staff would work to educate the entire City. Chair Haase had similar question and would like to see the different avenues utilized.

Conclusions:

Will work on addressing commissioners' input.

Action items	Person responsible	Deadline
✓ Send updated draft code changes to commissioners	Derek Barry	1/22/2021

Agenda item: Commissioners **Presenter:** Derek Barry

Discussion:

Chair Haase accepted the nomination from the December 2020 meeting. Commissioner Bridges moved to have Chair Haase serve as Chair. Chair Haase seconded it motion. Commissioner Elfers emailed his intentions to continue serving on the Forestry & Parks Commission. Derek Barry will reach out to Commissioner Stewart to see if she is interested in continuing to be a commissioner. Staff will work on advertising open spots on the Commission through the SBLSD as well as in our Parks and along the Sumner Link Trail.

Conclusions:

Chair Haase will continue to be Chair for the Forestry & Parks Commission.

Agenda item: Parks Planning & Development **Presenter:** Derek Barry

Discussion:

Staff will be bringing a budget amendment to Council to fund the initial site prep and clearing along with funding for a consultant to assist in planning the park. The City is anticipating doing both the new park and Seibenthaler park plans at the same time to maximize public input and resources. A temporary dog park at Seibenthaler was also supported in providing a temporary park while engaging the public in planning for park improvements.

Conclusions:

Will continue to work with Commission on parks planning and development.

Agenda item: Commission Comments **Presenter:** Derek Barry

Discussion:

Commissioner Bridges asked about opportunities to replace Arbor Day street trees that were recently damaged.

Conclusions:

Staff will work on addressing which trees were damaged and if replacements are available.

Agenda item: Staff Comments **Presenter:** Derek Barry

Discussion:

Derek Barry shared that because of the work of the Forestry & Parks Commission we are starting to see planned improvements. He looks forward to keeping the momentum moving forward and reminded commissioners that if they know of anyone that would be interested in joining the commission it would be a great time to get involved. There are a lot of improvements moving forward.

Conclusions:

None.

FORESTRY COMMISSION MEETING
DATE: February 11, 2021
AGENDA BILL: 21-765

SUBJECT: Ordinance No. XXXX - Street Tree Code Amendment SMC 12.42 **CATEGORY:** Ordinance

BUDGET IMPACT:
Expenditure Required: None Within Budget Allocation: N/A

ATTACHMENTS:
1. Street Trees 1.25.21 Draft

STAFF CONTACT: Derek Barry, Community Services Manager

SUMMARY BACKGROUND:
The Street and Public Trees code (SMC Chapter 12.42) establishes protections for City trees and procedures for permitting tree removal or tree maintenance. In April 2017 minor code amendments were adopted to clarify roles of the City Arborist and CD director in tree removal procedures, and updated the list of designated street trees. However, most of this code has not been updated since the 1990s.
Proposed changes include clarifying who is responsible for street tree maintenance, levels of enforcement for damaging or removing street trees, permitting requirements, standard details, and rules relating public trees.

COUNCIL COMMITTEE/STUDY SESSION: **To be discussed at the February 22nd Study Session**
MEETING/STUDY SESSION DATE: 2/22/2021
COMMITTEE RECOMMENDATION: Forestry & Parks Commission recommends approval

STAFF RECOMMENDATIONS/MOTION:
Approve the changes to the Street and Public Trees Code 12.42

DRAFT

Chapter 12.42
STREET AND PUBLIC TREES

Sections:

12.42.040 Purpose.
12.42.080 Applicability.
12.42.120 Definitions.
12.42.200 Street tree policies.
12.42.240 Street trees required.
12.42.280 Street tree maintenance responsibilities.
12.42.320 Street tree permits.
12.42.340 Street tree permit fees.
12.42.360 Street tree removal.
12.42.400 Tree removal criteria.
12.42.480 Street tree specifications.
12.42.520 Public Trees.
12.42.560 Variances.
12.42.640 Violations.

12.42.040 Purpose.

A. The purpose of this chapter is to establish policies for the planting, preservation, and maintenance of trees on city-owned lands and public right-of-way. The provisions of this chapter are enacted to provide for the orderly, healthy, and proper planting and maintenance of public trees and street trees to preserve and enhance the city's physical and aesthetic character.

B. This chapter does not create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter. This chapter does not establish or impose any duty whatsoever upon the city of Sumner or any of its officers or employees for whom the implementation or enforcement of this chapter shall be discretionary and not mandatory. Accordingly, no provision or term used in this chapter is intended to impose any duty which would subject the city or any of its officers or employees to damages in a civil action.

12.42.080 Applicability.

The provisions of this chapter apply to trees planted on city-owned property, including streets and rights-of-way, parks, cemetery, city shops, City Hall, sewer treatment plant, and other similar minor utility and city-owned facilities. This chapter does not apply to trees in the City watershed, city buffers, city mitigation sites or on private property or property owned by other governmental entities.

12.42.120 Definitions.

A. "Abutting property owner" means the owner or occupier of any real property which abuts any city right of way on which street trees are required or have been planted.

B. "American Standard for Nursery Stock" means standards for nursery plants published by the American National Standards Institute (ANSI), specifically the ANSI Z60.1 or as hereinafter amended.

C. "ANSI standards" means the standards published by the American National Standards Institute, specifically in *American National Standard for Tree Care Operations Standard Practices (*ANSI A300 Pruning Standard) or as hereinafter amended.

D. "Appraised value" means the monetary value based on the current ISA standards for tree appraisal, including such factors as the size, species, and condition of the tree.

E. "Caliper" means the measurement of the circumference of the tree between 6 and 12 inches above the ground for immature trees.

F. "Certified arborist" means a person or firm who, through education and training, possesses expertise in the field of arboriculture as certified by the ISA or its equivalent.

G. "City arborist" means a person or firm employed or retained by the city as a certified arborist.

H. "Critical areas" means an area subject to environmental protection regulations as defined in SMC Title 16 Environment, such as shorelines, wetlands and streams.

I. "Director" means the city's appointed Community Development director or designee.

J. "Diameter breast height" (d.b.h.) means the measurement of the circumference of a mature tree at approximately 4.5 feet.

K. "Emergency situation" means a circumstance where the existence of a street or public tree causes a direct and imminent threat to public health and safety or poses a direct and imminent risk of substantial property damage.

L. "Forestry commission" means the commission appointed pursuant to chapter 2.87 SMC.

M. “Hazardous tree” means any tree or part of a tree which suffers from that has defects, or structural weakness damages and/or which poses a high risk of damage to persons or property that may cause a failure where the potential damage is greater than the benefit of the tree.

N. “Hearing examiner” means the person appointed pursuant to chapter 2.58 SMC and whose actions are governed by said rules.

O. “ISA” means International Society of Arboriculture.

P. “Major tree care” means any act performed on a tree which exceeds the definition of “routine care.”

Q. “Nuisance tree” is a tree that poses undue risk to public safety. The nuisance could be caused by an unreasonable amount of fruit or seed drop, harboring of insects or an unreasonable amount of twig or limb breakage; or by upheaval of adjacent public ways or potential to damage City infrastructure.

R. “Person” means any person, firm, association, partnership, corporation, or individual.

S. “Planting strip” means that portion of the public street right-of-way not covered by sidewalk or other paving lying between the property line and that portion of the street or highway usually used for vehicular traffic or parking.

T. “Public tree” means a tree located on real property or a facility owned by the City of Sumner- that is not a street tree.

U. “Proper pruning” means pruning conducted according to arboriculture industry standards, substantially in conformance with the *American National Standard for Tree Care Operations Standard Practices (ANSI A300 Pruning Standard) or as hereinafter amended.*

V. “Removal” means the act of cutting down or removing any tree or shrub from the public right-of-way.

W. “Routine care” means the act of watering, fertilizing, applying pesticides, and proper pruning of trees or shrubs; provided, that pruning shall be limited to the removal of limbs one inch in diameter or smaller. Any pruning involving the removal of limbs greater than one inch in diameter shall not be considered routine care.

X. “Street tree” means any tree planted in street right-of-way.

Y. “Substantially redeveloped” means the issuance of a permit for construction valued at greater than or equal to 50 percent of the assessed value of the improvements prior to the issuance of a permit.

Z. “Topping” means the severe cutting back of limbs leaving stubs beyond the branch collar within the trees’ crown or to such a degree as to remove a substantial portion of

the normal canopy and disfigure the tree.

12.42.200 Street and public tree policies.

The following policies are based on the adopted Sumner comprehensive plan and urban forestry strategy and shall be used to guide discretionary decision making related to this chapter:

A. Trees planted in planting strips along city streets shall be selected from a list of City-approved and/or designated trees and shall be appropriate for the site, considering species, size, width of the planting strip, utilities, and other site characteristics, and urban forest diversity, aesthetic effects and landscape design principles. Where a street has been designated as requiring a particular type of tree, all plantings shall be consistent with such designation. A list of approved and/or designated street trees, as recommended by the forestry and parks commission, and maintained by the director, shall be available at City Hall and electronically upon request.

B. Large and significant trees are valued icons and provide substantial aesthetic and environmental benefits and should be retained whenever reasonably practical. Reasonable accommodation should be made in the design and maintenance of public infrastructure and private development projects to incorporate existing healthy street trees into the design of the project.

C. Care and maintenance of public trees shall be done consistent with best management practices and industry standards for tree care.

D. Existing trees should be retained when consistent with adopted street tree list and when they do not pose a risk to public safety and infrastructure.

12.42.240 Street trees required.

When the planting of a street tree is required, such planting shall only be done pursuant to a permit issued by the City in accordance with SMC 12.42.320. Street trees shall be required in the following circumstances:

A. Each applicant for a permit to construct a new street shall be required to plant street trees in accordance with this chapter.

B. Each applicant for a permit to either: (1) develop an existing vacant site or (2) substantially redevelop, as defined in this chapter, any real property shall be required to plant street trees in accordance with this chapter. Street trees may also be required where they do not currently exist as required by the city's land use, zoning, and environmental regulations.

C. Any street tree that is removed shall be replaced with a similar species, as determined by the City arborist, in approximately the same location, unless the City arborist determines that replacement is not feasible due to site characteristics or when replacement conflicts with approved site improvements, or species characteristics.

12.42.280 Street tree maintenance responsibilities.

A. Ownership. The owner of real property abutting city right of way shall be the owner of, and shall be responsible for, all street trees located on such right of way.

B. Routine Care. The abutting property owner shall be responsible for the routine care, as defined in this chapter, of street trees except as noted elsewhere in this chapter. The abutting property owner shall ensure that all routine care is done consistent with this chapter and is consistent with best management practices for tree care, and proper pruning.

C. Major Tree Care. The abutting property owner shall not perform any major tree care, as defined in this chapter, on any street tree without a permit as required by SMC 12.42.320. Should any person believe that major tree care of any street tree is necessary or warranted, they may bring such information to the City's attention by contacting the City's Public Works Department and providing the following information: (1) the property address of the tree requiring care, (2) the nature of the major tree care required, and (3) an email address and/or phone number where the person making such notification can be reached.

D. Maintenance of nuisance vegetation that overhangs or obstructs the public way shall be governed by SMC Chapter 8.16.030.

E. Maintenance of street trees with respect to protecting overhead power, telephone and cable utilities shall be the responsibility of the respective utility provider subject to city permits.

F. Notwithstanding any other provision of this chapter, the city may conduct both routine and major tree care on any street or public tree at any time.

G. All work on street trees shall be done in a safe manner. Any person planting, replacing, or removing street trees as required in accordance with this chapter shall be responsible for ensuring all utilities are properly located and marked prior to any excavation. Any person performing work on a street tree shall ensure that all dirt and debris is immediately removed from travel and pedestrian ways and that the planting strip is restored with grass or other acceptable material. No dirt or excavation material shall be allowed to enter the stormwater system. Staking for trees and planting material shall not impede safe pedestrian or vehicular travel.

H. Topping is prohibited for all street and public trees unless performed by the City arborist or their designee as a last resort to correct an imminent threat to public safety. The tree should be removed when safe to do so.

12.42.320 Street tree permits.

A. No person, except the City arborist or their designee, shall plant a street or public tree, conduct major tree care on a street or public tree, or remove any street or public tree without first obtaining a tree permit from the director. However, in emergency situations, the Community Development Director, Public Works Director, Police Chief, City arborist or City Administrator shall have the authority to authorize tree removal and care without a permit.

B. Applications for tree permits shall be made on forms provided by the director. Applicants may be required to provide information with the application including, but not limited to, name of property owner, contractor information, status of overhead utility lines, planting type and location, reasons for planting, care or removal, and additional information as may be necessary to determine if the application meets city standards and policies.

C For a permit for tree removal, the director may condition permit approval upon any of the following: (1) replacement of the tree, or (2) applicant's payment to the city of an amount sufficient to fund the planting and establishment by the city of a similar-value tree,

D. Except as provided in Section E, applications for all tree permits shall be accompanied by documentation which demonstrates that the applicant or contractor performing the work has a liability policy for the duration of the permit in an amount of not less than $1,000,000 for bodily injury (each occurrence) and for not less than $1,000,000 for property damage (each occurrence). Such insurance shall include an endorsement naming the City of Sumner, its officers and employees, as specifically named additional insureds and the permit number shall be included in the project description of such endorsement. The

applicant shall not reduce or cancel the liability policy without 30 days' prior written notice to the City.

E. The Director shall have the authority to waive or reduce the insurance requirements of Section C above when the Director is satisfied that the insurance requirements are unnecessary considering the level of risk of the permit in light of the scope or nature of the work to be performed.

F. All permits shall require the applicant and/or contractor to defend, indemnify, and hold the city harmless from any and all liability, claims, damages, actions, and lawsuits arising out of work performed under the permit.

G. All work on street trees shall be done in a safe manner. Applicant shall take reasonable measures to keep sidewalks, parking lanes and travel lanes free from obstructions, and in no case shall any obstruction remain on any sidewalk, parking lane, or travel lane following completion of the work under the permit. For any work which obstructs or makes dangerous any public way, applicant shall erect and maintain around the work area a visible, sufficient barrier. All dirt and debris shall be removed from travel and pedestrian ways by the close of each workday. All debris, equipment and obstruction shall be removed, and the planting strip restored with grass or other acceptable material immediately upon completion of the street tree work. No dirt or excavation material shall be allowed to enter the stormwater system. Staking for trees and planting material shall not impede safe pedestrian or vehicular travel.

H. The permit applicant shall be responsible for ensuring all utilities are properly located and marked prior to excavation.

I. The director is authorized to approve any permit application which meets the requirements of this chapter. Any permit application that does not meet the requirements of this chapter shall be denied. Upon denial of any permit application, the director should determine whether the work requested under the permit application constitutes an imminent safety hazard which should be remedied by the City. In such instances, the director shall authorize City staff to perform such work.

12.42.340 Street Tree permit fees.

A. Applications for street tree permits shall be accompanied by the applicable fee. Fees for street tree planting, major tree care, or street tree removal permits shall be established in

Exhibit A, hereinafter to be established by the director through administrative order pursuant to SMC XXXX.

B. The permit fee for street tree removal may be waived by the director, after inspection and verification by the City arborist of a hazardous or nuisance tree.

12.42.360 Street tree removal.

A. Whenever the City arborist finds that a street tree is a potential threat to the public health and safety or believes the tree should be removed pursuant to SMC 12.42.400, an assessment of the tree's health and risk of danger shall be completed by the City arborist.

B. If the assessment indicates the street tree is unhealthy or dangerous or satisfies the criteria for removal set forth in SMC 12.42.400, and should be removed, the City arborist or designee shall schedule its removal.

C. The decision to remove a street tree shall be based on an evaluation of the criteria stated in SMC 12.42.400 and the street tree policies in SMC 12.42.200.

D. When a tree removal request is made pursuant to SMC 12.42.400 (E) or (G), the director, not the city arborist, will make the determination whether tree removal is warranted. Any party may appeal the decision of the director in this subsection E to the city administrator.

E. All appeal decisions made pursuant to this section are final and no further appeals shall be allowed.

12.42.400 Tree removal criteria.

These criteria apply to the removal of any tree in a non-emergency situation. A tree should be removed if:

A. The tree is infected with an epidemic insect or disease where the recommended control is not applicable, and removal is the recommended practice to prevent transmission.

B. The tree poses a public nuisance which cannot be reasonably corrected or remedied because of its species, size, location, or condition. The nuisance could be caused by excessive fruit or seed drop, harboring of insects or excessive twig or limb breakage; or by excessive upheaval of adjacent public ways or potential to damage City infrastructure

C. The tree poses a safety hazard where corrections by pruning, transplanting, or other measures are not cost effective. The monetary value of the tree shall be compared to the costs for the measure to preserve the tree.

D. The tree severely interferes with the growth and development of a more desirable tree.

E. Due to the aesthetic condition of the tree the site would be visually enhanced by the tree's removal.

F. Work improvements required to be made around the tree will kill or render the tree a hazard.

G. Preservation of the tree, when adjacent property is developed, is not cost effective. The monetary value of the tree shall be compared to construction costs necessary to preserve the tree.

12.42.480 Street tree specifications.
The specifications and standard details for planting street trees are available at the Permit Counter in City Hall.

12.42.520 Public Trees.
A. Whenever the director or City arborist finds that a public tree, as defined in this chapter, is a potential threat to the public health and safety, an assessment of the tree's health and risk of danger shall be conducted by the City arborist.

B. If the assessment indicates the tree is healthy and requires additional measures, the director shall recommend such measures to the appropriate city department.

C. If the assessment indicates the tree is unhealthy or dangerous and should be removed, the City arborist or designee shall schedule its removal.

12.42.560 Variances.
A. Applicants seeking a tree permit may request a variance from any of the provisions of this chapter. To request a variance, the applicant shall submit a written request to the director describing the variance sought and the reason why the variance is desired or necessary. Upon review of the variance request, the director or their designee may conduct a site visit, interview the applicant, and/or seek the advice of the City Arborist. The director may grant a variance based upon a finding that all the following criteria are satisfied:

1. The proposed variance will not result in a public safety hazard including potential damage to utilities, the street, sidewalks, power and telephone lines or interference with safe pedestrian, vehicular, and bicycle travel; and

2. The proposed variance will result in an improved condition for trees or a unique street design; and

3. The tree that is proposed has been shown to have the characteristics which are appropriate for the location without damaging public or private improvements.

B. The director shall issue a written decision on a request for a variance within 30 days following receipt of the request. The director's decision on a request for a variance may be appealed by the applicant by submitting a written request for appeal to the director within 15 days following receipt of the director's written decision. The hearing examiner's decision on any appeal shall be final.

12.42.640 Violations.

No person shall plant, remove, damage, mutilate, trim, prune, conduct tree topping or alter a street or public tree in violation of this chapter and/or in violation of any rules and standards adopted to implement this chapter

A. It shall be a Class 2 civil infraction, with a monetary penalty in an amount not to exceed $125.00 plus applicable statutory assessments, for any person to plant, replace, damage, remove, or conduct major tree care without a permit or in violation of an issued permit. A person is deemed to have committed a separate offense for each day or occurrence during which a violation of this section is committed.

B. Notwithstanding section A, any violation of this chapter and the rules which are adopted to implement this chapter shall be subject to code enforcement action pursuant to chapter 15.06 SMC.

C. In addition to collecting the fines established as part of a civil infraction and/or pursuant to chapter SMC 15.06, when a person damages a street or public tree in violation of this chapter, at the City's discretion, the City may collect a tree value fine representing the value of the tree and the cost to remedy the damage in lieu of requiring the violator or responsible party to replace the damaged tree. The tree value fine shall take into account

the value of the tree using generally accepted appraisal practices in the arboriculture profession, and may include the appraised value of the tree, the cost of a certified tree appraiser evaluation, the cost of corrective pruning, hazard mitigation and tree removal.

The Sumner Municipal Code is current through Ordinance 2728, passed February 18, 2020.

Disclaimer: The City Clerk's Office has the official version of the Sumner Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: https://sumnerwa.gov/
City Telephone: (253) 299-5500

Code Publishing Company