



City Hall remains closed during Governor Inslee’s “Safe Start” order, a consequence of the Covid-19 pandemic. The public is invited to attend the meeting virtually by using the ZOOM Meeting access information below.

Please click the link below to join the webinar:

<https://sumnerwa-gov.zoom.us/j/83261674759>

Or iPhone one-tap :

US: +12532158782,,83261674759# or +16699006833,,83261674759#

Or Telephone:

Dial:1 253 215 8782

Webinar ID: 832 6167 4759

CALL TO ORDER

Roll Call: Bitetto, Brown, Hamilton, Hayden, Hochstatter, Neuman and Reed

REGULAR BUSINESS

- | | |
|--|---------|
| 1. Ordinance No. 2763 - Street Tree Code Amendments (SMC 12.42) | Page 2 |
| 2. Ordinance No. 2764 - Sidewalk Code Amendments (SMC 12.20 and 12.32) | Page 39 |
| 3. Resolution No. 1575 - Council Rules of Procedure | Page 52 |

CITY ADMINISTRATOR REPORT

AGENDA SETTING

1. Council Meeting Agenda Calendar
2. Council Meeting Calendar

EXECUTIVE SESSION

ADJOURNMENT

This meeting is accessible to persons with disabilities. For individuals who may require special accommodations, please contact the City Clerk at (253) 299-5590, 24 hours in advance.

SUBJECT: Ordinance No. 2763 - Street Tree Code Amendments (SMC 12.42)

CATEGORY: Ordinance

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Ordinance No. 2763
 2. Council Presentation
 3. Street and Public Tree Code Amendments 2.16.21v2
-

STAFF CONTACT: Derek Barry, Community Services Manager

SUMMARY BACKGROUND:

In conjunction with the changes being proposed to the City's code related to sidewalks, the street tree code requires amendments to reflect the following changes:

1. To clearly outline which tree care expectations are that of the abutting property owner vs. the City, and which actions require permits;
 2. To make clear that the City will perform, on a reasonable and established cycle, all major tree care of City-required street trees within the public right of way; and
 3. To make it clear that property owners are responsible for minor maintenance related to street trees (watering, debris/leaf clean up, etc); and
 4. To establish a clear enforcement process for violations of this chapter.
-

COUNCIL COMMITTEE/STUDY SESSION: Study Session

MEETING/STUDY SESSION DATE: 2/22/2021

COMMITTEE RECOMMENDATION: Forward to Council for Final Approval

STAFF RECOMMENDATIONS/MOTION:

Motion to adopt Ordinance No. 2763 amending sections of SMC 12.42 related to Street Trees

ORDINANCE NO. 2763
CITY OF SUMNER, WASHINGTON

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, AMENDING SUMNER MUNICIPAL CODE CHAPTER 12.42 “STREET AND PUBLIC TREES” RELATING TO THE INSTALLATION, MAINTENANCE AND REMOVAL OF CITY-REQUIRED STREET TREES IN THE PUBLIC RIGHT OF WAY.

WHEREAS, Sumner Municipal Code Chapter 12.42, “Street and Public Trees,” outline the obligations of property owners with respect to the installation, protection, maintenance, removal and permitting related to City-required street trees in the public right of way;

WHEREAS, certain code changes are required in conjunction with amendments being made to SMC 12.20 and 12.34 to ensure consistency among code sections; and

WHEREAS, from time to time, code provisions are reviewed and updated to refine language and to reflect modifications in policies and practices so as to increase the clarity and effectiveness of the Sumner Municipal Code;

WHEREAS, the City Council desires that the regulations regarding the installation, protection, maintenance, removal, and permitting related to City-required street trees be updated to more accurately reflect current policies and practices; and

WHEREAS, this Ordinance was presented to the City Council during the February 22, 2021 study session and recommendation was made to put this Ordinance on the agenda of a regular council meeting for final action; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Chapter 12.42 of the Sumner Municipal Code, “Street and Public Trees” is hereby amended as set forth in Exhibit A.

Section 2. Severability – Construction. If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this ordinance. If the provisions of this ordinance are found to be inconsistent with other provisions of the Sumner Municipal Code, the provisions of this ordinance shall control.

Section 3. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and the Code Reviser are authorized to make the necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

Section 4. **Effective Date.** This ordinance shall be in full force and effect five (5) days from and after its passage, approval and publication, as provided by law.

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington, at a regular meeting thereof this _____ day of _____, 2021.

Mayor William L. Pugh

ATTEST:

APPROVED AS TO FORM:

City Clerk Michelle Converse

City Attorney Andrea Marquez

Date Adopted:

Date of Publication:

Effective Date:

Sumner Sidewalks and Street Trees

- Review of current code
- Review of policies and implementation
- Proposed code amendments



Right-of-Way Subject Area



From curb or edge of travel lane
to property line

Street Tree Damage



Sidewalk/Street Tree Code Review

- Reviewed 12 other municipalities' programs/policies
- Sumner code is in-line with other municipalities
- Implementation Varies Among Municipalities:
 - Notification of property owners
 - Enforcement



State Code

The Washington State RCW for Sidewalks, Gutter, Curbs and Driveways (35.68) states:

- Abutting property owners are responsible for construction and repair/replacement of sidewalks, unless caused by the city.
- Cities can set up a Sidewalk Construction Fund and perform repairs on behalf of property owners and require repayment.



Sumner Code

The City of Sumner code aligns with the state code. Additionally, it states:

- Sidewalk repairs are the responsibility of abutting property owners
- Assigns property owner responsibility for the area between the sidewalk and roadway
- Procedures are identified for notifying property owners of deficient sidewalks
- Noncompliance Hearing if corrective action is not taken
- A discretionary Volunteer Sidewalk Program and ADA improvement program are in place
- Code allows the formation of LIDs
- Sidewalk repair needs are evaluated using technical criteria
- Street tree code allows city to define species, permitting, removal and maintenance
- City retains the right to maintain, remove street trees at its discretion



Sidewalks & Street Trees

- Trees are the most common cause of sidewalk damage
- Older street trees have been planted without root barriers
- City maintains a street tree planting/permit program
- New street trees require a permit:
 - Allowable species
 - Planter width requirements
 - Planting details/requirements to protect sidewalks (root barriers)



Types of Sidewalk Defects

Street Tree Caused Damage



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Types of Sidewalk Defects

Non-ADA conforming
cross-slope



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Types of Sidewalk Defects

Deteriorated sidewalk



Types of Sidewalk Defects

No ADA curb ramps



Types of Sidewalk Defects

Insufficient width to meet ADA



Types of Sidewalk Defects

No sidewalk



Types of Sidewalk Defects

Property owner tree (not street tree) caused damage



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Temporary Repairs

Public Works crew performs temporary repairs, including:

- Patching/ramping
- Painting
- Signage



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Permanent Repairs

These may include:

- Public Works crew perform repairs using sidewalk sucker
- City hires contractor to perform repairs/replacement
- Property owner hires contractor



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Sidewalk Defect Ranking

- City of Sumner's ranking is based on vertical/horizontal separation
- Some other municipalities also consider:
 - Social Equity
 - Geographic Distribution
 - Needed connections
 - ADA conformance



Street Trees

Tree topping



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Street Trees

Maintenance



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Street Trees

Proper installation using root barrier



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11.24.2020 08:28

Proposed Sidewalk Code Changes

- City is responsible for damage caused by street trees
- Definition clarifications/changes
- Require property owners to notify city of damaged sidewalks
- New notification process to inform property owners of required action
- Noncompliance for failure to complete corrective action goes to Hearing Examiner



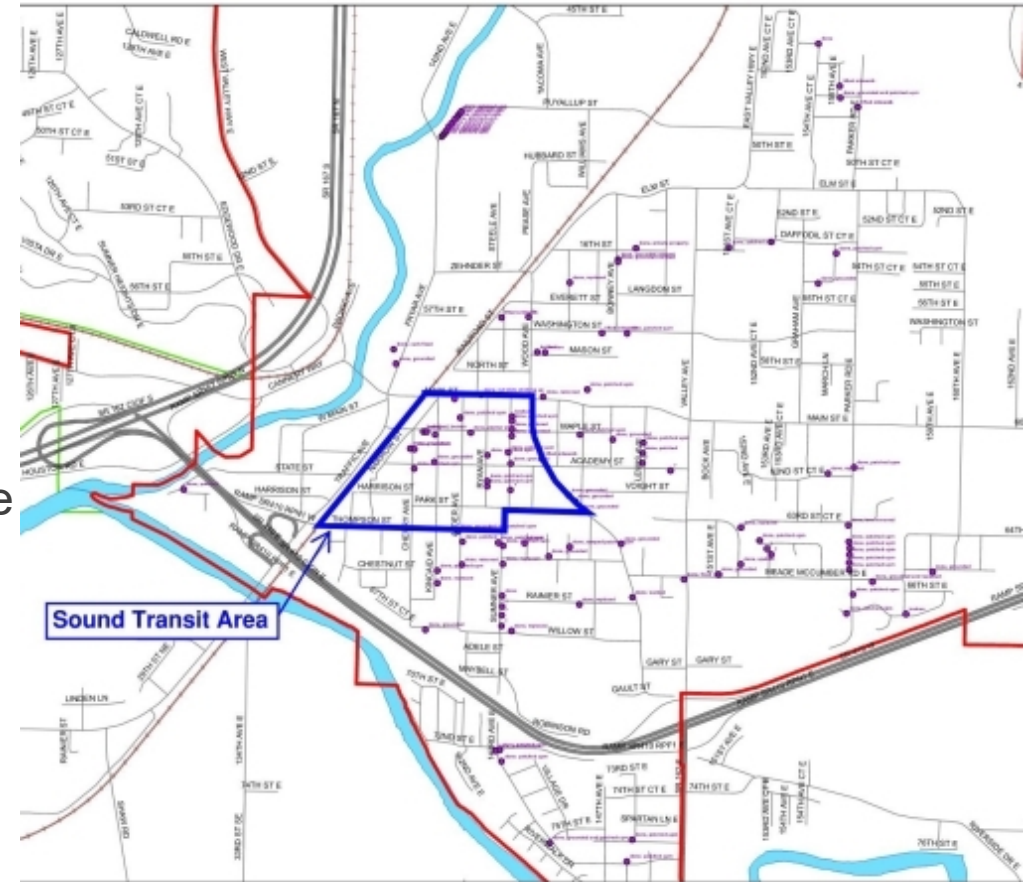
Proposed Street Tree Code Changes

- City to take responsibility for street tree-caused sidewalk damage as street trees are a requirement of development
- City to perform regular trimming/pruning of all street trees
- Street trees are in a database and maintained on a four-year cycle
- Property owners responsible for watering, leaf/debris pick-up, minor care
- Property owner can obtain permit if they use a licensed arborist and proper insurance



Next Steps

- Complete Sound Transit access area sidewalk improvements (grant funded)
- Reallocate 2021-2022 Voluntary Sidewalk funds and ADA repair funds to repair street tree damaged sidewalks and ADA compliance needs outside the Sounder Transit area (budget amendment)
- Inventory of street tree damage and private property owner liable damage to sidewalks
- Estimate costs to repair both private and public damage to sidewalks
- Create a ranking system for prioritizing sidewalk repair
- Establish an annual maintenance program and reevaluate the Voluntary Sidewalk program to be more



Chapter 12.42

STREET AND PUBLIC TREES

Sections:

12.42.040	Purpose.
12.42.080	Applicability.
12.42.120	Definitions.
12.42.160	Compliance. Repealed
12.42.200	Street tree policies.
12.42.240	Street trees required.
12.42.280	Designated street trees. Repealed.
12.42.300	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.
12.42.440	Street tree specifications. Repealed.
12.42.480	Street tree maintenance responsibilities. Repealed.
12.42.520	Trees on public lands Public trees.
12.42.560	Variances.
12.42.600	Procedures for appeals and variances. Repealed
12.42.640	Violations.

12.42.040 Purpose.

~~A. The purpose of this chapter is to establish policies with regard to for the planting, preservation, and maintenance of trees planted on city-owned lands and public right-of-way, including street rights-of-way, parks, and natural areas. The provisions of this chapter are enacted in order to provide for the orderly, healthy, and appropriate proper planting and maintenance of the city's public trees and street trees to preserve and enhance the city's physical and aesthetic character; protection of city property; enhancement of the environment; and general protection of property values within the city. The provisions of this chapter shall be supplemented with administrative rules and standards. (Ord. 1846 § 1, 1998)~~

~~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 ~~only~~ to trees planted on city-owned property, including streets ~~and rights-of-way~~, parks, cemetery, ~~and natural areas; except the golf course~~, city shops, City Hall, ~~fire station~~, 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. (Ord. 1846 § 2, 1998)

12.42.120 Definitions.

The following definitions shall apply to this chapter, and any and all related policies established to implement this chapter.

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~~ Community development-Development director or his designee.

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

~~K.B.~~ “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.~~

~~E.L.~~ “Forestry commission” means the ~~Forestry and Parks~~ commission appointed pursuant to chapter 2.87 SMC ~~as it currently exists or is hereafter amended.~~

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

~~D.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.

~~E.P.~~ “Major tree care” means any act performed on a tree which exceeds the definition of “routine care.” ~~Major tree care does not include topping.~~

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.

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

~~G.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.

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

IW. “Routine care” ~~means~~ is limited to the act of watering, fertilizing, applying pesticides, and 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, on small trees and two inches in diameter or smaller on medium and large trees. Routine care does not include topping.~~

IX. “Street tree” means any tree planted in street-public right-of-way, but specifically excludes trees planted in any critical area and otherwise governed by SMC Title 16.

Y. “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. (Ord. 1846 § 3, 1998)

12.42.160 — Compliance.

~~No person shall plant, remove, damage, mutilate, trim, prune, or alter a tree within the jurisdiction of this chapter except in accord with the provisions of this chapter or the rules and standards adopted to implement this chapter. (Ord. 1846 § 4, 1998)~~

12.42.200 Street 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. The city endorses the planting of appropriate trees within the planting strips in the city. Where streets have been designated for a particular street tree, plantings shall be consistent with that plan. Trees planted in planting strips along city streets shall be selected from the 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 forestry diversity, aesthetic effects and landscape design principles, consistent with any applicable zoning or development standard. 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, shall be available at City Hall or electronically upon request, and maintained by the Director.~~

B. Large and significant trees are valued icons and provide substantial aesthetic and environmental benefits and should be retained whenever reasonably practical. Reasonable accommodation can 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 city-public trees shall be done consistent with best management practices for tree care.

D. Existing trees ~~shall~~ should be retained ~~unless they are seriously unhealthy or cause hazards when consistent with adopted street tree lists and when they do not pose a risk~~ to public safety and infrastructure. (Ord. 1846 § 5, 1998)

E. The director may establish specifications and rules or other standards necessary to implement this chapter.

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. Whenever a new street is constructed, it shall be provided with street trees according to this chapter. Each applicant for a permit to construct a new street shall be required to plant street trees in accordance with this chapter.~~

~~B. Street trees shall be planted according to this chapter whenever an existing vacant site is developed or a site is substantially redeveloped. 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~~Any applicant to improve property by new construction within the city ~~shall be required to plant street trees in accordance with this chapter prior to occupancy or use of the property for the intended development purpose.~~ For purposes of this chapter, property improved by new construction shall be defined as any improvement requiring a site development permit, or building permit, except: (1) those which do not increase the habitable space of a residence as defined by the International Building Code in effect at the time of the permit application; (2) accessory structures less than 120 square feet; and (3) re-roofing work. ~~Notwithstanding the foregoing, S~~street trees may also be required where they do not currently exist as required by the city's land use, zoning, and environmental regulations. ~~(Ord. 1846 § 6, 1998).~~

~~C. Any street tree that is removed shall be replaced within 180 days 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 or safe due to site characteristics or when replacement conflicts with approved site improvements, or species characteristics.~~

12.42.280 — Designated street trees.

~~Street trees shall be planted according to the standards and specifications of this chapter, including lists of city-approved tree species and other standards established pursuant to SMC 12.42.440. Where streets have been designated by the city for a particular street tree, plantings shall be consistent with that designation. A list of approved and/or designated street trees, as recommended by the forestry and parks commission, shall be available at City Hall, and maintained by the director. (Ord. 2598 § 1, 2017; Ord. 2015 § 2, 2002; Ord. 1846 § 7, 1998)~~

12.42.300 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, or their Certified Arborist, 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 on abutting property owner believe that major tree care of discover any street tree is necessary or warranted that requires major tree care, 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 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, at the discretion of the City arborist the city may conduct both routine and major tree care on any street or public tree at any time as necessary to protect the public.~~

~~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 and/or feasible to do so.

I. The city shall be responsible for the major tree care of street trees on the following streets:

Main Street from Traffic Avenue to Wood Avenue;

Cherry Avenue from Maple Street to Main Street;

Graham Avenue from Main Street to 53rd Street;

Washington Street from Valley Avenue to Parker Road;

Kincaid Avenue from Maple Street to Main Street;

Alder Avenue from Academy Street to Main Street;

Traffic Avenue from State Route 410 to Main Street; and

Thompson Street from Traffic Avenue to Sumner Avenue.

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 street tree permit from the director. However, in emergency situations as determined by the City arborist, except that no such permit shall be required in emergency situations. The community-Community development-Development directorDirector, public-Public works-Works directorDirector, fire chief, police-Police chiefChief, City arborist or City Administrator and emergency services director shall have the authority to authorize such removal in emergency situations and care without first obtaining a permit.

B. Applications for street 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. Applications shall be accompanied by proof of insurance and licensing according to the following schedule, except that the director shall have the authority to waive such insurance requirements if it they are deemed inappropriate for the level of risk:

Purpose	Additional Requirements
Routine care	No permit required, voluntary.
Major care by abutting property owner	No additional requirements.
Major care by contractor	Commercial general liability insurance and \$500,000 per-occurrence and \$500,000 general-

Purpose	Additional Requirements
	aggregate; City named as additional insured; Washington State contractor's license; and Sumner business license.
Removal by property owners	Hold harmless agreement.
Removal by contractor	Commercial general liability insurance and \$500,000 per occurrence and \$500,000 general aggregate; City named as additional insured; Washington State contractor's license; and Sumner business license.
Planting	Plan showing location, type, and size of trees with distances to curb, sidewalk, poles, signs, driveways, intersections, fire hydrants, and alleys.

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, or until the completion of the work contemplated under the permit.

~~After review of the permit application, the director shall approve the permit if it meets the requirements of this chapter, condition the permit with modifications or other measures to ensure compliance with this chapter, or deny the permit if it cannot reasonably be in compliance with this chapter.~~

E. ~~The director~~ Director shall have the authority to waive or reduce the insurance requirements of Section D 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. ~~may not charge a fee for street tree permits.~~

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. ~~The director may provide whatever additional information that may be helpful to the permit applicant to understand the proper and appropriate planting and care of a street tree. (Ord. 1846 § 8, 1998)~~

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 of 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~~ emergency situation, the director may authorize the City arborist ~~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 and/or modified by a fee schedule held 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~~ 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 ~~should~~ shall be completed.

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

C. 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 appropriate city department shall post a notice on the tree for at least seven days prior to removal. The notice shall state the tree type and reason for the removal. the City arborist or designee shall schedule its removal without the requirement of a permit.~~

~~D. Any party may appeal the city arborist's decision to remove a tree to the director.~~

~~E. In the event of an emergency situation, no such evaluation or notice shall be required, nor is an appeal allowed.~~

~~F~~D. 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.

~~G~~E. 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 ~~G-E~~ to the city administrator.

~~H~~G. All appeal decisions made pursuant to this section are final and no further appeals shall be allowed. (~~Ord.~~ 2598 § 2, 2017; Ord. 1846 § 9, 1998)

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~~ applicable, and removal is the recommended practice to prevent transmission.

B. The tree poses ~~an extreme~~ 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 ~~severe~~ safety hazard where corrections by pruning, transplanting, or other measures are not cost effective, as determined by a Certified Arborist. 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 or location of the tree ~~The aesthetic values of the tree are so low or negative that 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 ~~it 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. ~~(Ord. 1846 § 10, 1998)~~

12.42.440—Street tree specifications.

~~The director shall establish specifications and rules to implement this chapter, including lists of acceptable and prohibited tree species, distances to trees and other facilities, and other standards necessary to implement this chapter. (Ord. 2598 § 3, 2017; Ord. 1846 § 11, 1998).~~

12.42.480—Street tree maintenance responsibilities.

~~A. The primary responsibility for the proper care and maintenance of street trees consistent with this chapter shall rest upon the abutting property owner, except as noted in subsection B of this section. The abutting property owner shall ensure that all work is done consistent with this chapter.~~

~~B. The city shall be responsible for the major care of street trees on the following streets:~~

~~Main Street from Traffic Avenue to Wood Avenue;~~

~~Cherry Avenue from Maple Street to Main Street;~~

~~Graham Avenue from Main Street to 53rd Street;~~

~~Washington Street from Valley Avenue to Parker Road;~~

~~Kincaid Avenue from Maple Street to Main Street;~~

~~Alder Avenue from Academy Street to Main Street;~~

~~Traffic Avenue from State Route 410 to Main Street; and~~

~~Thompson Street from Traffic Avenue to Sumner Avenue.~~

~~C. 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.~~

~~D. The city retains the authority to conduct tree care on any street tree at any time.~~

~~E. All work on street trees shall be done in a safe manner. The permit applicant shall be responsible for ensuring all utilities are properly located and marked prior to excavation. All dirt and debris shall be removed from travel and pedestrian ways and the planting strip restored with grass or other acceptable material. No dirt, excavation material, or dirt shall be allowed to enter the stormwater system. All staking of trees and planting material shall not impede safe pedestrian or vehicular travel. (Ord. 1846 § 12, 1998)~~

12.42.520 ~~Trees on public lands~~Public Trees.

A. Whenever the director ~~or City arborist~~ finds that a ~~public tree, as defined in this chapter, on public land regulated by this chapter, except a street tree,~~ is a potential threat to the public health and safety, ~~he shall provide an assessment of the tree's health and risk of danger by a professional in the care of trees~~ should 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 ~~director shall post a notice on the tree for at least seven days prior to removal. The notice shall state the tree type and reason for the~~ City arborist or designee shall schedule its removal.

~~D. Any party may appeal the decision to remove a tree on public lands to the city council.~~

~~E. In the event of an emergency situation, no such evaluation or notice shall be required.~~

~~F. The decision by the director or the forestry commission to remove a street tree shall be based on an evaluation of the criteria stated in SMC 12.42.400 and conformance with an approved master plan for the subject public property. (Ord. 1846 § 13, 1998)~~

12.42.560 Variances.

A. Applicants seeking a tree permit may request a variance ~~from any of the provisions of this chapter. The hearing examiner may consider variances from 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 Prior to rendering a decision, the hearing examiner may seek the advice of the forestry commission City arborist. The director may grant a v ~~Variances shall be~~ based upon a finding that all the following criteria are satisfied:

~~A1.~~ A1. 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

~~B2.~~ B2. The proposed variance will result in an improved condition for trees or a unique street design; and

~~C3.~~ C3. The tree that is proposed has been shown to have the characteristics which are appropriate for the location without damaging public or private improvements. (Ord. 1846 § 14, 1998)

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.

12.42.600 — Procedures for appeals and variances.

Appeals of decisions to remove trees which are heard by the city council or hearing examiner shall be based upon the procedures for public hearings and shall be so noticed to the public. The decisions of the city council or hearing examiner shall be final. (Ord. 1846 § 15, 1998)

12.42.640 Violations.

No person shall plant, remove, damage, mutilate, trim, prune, conduct tree topping, conduct major tree care, or alter a street tree in violation of this chapter and/or in violation of any policies, rules or standards adopted to implement this chapter. A. Violations of this chapter and the rules which are adopted to implement this chapter shall be subject to enforcement action pursuant to chapter 15.06 SMC.

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 violations 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 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 Appraised 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 Appraiser evaluation, the cost of corrective pruning, hazard mitigation and tree removal.

To collect the tree value fine, the City shall provide the violating party an invoice stating the amount of the tree value fine. The violating party, upon request, may review documentation supporting and verifying the amount tree value fine requested by the City. If the violating party wishes to appeal this fine, they must send written notice of an appeal to the City Clerk within 10 days of receipt of the City's invoice. The appeal shall be before the hearing examiner. If the City prevails, the violating party shall pay for the cost of the hearing examiner.

~~B. In seeking restitution when a tree is damaged or removed, the city shall take into account the value of the tree using generally accepted practice in the arboriculture profession. (Ord. 1846 § 16, 1998)~~

EXHIBIT A

Fee Schedule

<u>Type of Permit</u>	<u>Fee</u>
<u>Planting of street/public tree</u>	<u>No fee when required by a development permit or any zoning, environmental or building/design requirement.</u> <u>\$10.00 per tree</u>
<u>Major street/public tree care</u>	<u>\$35.00 per tree up to a maximum of \$140.00</u>
<u>Removal of street/public tree</u>	<u>\$120.00 per tree</u>

SUBJECT: Ordinance No. 2764 - Sidewalk Code Amendments (SMC 12.20 and 12.32)

CATEGORY: Ordinance

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Ordinance No. 2764
2. Sumner Municipal Code 12.20 and 12.32 Amendments

STAFF CONTACT: Mike Dahlem, Public Works Director

SUMMARY BACKGROUND:

Amendments to the City's sidewalk code provisions are necessary to help make the roles/responsibilities of the City vs. the property owner more clear. In an effort to make the code consistent with current City practices, staff recommends updating the code as follows:

1. To clarify that the City is responsible for the repair/maintenance of sidewalk damage *caused by* City-required street trees, but that abutting property owners retain liability and responsibility for the repair/maintenance of non-City related street-tree damage;
2. To remove the outdated council-review "non compliance hearing" process and clarify that all violations/penalties of the sidewalk code obligations will be addressed by SMC 15.06 - Code Enforcement;
3. To incorporate a new notification process whereby property owners abutting damaged sidewalks must notify the City of such damage, and continue to monitor any interim measures that are implemented; and
4. Necessary code clean-ups to make the process more readable, transparent and consistent.

COUNCIL COMMITTEE/STUDY SESSION: Study Session MEETING/STUDY SESSION DATE: 2/22/2021 COMMITTEE RECOMMENDATION:
--

STAFF RECOMMENDATIONS/MOTION:

Motion to approve Ordinance 2764 amending sections of Sumner Municipal Code 12.20 and 12.32 related to City sidewalks.

ORDINANCE NO. 2764
CITY OF SUMNER, WASHINGTON

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, AMENDING SUMNER MUNICIPAL CODE CHAPTER 12.20 RELATING TO THE CONSTRUCTION AND MAINTENANCE OF SIDEWALKS AND CERTAIN PROVISIONS OF SUMNER MUNICIPAL CODE CHAPTER 12.32 RELATING TO THE PROTECTION AND CLEANLINESS OF SIDEWALKS.

WHEREAS, Sumner Municipal Code Chapter 12.20, “Sidewalk Construction,” and certain provisions of Sumner Municipal Code Chapter 12.32, “Street and Sidewalk Protection,” outline the obligations of property owners with respect to the protection, maintenance, and construction of sidewalks within the right-of-way;

WHEREAS, from time to time, code provisions are reviewed and updated to refine language and to reflect modifications in policies and practices so as to increase the clarity and effectiveness of the Sumner Municipal Code;

WHEREAS, the City Council desires that the regulations regarding the protection, maintenance, and construction of sidewalks be updated to more accurately reflect current policies and practices and to be consistent with recent updates to the City’s code enforcement program;

WHEREAS, the City Council finds the amendments reflected in this Ordinance to be in the public interest;

WHEREAS, this Ordinance was presented to the City Council during the February 22, 2021 study session and recommendation was made to put this Ordinance on the agenda of a regular council meeting for final action; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Chapter 12.20 and 12.32 of the Sumner Municipal Code, “Sidewalk Construction” and “Street and Sidewalk Protection” respectively, are hereby amended as set forth in Exhibit A.

Section 2. **Severability – Construction.** If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this ordinance. If the provisions of this ordinance are found to be inconsistent with other provisions of the Sumner Municipal Code, the provisions of this ordinance shall control.

Section 3. **Corrections by City Clerk or Code Reviser.** Upon approval of the City Attorney, the City Clerk and the Code Reviser are authorized to make the necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

Section 4. **Effective Date.** This ordinance shall be in full force and effect five (5) days from and after its passage, approval and publication, as provided by law.

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington, at a regular meeting thereof this _____ day of _____, 2021.

Mayor William L. Pugh

ATTEST:

APPROVED AS TO FORM:

City Clerk Michelle Converse

City Attorney Andrea Marquez

Date Adopted:

Date of Publication:

Effective Date:

Chapter 12.20

SIDEWALK CONSTRUCTION

Sections:

12.20.005 Purpose.

- 12.20.010 Definitions.
- 12.20.020 Administration.
- 12.20.030 Supervisory authority.
- 12.20.040 New construction – Time of completion.
- 12.20.050 Sidewalks required – Bond in lieu of construction.
- 12.20.060 Sidewalks on East Main Street.
- 12.20.070 Order for construction or repair – Notice.
- 12.20.080 Nuisance – Declaration and correction charge.
- 12.20.090 ~~Notice—Contents.Repealed.~~
- 12.20.100 ~~Repealed.Notice—Form.~~
- 12.20.110 ~~Notice—Noncompliance—Hearing.Repealed.~~
- 12.20.120 Sidewalk construction fund.
- 12.20.130 Assessment of construction costs.
- 12.20.140 Hazardous conditions on public street rights-of-way.
- 12.20.150 Property owner liability.
- 12.20.160 Existing sidewalk repair/replacement – Evaluation criteria.
- 12.20.170 Specifications.
- 12.20.180 Supervisory personnel.
- 12.20.190 Permit – Required – Application.
- 12.20.200 Permit – Fees.
- 12.20.210 Permit – Time limitations.
- 12.20.220 Permit – Renewal fees.
- 12.20.230 Inspection during construction.
- 12.20.240 Application of chapter 15.06 SMC.
- 12.20.250 Violation – Penalty.

12.20.005 Purpose.

A. The purpose of this chapter is to promote the health, safety, and welfare of the general public by establishing a sidewalk program which clarifies the responsibilities of property owners with respect to the construction and maintenance of sidewalks, identifies standards and priorities for sidewalk construction and repairs, and sets forth the penalties for enforcement of the same.

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.

12.20.010 Definitions.

Except where specifically defined in this section, all words used in this chapter shall carry their customary meaning.

A. “Broken or cracked sidewalk” means a crack one-quarter inch in width, regardless of the length of the crack and including alligating. A broken sidewalk is any portion of a sidewalk broken or separated from the main body of the sidewalk.

B. “Contractor” means the person, firm or corporation doing or performing work for the property owner, city or other municipal corporation. A “bonded contractor” shall be adequately bonded to the city.

C. “Defective handrails, fences, etc.” means the defect of handrails, fences, etc., immediately adjacent to a right-of-way area, including but not limited to private posts, poles and signs.

D. “Depression” means a portion of a sidewalk that is not up to grade, or is depressed and allows water to pond on any portion of the sidewalk.

E. “Foreign matter” means the defects or the hazardous condition resulting from the accumulation of dirt, gravel, oil, grease, etc., or any foreign subject matter that may cause pedestrians using the sidewalk to fall, stumble or slip by reason of the existence of such foreign matter.

F. “Permittee” means the person, firm or corporation who is applying for a permit or to whom a permit has been issued for sidewalk construction pursuant to this chapter.

G. “Property owner” means the person, firm or corporation who has legal title to the property on which the sidewalk to be constructed ~~fronts or is being made abuts~~, including ~~his~~-~~their~~ legal agents.

H. “Raised sidewalk” means a portion of a sidewalk higher than the grade, as to make an incline or slope, unless the sidewalk is following the contour of the landscape.

I. “Sidewalk” means and will be considered as any thoroughfare, the primary function of which is to serve pedestrian traffic. The term includes any and all improvements included in the space between the street pavement edge and the property line, known as the sidewalk area, including sidewalks, gutters and curbs along all driveways across sidewalks.

J. “Stub-toes” means an abrupt raised portion of a sidewalk one-fourth inch or more, regardless of length.

K. “Vegetation on sidewalks” means ~~any fallen branches, tree limbs, foliage, tree fruit or any brush or grass defects in sidewalks or public ways caused or contributed to by the roots of trees, brush, grass, etc., that causes defects on the sidewalks. Defective conditions are caused by tree limbs, foliage, brush or grass~~ extending on or over sidewalks or rights-of-way. (Ord. 2355 § 1 (part), 2011: Ord. 1417 § 6, 1988; Ord. 1390 §§ 12, 13, 1987)

L. “Sidewalk defects caused by street trees” means a sidewalk defect resulting solely from the natural growth of roots of an abutting street tree, as defined in SMC 12.42.120, except when such defect is caused or contributed to by an act or omission of the abutting property owner, including but not limited to a failure to comply with a tree permit, the negligent management of the street tree or planting strip, or the failure to install a landscape barrier.

M. “Right-of-way” shall mean public right-of-way located between the curb line, or if there is no curb line, then between the adjacent edge of the traveled portion of such right-of-way and the abutting property line.

12.20.020 Administration.

The ~~mayor~~Public Works Director is authorized to implement such administrative procedures as may be necessary to carry out the directions of this chapter. (Ord. 2355 § 1 (part), 2011: Ord. 1390 § 1, 1987)

12.20.030 Supervisory authority.

~~Unless otherwise specially ordered by the city council, the~~The city public works department ~~has authority to shall have supervisionsupervise and inspect of the~~ construction of all sidewalks ~~in~~ the public right-of-way of the city. (Ord. 2355 § 1 (part), 2011: Ord. 1590 § 1, 1993: Ord. 1417 § 1, 1988: Ord. 1390 § 2, 1987)

12.20.040 New construction – Time of completion.

A. All property improved by new construction within the city shall have sidewalks in and completed, for the full frontage width of the property being developed, to the farthest property line of the parcel being served, before the buildings are occupied ~~or the property is used for the intended development purposes~~. Corner lots shall have sidewalks for the full width and length of the property on all sides which abut the street. For the purposes of this section, property improved by new construction shall be defined as any improvement requiring a site development permit, or building permit, except:

1. Those which do not increase the habitable space of a residence as defined by the International Building Code in effect at said time;

2. Accessory structures less than 120 square feet;
3. Re-roofing work-

B. ~~Whenever sidewalks are required pursuant to subsection A above, Under the following conditions,~~ a property owner may be allowed to enter into an agreement with the city for the construction of sidewalks, curbs and gutters at a later date when, at the discretion of the Public Works Director, any of the following conditions exist:

1. Where the street is undesignated by the City;
2. Where no sidewalks, curbs and gutters exist; or
3. Where the absence of a storm drainage system would cause standing water and/or cause a health and safety problem.

Such agreement shall contain conditions requiring that the property owner construct right-of-way improvements when notified in writing by the city and to enter into a LID waiver. The agreement shall impose restricted covenants on the subject property that shall run with the property and not expire until construction of the improvements are complete. (Ord. 2355 § 1 (part), 2011: Ord. 2015 § 1 (part), 2002: Ord. 1590 § 2, 1993: Ord. 1533 § 1, 1992: Ord. 1417 § 2, 1988: Ord. 1390 § 3, 1987)

12.20.050 Sidewalks required – Bond in lieu of construction.

~~When a sidewalk is required under 12.20.040(A), All new residences and all property improved by the construction thereon within the city shall have sidewalks in and completed, for the full frontage width of the property being developed, to the farthest property line of the parcel being served, before the buildings are occupied for residential or other purposes; corner lots shall have sidewalks for the full width and length of the property which abuts the street; provided, that~~ in lieu of actual construction of the sidewalk prior to the time the buildings are occupieds or the property is used for the intended development purpose,-a cash or a performance bond may be deposited in the amount of 120 percent of the actual project cost, which shall be determined by the city. (Ord. 2355 § 1 (part), 2011)

12.20.060 Sidewalks on East Main Street.

In addition to those requirements set forth in SMC 12.20.040 and to implement the East Main Street design strategy, the following is required for properties within the area defined as East Main Street in SMC 18.43.020:

A. When minor or major new construction, as defined in SMC 18.43.020, occurs, the property owner, as a condition of the development approval, shall dedicate to the city five feet of land along the entire length of the property frontage abutting East Main Street for street right-of-way. This land shall be dedicated to the city to be held in perpetuity by the city and used for sidewalk construction.

B. When major new construction, as defined in SMC 18.43.020, occurs, the property owner, as a condition of the development approval, shall construct a sidewalk 10 feet in total width along the entire length of the property abutting East Main Street. The new sidewalk required in this section may be combined with the width of an existing sidewalk. Sidewalk development includes the provision of street trees, street lighting and street furniture. (Ord. 2355 § 1 (part), 2011: Ord. 2015 § 1 (part), 2002. Formerly 12.20.045)

12.20.070 Order for construction or repair – Notice.

~~A. Except as provided in Section B, w~~Whenever, in the judgment of the city public works department, the public convenience or safety may require that a sidewalk be constructed, renewed, repaired or cleaned along either side of any street or other public place therein as required by this chapter, and when said department deems the construction, renewal, repair or cleaning of such sidewalk necessary or convenient for the public, it is authorized to-~~shall~~ order such sidewalk constructed, renewed, repaired or cleaned and toshall cause a notice in writing to be served on the property owner of each lot, block or parcel of land immediately abutting upon that portion and side of such street or public place where said sidewalk is to be constructed, renewed, repaired or cleaned, requiring the property owner of the abutting property to construct such sidewalk. Such notice shall be given in accordance with Chapter 15.06.- (Ord. 2355 § 1 (part), 2011: Ord. 1390 § 4, 1987. Formerly 12.20.050)

B. When the department becomes aware of a sidewalk defect caused by a City street trees, as defined in SMC 12.20.010, the director or the director's designee is authorized to inspect the sidewalk and, upon confirmation of a defect, the director or director's designee may rate and prioritize the repair of the sidewalk in accordance with the City's sidewalk repair policies. Where the sidewalk cannot be immediately repaired, the director or designee is authorized to take such temporary remedial measures as are reasonable given the nature and scope of the defect. Such interim measures may include but are not limited to painting the affected sidewalk area, posting signage regarding the defect, and/or installing barriers to prevent the use of the sidewalk

12.20.080 Nuisance – Declaration and correction charge.

A. Any sidewalk or planting strip which is constructed or improved on any public street, avenue or thoroughfare within the city and which is not constructed in conformity with the provisions of this chapter is an insufficient sidewalk and a nuisance. The public works department ~~is authorized~~~~has the right~~ to order and/or cause such sidewalk to be removed and replaced by a sidewalk constructed in compliance with the provisions of this chapter, all at the expense of the property owner or owners of the property abutting thereon.

B. For the purpose of this chapter, all property having a frontage on the side or margin of any street shall be deemed "abutting property," and such property shall be chargeable with all the costs of construction, renewal, repair or cleaning of any form of sidewalk improvement. (Ord. 2355 § 1 (part), 2011: Ord. 1590 § 3, 1993: Ord. 1417 § 3, 1988; Ord. 1390 § 5, 1987. Formerly 12.20.060)

12.20.090 — Notice — Contents.

~~The notice provided for in SMC 12.20.070 shall describe each lot, block or parcel of land immediately abutting on that portion of the street where such sidewalk is ordered to be constructed, and shall specify the kind of sidewalk required and the method and material to be used in the construction; the notice shall state that unless the sidewalk is constructed in compliance with the notice and within a reasonable time specified, the sidewalk will be constructed by the city and the cost and expense thereof assessed against the property abutting thereon and described in such notice. (Ord. 2355 § 1 (part), 2011: Ord. 1390 § 6, 1987. Formerly 12.20.070)~~

12.20.100 — Notice — Form.

~~Notice shall be deemed served if delivered to the property owner or reputed owner of each lot, tract or parcel of land affected, or to the authorized agent of such owner if a copy is left at the usual place of abode of such owner in the city with a person of legal age and discretion residing therein; or in case the owner is a nonresident of the city and his place of residence is known, a copy of such notice shall be mailed to such owner, addressed to his last known place of residence; or in case the place of residence of such owner is unknown or if the owner of any lot, block or parcel of land affected is unknown, then such notice shall be served by publication in two weekly issues of the official newspaper of the city. Such notice shall specify a reasonable time within which the sidewalk shall be constructed, which, in the case of publication of the notice, shall be not less than 90 days from the date of the first publication of the notice, and in the case of personal service of the notice or by notice sent to the post office address of the owner, 90 days. (Ord. 2355 § 1 (part), 2011: Ord. 1390 § 7, 1987. Formerly 12.20.080)~~

12.20.110 — Notice — Noncompliance — Hearing.

~~In case the notice provided for in SMC 12.20.100 is not complied with within the time specified, the officer or department having charge of the case shall report to the city council at its next regular meeting, or as soon thereafter as practicable, an assessment roll showing each lot, block or parcel of land immediately abutting upon the sidewalk and the amount to be assessed against each lot, block or parcel of land. The city council shall thereupon set a date for hearing any protests against the proposed roll and shall cause a notice of the hearing to be published for two successive weeks in the official newspaper of the city, the date of such hearing to be not less than 30 days from the date of the first publication of the notice. (Ord. 2355 § 1 (part), 2011: Ord. 1417 § 4, 1988: Ord. 1390 § 8, 1987. Formerly 12.20.090)~~

12.20.120 Sidewalk construction fund.

The city council may create a sidewalk local improvement district (LID) when it is determined that a centralized area requires a major rehabilitation or construction of sidewalks. (Ord. 2355 § 1 (part), 2011: Ord. 1390 § 9, 1987. Formerly 12.20.100)

12.20.130 Assessment of construction costs.

~~The city council shall, at the time of such hearing as described in SMC 12.20.110 or at any adjournment thereof~~Following the proper establishment of any sidewalk LID, the City Council shall assess the cost of construction, renewal, repair or cleaning of such sidewalk against the property immediately abutting thereon in accordance with the benefits thereto, and such assessment shall become a lien upon the respective lots, blocks or parcels of land and shall be collected in the manner provided by law in the case of local improvement assessments, and shall bear interest at the rate provided for by the ordinance on the date of approval of such assessment thereon. (Ord. 2355 § 1 (part), 2011: Ord. 1417 § 5, 1988: Ord. 1390 § 10, 1987. Formerly 12.20.110)

12.20.140 Hazardous conditions on public street rights-of-way.

~~A. It shall be the responsibility of It is unlawful for~~ the property owner and/or any person occupying or having charge or control of any premises abutting upon any public street, right-of-way or alley in the city to maintain and keep such right-of-way clean and free from debris, garbage, dirt, and all dangerous or hazardous objects, including those objects or conditions defined in to construct, place, cause, create, maintain or permit to remain upon any part of such right-of-way located between the curb line, or if there is no curb line, then between the adjacent edge of the traveled portion of such right-of-way and the abutting property line, any condition, structure or object dangerous or hazardous to the use of the right-of-way by the members of the general public, including but not limited to the conditions defined in SMC 12.20.010(A), (C), (D), (E), (H), (J) and (K), and SMC 12.32. (Ord. 2355 § 1 (part), 2011: Ord. 1390 § 11, 1987. Formerly 12.20.120).

~~B. It shall also be the responsibility of the property owner or any person occupying or having charge or control of any premises abutting upon any right-of-way to notify the department of any and all sidewalk defects caused by street trees. Notification to the department shall include the following information: (1) the property address where the defect exists, (2) a description of the defect, and (3) contact information for the reporting person.~~

~~C. Whenever the department has either repaired or has taken temporary remedial measures to address sidewalk defects caused by street trees, including but not limited to the application of paint, signage, or obstructionsbarracades to prevent the use of the sidewalk, the property owner or person occupying or having charge or control of the abutting premises shall be responsible for ongoing monitoring regarding the temporary remedial measure and shall immediately notify the department when such temporary remedial measures have become removed, defective, or in need of repair or replacement. If the abutting property becomes vacant after the installation of temporary remedial measures, the property owner shall inform the department of the anticipated or expected dates of vacancy prior to or immediately after the property becomes vacant.~~

12.20.150 Property owner liability.

~~The property owner and/or the person occupying or having charge or control of any premises abutting upon any public street, right-of-way or alley shall be liable for any and all damage, injury, actions, costs, suits, or judgments resulting from such person's failure to comply with SMC 12.20.140. The costs of any necessary repair to the sidewalk, together with interest shall be paid by the property owner and shall become a lien upon the real property until paid. This provision shall be binding upon the heirs, successors or assigns of the property owner.~~

~~In the event of any injury or damage to any person and/or property caused by the hazardous conditions referred to in SMC 12.20.140, the abutting property owner where such injury or damage occurs shall be liable therefor, including liability to the city for all damage, injury, costs and disbursements, including court costs and attorney's fees, which the city may be required to pay or incur to any person injured or property damaged as aforesaid. The costs together with interest shall be paid by the property owner and shall be a lien upon the real property until paid. This provision shall be binding upon the heirs, successors or assigns of the property owner. (Ord. 2355 § 1 (part), 2011: Ord. 1417 § 8, 1988: Ord. 1390 § 15, 1987. Formerly 12.20.130)~~

12.20.160 Existing sidewalk repair/ replacement – Evaluation criteria.

A. All sidewalks will be graded on a point system. The sidewalks will be inspected and graded in five-foot sections starting at a joint or pattern line.

B. Points shall be added for each defect. When points of a particular section fall between zero and 50, no action is required. When the points fall between 51 and 74, that section shall be repaired. When the points are 75 or greater, that section shall be replaced.

C. Sidewalks shall be inspected for the following defects:

1. Cracks having a horizontal separation of one-fourth inch or more;
2. Cracks having a vertical differential of one-fourth inch or more;
3. Drainage depression.

D. Where an expansion joint itself is a problem, the sidewalk sections on either side of it shall be graded and the defective points generated by the joint itself shall be added to that section receiving the most points.

E. The following range of points shall be established for each defect:

1. Crack – Horizontal Separation.
 - a. Over one-fourth inch, 15 points;
 - b. Over three-fourths inch, 51 points;
 - c. Over one inch, 100 points.
2. Crack – Vertical Separation.
 - a. Over one-fourth inch, 10 points;
 - b. Over one-half inch, 51 points;
 - c. Over one inch, 100 points.
3. A vertical or horizontal crack one inch or greater shall automatically require replacement of the respective sidewalk section.
4. Points for horizontal and vertical cracks shall be doubled when the defect occurs in the pedestrian-traveled portion of a sidewalk which has significant pedestrian use. (Ord. 2355 § 1 (part), 2011: Ord. 1417 § 7, 1988: Ord. 1390 § 14, 1987. Formerly 12.20.140)

12.20.170 Specifications.

A. Any and all sidewalks required to be constructed or repaired on any public street, avenue or thoroughfare within the city shall be constructed or prepared pursuant to the terms of this chapter and the City of Sumner Development Specifications and Standard Details, and shall be constructed in accordance with the specifications as set forth by the Americans with Disabilities Act, and in no circumstance shall the sidewalk be other than natural coloring unless specified in city specifications or ADA requirements. Standards for existing nonconforming sidewalks may be modified by the city engineer or designee where in [the engineer's](#) judgment they do not affect health, safety or future growth plans within the area.

B. The [provisions of this chapter's specifications outlined herein](#) apply to all sidewalks constructed on any public street, avenue or thoroughfare within the city, whether constructed by the [city](#), the owners of the abutting or adjacent property voluntarily or ordered constructed by the city, or constructed pursuant to a local improvement district.

1. Property Line.

- a. Sidewalks are to be constructed six inches from the property line. In cases where sidewalks have been constructed on the property line prior to the effective date of the ordinance codified in this section, sidewalks constructed after the effective date of the ordinance codified in this section shall be constructed on the property line as far as that block is concerned to remain consistent block to block.
- b. When the entire sidewalk for the full length of the block is removed the new sidewalk shall be constructed six inches from the property line or as specified by the city engineer or designee.

2. Confinement within Right-of-Way Lines and Easements. It shall be the permittee's responsibility to confine the sidewalk within the street right-of-way lines and the limits of easements described on the permit. Any damage resulting from trespassing beyond these limits shall be the sole responsibility of the permittee.

3. Concrete Pouring Without Inspection. Any sidewalk placed without the routine inspections outlined in Chapter 6 of the Sumner Development Specifications and Standard Details shall be condemned and is condemned, and the contractor shall have no claim against the property owner of the abutting property for payment on account of such condemned work.

4. Acceptance Prerequisites. No sidewalk improvement constructed pursuant to the terms of this chapter will be accepted until the city is satisfied that the work has been performed according to the requirements of this section and to the lines and grades as established and staked, and until such sidewalk improvement passes final inspection.

5. Width.

a. See the Sumner Development Specifications and Standard Details Chapter 6 for sidewalk width requirements per street classification and zoning designation.

b. For properties zoned residential with existing sidewalks less than five feet, the city engineer or designee may reduce the sidewalk width requirement for design and construction of new and restored sidewalks if all the following criteria are satisfied:

i. There is an existing sidewalk of less than five feet immediately adjacent to the location of the proposed, new/restored sidewalk; and

ii. The sidewalk to be constructed/restored is less than 75 percent of the length of the sidewalk along the street. (Ord. 2355 § 1 (part), 2011: Ord. 1590 § 4, 1993: Ord. 1417 §§ 9, 10, 11, 1988: Ord. 1390 § 16, 1987. Formerly 12.20.150)

12.20.180 Supervisory personnel.

The building and construction of any and all sidewalks on a public street, avenue or thoroughfare within the city shall be under the direct supervision of the public works department or under the direct supervision of such other person or persons as the city may specially appoint for that purpose. (Ord. 2355 § 1 (part), 2011: Ord. 1590 § 5, 1993: Ord. 1390 § 17, 1987. Formerly 12.20.160)

12.20.190 Permit – Required – Application.

Any person desiring to construct, repair, change, or relocate any sidewalk in front of and abutting ~~his~~their property shall make application to the Sumner permit center, and such application shall contain, among other things, the exact location of such proposed work, the location of new sidewalk to be laid and the connections and locations of other sidewalks upon such street; no work on any sidewalk shall be done until the issuance of an appropriate permit therefor. All such repair shall be made after application for and issuance of a proper permit therefor, as required by law, and all such work to be duly inspected and approved by the city. (Ord. 2355 § 1 (part), 2011: Ord. 1590 § 6, 1993: Ord. 1390 § 18, 1987. Formerly 12.20.170)

12.20.200 Permit – Fees.

The permit fee shall include the costs to the city for making the necessary reviews and for the inspection of all public improvements. No permit shall be issued under the provisions of this chapter until plans for the proposed work have been submitted and approved by the public works department. Upon approval by the public works department, the permit shall be issued and charges made calculated as follows:

A. Base permit fee: \$50.00.

B. Plan Review Fee.

- One hour x current engineer burdened rate (minimum);
- In-house plan review fee: Hours x current engineer burdened rate;

- Third-party review fees as billed to city, including city administrative costs.

C. Inspection Fee.

- Two hours x current inspector burdened rate (minimum);
- $(([\text{Frontage linear feet}/100] \times 4) + 10) \times \text{current inspector burdened rate}$;
- Additional inspection as warranted: number of hours x current staff burdened rate.

The total fee for permit approval shall be the sum of the above elements. Plan review fees shall be accrued until the construction plans are approved for construction. Accrued review fees shall be paid regardless of whether a permit is issued. Inspection fees shall be accrued until final project approval and shall be assessed to the permittee as they are accrued.

If additional inspections are required for a subject property other than those referenced in SMC 12.20.230, city employees' time for such inspections shall be charged to the applicant and/or other person subject to the provisions of this chapter on an hourly basis per the current burdened rate. Burdened rates for city staff are actual salaries plus benefits with a 1.25 multiplier to cover indirect costs. City staff burdened rates are specified in the Sumner utility rate and fee schedule. (Ord. 2355 § 1 (part), 2011; Ord. 1417 § 12, 1988; Ord. 1390 § 19, 1987. Formerly 12.20.180)

12.20.210 Permit – Time limitations.

Permit time limitations shall be as established in chapter 15.74 SMC. (Ord. 2355 § 1 (part), 2011)

12.20.220 Permit – Renewal fees.

Permit renewal fees shall be as specified in chapter 15.74 SMC. (Ord. 2355 § 1 (part), 2011)

12.20.230 Inspection during construction.

A. Inspection requirements are specified in Chapter 6 of the Sumner Development Specifications and Standard Details.

B. No work shall proceed until the city inspects and approves the work previously completed and furnishes the applicant with the results of the inspection reports as soon as possible after completion of each required inspection.

C. Any portion of the work which does not comply with the requirements outlined herein shall be promptly corrected by the applicant, after notice from the city. The notice shall set forth the nature of corrections required and the time within which corrections shall be made. (Ord. 2355 § 1 (part), 2011)

12.20.240 Application of chapter 15.06 SMC.

~~Any violation of this chapter may be enforced pursuant to The provisions of~~ chapter 15.06 SMC ~~shall apply to this chapter.~~ (Ord. 2355 § 1 (part), 2011; Ord. 1782 § 1, 1996. Formerly 12.20.185)

12.20.250 Violation – Penalty.

A. Any person, firm or corporation violating any of the provisions of this chapter shall be subject to the penalty provisions of SMC 15.06.070 and 15.06.110.

B. In addition to the penalties provided in subsection A of this section, if the property owner or permittee fails to construct a sidewalk within the time and in the manner specified in ~~the~~ (1) a notice received by the property owner pursuant to SMC 15.06, (2) any agreement entered into between the property owner and city, or (3) a permit issued pursuant to this chapter, the Public Works Director ~~city is authorized to shall~~ order the sidewalk to be constructed under the supervision of the public works department, and the costs shall be assessed against and become a lien upon the real property abutting the sidewalk so constructed. Notice of the city's lien, specifying the costs incurred in constructing the sidewalk and giving the legal description of the real property abutting the sidewalk sought to be charged, shall be filed with the county auditor within 90 days from the ~~termination-completion~~ of the sidewalk construction and the same may at any time thereafter be collected in the manner provided for foreclosure of mechanic liens under the laws of the state of Washington. (Ord. 2355 § 1 (part), 2011; Ord. 1782 § 2, 1996; Ord. 1590 § 7, 1993; Ord. 1390 § 20, 1987. Formerly 12.20.190)

Chapter 12.32

STREET AND SIDEWALK PROTECTION

Sections:

- 12.32.010 Circulars and handbills.
- 12.32.020 Transportation of loose materials.
- 12.32.030 Fires or building materials.
- 12.32.040 Sidewalk cleanliness.
- 12.32.050 Removal of snow and ice from sidewalks.
- 12.32.060 Vehicles over 10,000 pounds.
- 12.32.070 Repealed.
- 12.32.080 Violation – Penalty.

12.32.010 Circulars and handbills.

It is unlawful for any person, firm or corporation to distribute, throw or deposit upon any street, alley or public place, or in or upon any vehicle thereon, or upon any private yard, lawn, driveway, sidewalk or steps of any residence or upon or in any part of any structure or upon any vacant property in the city of Sumner, any advertising sample, handbill, dodger, circular, booklet, paper or loose advertising matter of any kind or description; provided, however, that nothing in this section shall prohibit the distribution and delivery of any newspaper which is capable of being entered as second class matter under the provisions of the United States Post Office regulations of March 3, 1879, and other United States statutes. (Ord. 400 § 1, 1933. Prior code § 8.20.010)

12.32.020 Transportation of loose materials.

It is unlawful for any person to transport or cause to be transported over or along any public street in the city any of the materials named in SMC 12.32.010, or any gravel, sand or building materials, unless conveyed in vehicles so constructed that the same cannot fall or be scattered upon the streets. (Ord. 400 § 2, 1933. Prior code § 8.20.020)

12.32.030 Fires or building materials.

It is unlawful for any person to build a fire, slack lime, mix mortar, or place any sand or gravel, building material or other substance upon any sidewalk, street or alley in the city without first obtaining a permit so to do from the superintendent of streets, and whenever a fire is built or lime is slacked or mortar mixed or sand or gravel or like building material is deposited upon any sidewalk or paved street, the same shall be done in such a manner as to prevent injury to the sidewalk or pavement and to prevent the materials from coming in contact therewith or being scattered thereon. (Ord. 400 § 3, 1933. Prior code § 8.20.030)

12.32.040 Sidewalk cleanliness.

It shall be the duty of the person having charge or control of any premises within the city to keep all walkways or the sidewalks on right-of-way abutting such property or walks along the property in the street or streets adjacent thereto in a clean condition; provided, however, that such walks shall be swept or washed in a manner that does not impede or restrict the public's use, create or cause a dangerous or unsafe condition, or otherwise violate any other applicable City code. only between the hours of 9:15 p.m. and 9:15 a.m. (Ord. 400 § 4, 1933. Prior code § 8.20.040)

12.32.050 Removal of snow and ice from sidewalks.

It is the duty of every person having charge or control of any premises located within the city to remove or cause to be removed from the public walks along the side or in front of the premises all snow or ice which has formed or been deposited therein within 24 hours after the same has fallen or been formed and to also cause such snow or ice to be removed from the gutter in front of such walks of a sufficient width to allow the water to run freely therein. (Ord. 400 § 5, 1933. Prior code § 8.20.050)

12.32.060 Vehicles over 10,000 pounds.

A. The superintendent of public works is hereby authorized to determine and designate those streets within the city upon which shall be prohibited the use of the roadway by any vehicle, except an authorized emergency vehicle, exceeding 10,000 pounds gross weight, and shall erect appropriate signs giving notice thereof.

B. When signs are so erected giving notice thereof, it shall be unlawful for any person to disobey the restrictions stated on such signs. Any person convicted of a violation of the provisions of this section shall be punished by a fine of not more than \$300.00 or by imprisonment for not more than 90 days or by both such fine and imprisonment. (Ord. 731 §§ 1, 2, 3, 1963. Prior code §§ 8.20.070, 8.20.080)

12.32.070 Removal of dirt or gravel.

Repealed by Ord. 1846. (Ord. 99 §§ 2, 3, 1903. Prior code §§ 8.22.020, 8.22.030 (part))

12.32.080 Violation – Penalty.

In addition to the other remedies outlined in this chapter, it shall constitute a Class 2 civil infraction for atAny person, firm or corporation to violate~~ing~~ any of the provisions of this chapter ~~shall upon conviction thereof be fined~~subject to a monetary fine in any sum not to exceed ~~\$100~~125.00 plus statutory assessments. (Ord. 400 § 6, 1933. Prior code § 8.20.060 (part))

SUBJECT: Resolution No. 1575 - Council Rules of Procedure

CATEGORY: Resolution

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Resolution No. 1575 - Council Rules of Procedure

STAFF CONTACT: Andrea Marquez, City Attorney, Jason Wilson, City Administrator

SUMMARY BACKGROUND:

The Council's rules of procedure require updates from time to time to clarify processes or address changes in practice. Before Council tonight are recommended amendments to (1) better outline the appointment process for the filling of a council vacancy; (2) outline a clear process for the election of a Deputy Mayor; and (3) permit virtual attendance for both councilmembers and the public at all public meetings moving forward. Staff welcomes discussion on other suggested amendments.

COUNCIL COMMITTEE/STUDY SESSION: Study Session MEETING/STUDY SESSION DATE: 2/22/2021 COMMITTEE RECOMMENDATION:
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STAFF RECOMMENDATIONS/MOTION:

A motion to repeal Resolution 1518 and replace it with Resolution 1575 updating the Council Rules of Procedure.

**RESOLUTION NO. 1575
CITY OF SUMNER, WASHINGTON**

A **RESOLUTION** establishing a procedure for the conduct of Council Meetings, proceedings, and business; and repealing and replacing Resolution No. 1486 approved February 20, 2018.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, AS FOLLOWS:

Section 1. **Authority.** The Sumner City Council hereby establishes the following procedures for the conduct of Council meetings, proceedings and business. These procedures shall be in effect upon adoption by the Council and until such time as they are amended or new procedures are adopted in the manner provided by these rules.

Section 2. **Regular Council Meetings.** A regular Council meeting is a formal meeting for the purpose of conducting official City business. This includes, but is not limited to, citizen comments, public hearings, presentations, the adoption of ordinances resolutions, contracts and agreements, and budgets.

- a. Council's regular meetings will be held the first and third Monday of each month in the Council Chambers at City Hall and will begin at 6:00 p.m.
- b. If possible, only one or two major topics (defined as issues of high interest or controversial, or those which would take an extraordinary amount of the City Council meeting) will be scheduled per meeting.
- c. If any Monday on which a meeting is scheduled falls on a legal holiday, the regular meeting or study session shall be held on the next business day at the same time and place.

2.1 Agenda.

Call to Order. The Mayor or Presiding Officer calls the meeting to order.

Pledge of Allegiance. The Mayor or Presiding Officer, or invited guests, will lead the flag salute.

Invocation. A member of the Clergy will give the invocation.

Roll Call. The City Clerk shall call the roll and indicate any Councilmember who is not in attendance. Councilmembers may make a motion to excuse or not excuse absent Councilmembers at the meeting.

Consent Agenda. Consent Agenda items are considered to be routine and non-controversial and are approved by one motion. Items on the Consent Agenda include, but are not limited to, minutes, business claims, set dates of hearings, approval of payment of contracts, bid awards, housekeeping amendments to ordinances and resolutions, and previously authorized agreements. Any Councilmember may remove any item(s) from the Consent Agenda for separate discussion and action; a second is not required. When an item is removed, the Consent Agenda is considered for action without that item. After the Consent Agenda has been considered, the item which was removed is considered. When

discussion on that item is completed, a motion may be made to vote on the item or to refer it to Council Committee or to another meeting.

Public Comment. Members of the audience may comment on issues of concern or interest related to the business of the City that is not on the agenda and is not in violation of any other Council rule or law. Dialogue/debate between Council and the public is discouraged. Comments are limited to three (3) minutes. Minutes may not be shared with other speakers. A "citizen comment sign-up sheet" will be available at each regular and/or special Council meeting for the use of citizens wishing to address the Council. Citizens may also comment on individual agenda items during any regularly scheduled City Council meeting. These agenda items include, but are not limited to, ordinances, resolutions, and Council business issues. These comment times are in addition to the Citizen Comment time. The Mayor or Presiding Officer may, at his discretion, limit public comment based on the volume of comments anticipated and in the interest of conducting the business of the Council in an efficient manner. The Mayor or Presiding Officer will acknowledge commenters at the close of their comments and decide on the disposition of their comments/issue, including but not limited to referral of the issue to City Administrator, a particular City Department, Council study session or Committee as deemed appropriate.

Proclamation/Presentations. Proclamations are issued by the Mayor in support of local causes, programs, or matters which advance adopted City policy and strategy, and increase public awareness of issues important to the quality of life of the Sumner community. Special presentations are requests by citizen groups or other agencies to present information on issues of interest to City Council and/or community. Proclamations and presentations do not require City Council action. Requests for proclamations or presentations shall be submitted to the Mayor or City Administrator for consideration and scheduling. Only one proclamation will be issued per year per organization. Proposals for proclamations or presentations promoting for-profit causes will generally not be considered. Proposals which promote a position on a pending ballot or legislative issue will not be considered. The mayor reserves the right to reject or modify a proclamation. A proclamation appearing on an agenda shall be distributed in the agenda packet and may be read at a Council meeting.

Public Hearings. Public Hearings are held to receive public comment on important issues and/or issues requiring a public hearing by state statute or City of Sumner ordinances. There are two types of public hearings, legislative and quasi-judicial. Legislative hearings focus on broad policy with general application. Quasi-judicial hearings focus on the rights of specific parties and decisions must be based on a formal record. The Mayor will state the public hearing procedures before each public hearing.

Unfinished Business. Unfinished Business consists of subjects discussed by the Council at a previous regular or special meeting, or study session, and which are returning to the Council for additional discussion or resolution. Ordinances for second reading would appear under this category.

New Business. New Business consists of subjects which have not previously been considered by the Council, and which may require discussion and action.

Announcements/Reports. Announcements and reports made by the Councilmembers, City Administrator and Mayor.

- a. The Mayor makes announcements of upcoming meetings and events, and reports on meetings and events in which he/she has participated.
- b. Councilmembers make announcements of upcoming meetings and events, and report on meetings and events in which he/she has participated. Councilmembers may report on their significant City activities since the last regular meeting. These comments shall be limited to three (3) minutes.
- c. Staff reports are made to the Council by the City Administrator on issues of interest to the Council which do not require Council action.

Executive Session. An Executive Session held before, during, or after a Council meeting is a discussion, pursuant to RCW 42.30.110 and/or RCW 42.30.140, that is closed to the public and attended only by the Council, City Administrator, Mayor, City staff, and/or consultants authorized by the City Administrator or Mayor. At the conclusion of the Executive Session, if appropriate, the public meeting will reconvene to take action.

Adjournment. The presiding officer shall adjourn the Council meeting upon proper motion and approval by the Council or at the conclusion of the agenda.

- 2.2 Agenda Bills. Agenda bills are the forms used for submitting issues to the Council for action. The agenda bill will include the subject matter (title for agenda), clearances, action required, budget information (if applicable), summary statement, and recommended motion. The Council may use the agenda bill "recommended motion" language for making a motion. The City Clerk will be responsible for assigning a number to the agenda bill.

- a. Ordinances are legislative acts or local laws. These are the most permanent and binding form of Council action and may be changed or repealed only by a subsequent ordinance. Ordinances normally become effective five (5) days after publication in the City's official newspaper pursuant to RCW 35A.12.160.
- b. Resolutions are adopted to express Council policy or to direct certain types of administrative action. A resolution may be changed by adoption of a subsequent resolution.

Section 3. Council Study Sessions. An informal meeting for the purpose of reviewing forthcoming programs or projects, or receiving similar information, provided that all discussions and conclusions thereof shall be informal.

- a. Council study sessions will be held the second and fourth Monday of each month in the Council Chambers at City Hall and will begin at 6:00 p.m. and be limited to three (3) hours in length unless extended by a consensus of the Councilmembers present.
- b. No final action may be taken at a study session; however council is specifically authorized to approve the meeting agenda and/or excuse a councilmember's absence from the meeting.
- c. Public testimony during study session is discouraged and shall only be heard at the discretion of the Mayor or Presiding Officer.

- d. A special study session may be called by the Mayor or by a majority of the members of the City Council.
- e. If any Monday on which a meeting is scheduled falls on a legal holiday, the regular meeting or study session shall be held on the next business day at the same time and place.

Section 4. Other Meetings.

- 4.1 Special Council Meetings. Any Council meeting other than the regular Council meeting, which has been called for the purpose of conducting official action. Notice shall be given at least 24 hours in advance as required by RCW 42.30.080. Notice shall be provided to Councilmembers by telephone and e-mail. A special Council meeting may be scheduled by the Mayor or by a majority of the members of the City Council.
- 4.2 Emergency Council Meetings. A special Council meeting called without 24-hour notice. An emergency meeting deals with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, by reason of fire, flood, earthquake or other emergency, when time requirements of a 24-hour notice would make notice impractical and increase the likelihood of such injury or damage. Emergency meetings may be called by the Mayor as provided under RCW 42.30.070. The minutes will indicate the reason for the emergency.
- 4.3 Executive Sessions. A Council meeting that is closed except to the Council, City Administrator, Mayor, City Attorney, authorized staff members, and/or consultants authorized by the City Administrator or Mayor. The public is restricted from attendance. Executive Sessions may be held during regular or special Council meetings, or as separate meetings, and will be announced by the Mayor or Presiding Officer. Executive Session topics are limited to considering only those matters authorized by RCW 42.30.110 or RCW 42.30.140.
 - a. Before convening an Executive Session, the Mayor or Presiding Officer shall announce the purpose of the meeting and the anticipated time the session will be concluded. Should the session require more time, a public announcement shall be made, extending the meeting for a time certain.
 - b. At the conclusion of the Executive Session, if appropriate, the public meeting will reconvene for taking action.
 - c. Pursuant to RCW 42.23.070(4), no member of the Council, employee of the City, or any other person present during an executive session of the Council shall disclose to any person the content or substance of any discussion or action which took place during said executive session.

Section 5. Council Discussion.

On all questions of practice or procedure not provided for by these rules, the practice and procedure set forth in Robert's Rules of Order, current edition, shall serve as a guide.

Section 6. Agenda Preparation.

- 6.1 The City Council desires adequate time to review and research all issues coming before it for consideration and/or action. Therefore, all communications, ordinances, resolutions, contract documents or other matters for Council consideration will be submitted to the City Clerk by 5:00 p.m. Friday, ten days prior to the scheduled Monday Council meeting. Items shall be submitted following agenda guidelines in the form designated by the City Clerk. Items not submitted in time will not be place on the agenda. However, late items may be placed on the agenda consistent with the Robert's Rules of Order by passage of a motion to amend the agenda and/or suspend the Council Rules of Procedure.
- 6.2 Issues coming before the City Council at regular session for a vote shall first be placed on the agenda of the appropriate Council committee or Council Study Session at the request of the City Administrator, the Mayor, or any two or more Councilmembers for recommendation to the full Council for approval. Otherwise, they may be placed on a Regular Council Meeting agenda by passage of a motion by a majority of the Council to amend the agenda and add the item.
- 6.3 Issues may be placed on the agenda of a City Commission for recommendation, but must go to a Council Committee or Council Study Session prior to being placed on the agenda of a Regular Meeting of the City Council.
- 6.4 Subject to the Council's right to amend the agenda, no legislative item, which has not been presented by consensus as a forthcoming agenda item by a Council Committee or Study Session shall be voted upon by the Council. Emergency situations (defined as that which would jeopardize the public's immediate physical health, safety, or welfare), would be exempted from this rule or when a majority of the Council votes in favor of placing such an item on the agenda for consideration.
- 6.5 Only items which receive a consensus approval at a Council Study Session or Council Committee will be placed on an upcoming Regular Council Meeting agenda. Items not receiving a consensus approval will be scheduled for additional discussion at an upcoming Council Study Session or referred back to the appropriate Council Committee for addition information
- 6.6 Communications not attached to a motion, ordinance, or resolution may be placed on a Council Study Session agenda for discussion and/or referral to a Council Committee, per the Council Rules of Procedure.
- 6.7 The City Clerk will prepare an agenda packet for each Council meeting specifying the time and place of the meeting, and setting forth a brief general description of each item to be considered by the Council. The agenda is subject to review and approval by the City Administrator or designee or the Mayor.
- 6.8 Any item may be placed on a regular Council meeting agenda, after the agenda is closed and the notice prepared, by the City Administrator, Mayor, or Councilmembers, with an explanation of the necessity, motion and a majority vote of the Council.

- 6.9 The agenda bill form will be used for all items submitted for a regular or special Council meeting agenda. Items submitted for a study session agenda will include a cover memo briefly explaining the issue being discussed. Agenda packets will be ready for distribution to the Council by 5:00 p.m. Wednesday, prior to the following Monday's Council meeting. Council or staff submitting items for the consideration will ensure Councilmembers are provided sufficient information to make decisions. Council shall contact staff prior to the meeting with questions or for assistance in regards to any packet item.
- 6.10 All Council agenda bills, when applicable, shall include budget amounts, requested expenditure and impact along with the statement of fiscal analysis, and identification of funding source. Item and/or issues containing new appropriations must be submitted to the Finance Committee for recommendation prior to being placed on a council agenda.
- 6.11 Some agenda items may be listed on the agenda for a time certain. Such listing will mean that an item will be heard as soon as reasonably possible on or about the specified time.
- 6.12 The City Clerk will prepare and keep current a calendar of agenda items for all Council regular and special meetings and study sessions. The City Clerk will also prepare and keep current a calendar of all Mayor and Council meetings and meetings of the Boards and Commissions of the City of Sumner.
- 6.13 The City Clerk will endeavor to schedule sufficient time between public hearings and other scheduled items so the public is not kept waiting an excessive amount of time and so the Council will have sufficient time to hear testimony and to deliberate matters among themselves.
- 6.14 Legally required and advertised public hearings will have a higher priority over other scheduled agenda items which have been scheduled by convenience rather than for statutory or other legal reasons.
- 6.15 Agenda items that are continued from one meeting to another will have preference on the agenda to the extent possible.

Section 7. Comments, Concerns and Testimony to Council.

- 7.1 Persons addressing the Council, who are not specifically scheduled on the agenda, will be requested to sign in on the public comment sheet provided. Comments are to be given at the podium area and limited to three (3) minutes. The Council may, by a majority vote, limit public comment based on the volume of comments anticipated and in the interest of conducting the business of the Council in an efficient manner.

All remarks will be addressed to the Council as a whole. Anyone who becomes boisterous, threatening, or personally abusive while addressing the Council, may be requested to leave the meeting. All speakers during public comment, in the discussion, comments, or debate of any matter or issue, shall be courteous in their language and deportment. See Rule 2.1 under Public Comment.

- 7.2 The Mayor or Presiding Officer has the authority to preserve order at all meetings of the Council, to cause removal of any person from any meeting for disorderly conduct, to

suspend a person's opportunity to speak and/or enforce the Rules of the Council. The Mayor or Presiding Officer may command assistance of any peace officer to enforce all lawful orders of the Mayor or Presiding Officer to restore order at any meeting.

- 7.3 The Mayor or Presiding Officer will acknowledge commenters at the close of their comments and decide on the disposition of their comments/issue, including but not limited to referral of the issue to City Administrator, a particular City Department, Council study session or Committee as deemed appropriate.
- 7.4 No person may use public comment for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Further, any direct mention of a person's candidacy or a ballot proposition shall constitute grounds for immediate suspension of such person's right to speak at that Council meeting.

Section 8. Motions.

- 8.1 Motions shall be clear and concise and not include arguments for the motion within the motion.
- 8.2 After a motion and a second, the Mayor or Presiding Officer will state the names of the Councilmembers making the motion and second.
- 8.3 If a motion does not receive a second, it dies. Motions that do not need a second include nominations, withdrawal of a motion, agenda order, request for a roll call vote, and point of order.
- 8.4 After a motion has been made and seconded, the Council may discuss their opinions on the issue prior to the vote. Citizen comments may be heard at the discretion of the Mayor when there is a motion and a second on the floor.
- 8.5 A motion that receives a tie vote on the passage of any ordinance, grant, or revocation of franchise or license, or any resolution for the payment of money is deemed to have failed. The Mayor shall vote in the case of a tie only with respect to matters other than those stated above.
- 8.6 When the Council concurs or agrees with an item by consensus that does not require a formal motion, the Mayor or Presiding Officer will summarize the agreement at the conclusion of the discussion.
- 8.7 A motion may be withdrawn by the maker of the motion, at any time, without the consent of the Council.
- 8.8 A motion to table is not debatable and requires a second. It shall preclude all amendments or debate of the issue under consideration. If the motion to table prevails, the matter may be taken from the table only by adding it to the agenda of a future regular or special meeting at which time discussion will continue. If an item is tabled, it cannot be reconsidered at the same meeting.

- 8.9 A motion to postpone to a certain time is debatable, is amendable, and may be reconsidered at the same meeting. The question being postponed must be considered at a later time at the same meeting or at a time certain as established by Council motion at a future regular or special City Council meeting.
- 8.10 A motion to postpone indefinitely is debatable and is not amendable.
- 8.11 A motion to call for the question shall close debate on the main motion and is not debatable. This motion must receive a second and fails without a two-thirds (2/3) vote. If seven (7) Councilmembers are present, then five (5) must vote in the affirmative to fill the 2/3 requirement. Debate is reopened if the motion fails.
- 8.12 A motion to amend is defined as amending a motion that is on the floor and has been seconded, by inserting or adding, striking out, striking out and inserting, or substituting language in the motion. Councilmembers will contact staff prior to the meeting where the amendment will be considered for assistance in formulating proper amendment language. Councilmembers are responsible for ensuring questions of the legality of the amendments proposed are addressed with the appropriate staff prior to bringing the amendment to Council for consideration. The making of amendments from the floor at the meeting is discouraged unless the timing of the subject legislation requires immediate action.
- 8.13 Discussion of the motion only occurs after the motion has been moved and seconded.
- 8.14 The motion maker, Mayor or Presiding Officer, or City Clerk shall repeat the motion prior to voting.
- 8.15 The City Clerk shall, in random rotation, take a roll call vote, if requested by the Mayor, a Councilmember, or as required by law. No Councilmember shall pass or abstain from voting when called upon to vote.
- 8.16 At the conclusion of any vote, the Mayor or Presiding Officer or the City Clerk shall announce the results of the vote. The City Clerk may confirm the results.
- 8.17 When a motion has been passed by Council any Councilmember who voted in the majority may move for reconsideration of the motion. A motion to reconsider is in order only at the meeting where the original motion was passed.
- 8.18 The City Attorney shall decide all questions of interpretations of these policies and procedures and other questions of a parliamentary nature which may arise at a Council meeting. All cases not provided for in these policies and procedures shall be guided by Roberts Rules of Order, current edition. In the event of a conflict, these Council policies and procedures shall prevail.

Section 9. Ordinances.

- 9.1 All ordinances shall be prepared or reviewed by the City Attorney. No ordinance shall be prepared for presentation to the Council unless requested by the City Administrator, Mayor, City Attorney, City staff, Council Committee, or a majority vote of the Council.

- 9.2 Ordinances will be introduced by an Agenda Bill. The City Clerk shall assign a permanent ordinance number prior to placing the ordinance on the agenda.
- 9.3 The Mayor or Presiding Officer or City Clerk shall read the title of the ordinance prior to voting.
- 9.4 The Mayor shall have the power to veto ordinances passed by the Council and submitted to him or her. Such veto may be overridden by the vote of a supermajority of all Councilmembers. The ordinance shall then become valid notwithstanding the Mayor's veto. If the Mayor fails for ten (10) days to either approve or veto an ordinance, it shall become valid without his or her approval.
- 9.5 Upon enactment of the ordinance, the City Clerk shall obtain the signature of the Mayor and City Attorney. After the Mayor's signature, the City Clerk shall sign the ordinance.
- 9.5 Ordinances, or ordinance summaries, shall be published in the official newspaper as a legal publication in the first possible publication following enactment.
- 9.6 An ordinance becomes effective five (5) days after the publication of the ordinance or ordinance summary unless otherwise specified.
- 9.7 Ordinances shall reflect the date of first reading, date of adoption, date of publication, and effective date.
- 9.8 There shall be one reading of an ordinance prior to any action and adoption by the City, unless a second reading is required by state statute or City code.
- 9.9 No public comment will be allowed on ordinances of a quasi-judicial matter.

Section 10. Mayor, Deputy Mayor and Presiding Officer.

- 10.1 The presiding officer at all meetings of the Council shall be the Mayor, and in the absence of the Mayor, the Deputy Mayor shall act in that capacity. If both the Mayor and Deputy Mayor are absent and a quorum is present, the Councilmembers present shall elect one of their members to serve as Presiding Officer until the return of the Mayor or Deputy Mayor.
- 10.2 The Presiding Officer shall:
 - a. Preserve order and decorum in the Council Chambers.
 - b. Observe and enforce all policies and procedures adopted by the Council.
 - c. Decide all questions on order, in accordance with these policies and procedures, subject to appeal by any Councilmember.
 - d. Recognize Councilmembers in the order in which they request the floor.
 - e. Retain the authority, during Public Comment, to determine whether a speaker's remarks fail to comply with these Rules or exceed the scope of the designated forums, and the presiding officer shall have the authority to suspend such person's opportunity to speak, subject to the Council's privilege to overrule such decision.

- f. At the sole discretion of the Presiding Officer, he/she may call for a recess during any regular or special meeting so long as that recess does not exceed fifteen (15) minutes. The Council may recess during any regular or special meeting for greater than fifteen (15) minutes by a majority vote of the Councilmembers present.

- 10.3 Challenge to Ruling of Presiding Officer. Notwithstanding anything herein contained, including Robert's Rules of Order, to the contrary, any member of the Council shall have the right and privilege to challenge any ruling of any kind made by the presiding officer at any Council meeting, in which case the approval or disapproval of the ruling of the Presiding Officer shall immediately and without debate or comment be put to a vote of the Council, and the decision of the majority of the members of the Council then present, shall prevail.

Section 11. Council Relations With Staff.

- 11.1 There will be mutual respect from both City staff and Councilmembers of their respective roles and responsibilities.
- 11.2 City staff shall acknowledge the Council as policymakers, and the Councilmembers shall acknowledge City staff as administering the Council's policies.
- 11.3 Councilmembers shall not attempt to influence City staff in the selection of, or retention of, personnel, the awarding of contracts, the selection of consultants, the processing of development applications, or the granting of City licenses or permits.
- 11.4 Councilmembers shall not attempt to interfere with the administration or internal operation and practices of any City department.
- 11.5 To ensure timely response and any required administrative actions, mail addressed to the Mayor shall be copied and circulated by the City Clerk to all appropriate persons as soon as practicable after it arrives.
- 11.6 No Councilmember shall direct the City Administrator or staff to initiate any action or prepare any report that is a priority or requires significant resources, or initiate any project or study without the consent of a majority of the Council.
- 11.7 Individual requests for information can be made directly to the Department Director unless otherwise determined by the City Administrator or Mayor. If the request would create a change in work assignments or City staffing levels, the request must be made through the City Administrator or Mayor.

Section 12. Council Meeting Staffing.

- 12.1 The City Administrator shall attend all meetings of the Council unless excused by the Mayor. The City Administrator may make recommendations to the Council and shall have the right to take part in the discussions of the Council, but shall have no vote. When the City Administrator has an excused absence, the designated Acting City Administrator shall attend the meeting.

- 12.2 The City Attorney shall attend all regular meetings of the Council unless excused by the City Administrator or Mayor and shall, upon request, give an opinion either written or oral, on legal questions. The City Attorney or designee shall act as the Council's parliamentarian. An Acting or Deputy City Attorney may attend meetings when the City Attorney has been excused.
- 12.3 The City Clerk, or designee, shall attend regular and special, and study session (when required) meetings of the Council, keep the official journal (minutes), and perform such other duties as may be needed for the orderly conduct of the meeting.

Section 13. Councilmember Attendance At Meetings.

- 13.1 ~~If a councilmember is unable to attend a meeting, that~~ the Councilmember shall contact the Mayor prior to the meeting and ~~state~~ provide the reason for his/her inability to attend the meeting. If the Councilmember is unable to contact the Mayor, the Councilmember shall contact the City Administrator or City Clerk, who shall convey the message to the Mayor.
- 13.2 At any point following roll call, the Mayor or Presiding Officer shall inform the Council of the Councilmember's absence. Councilmembers may make a motion to excuse or not excuse absent Councilmembers.
- 13.3 RCW 35A.12.060 provides that a Councilmember shall forfeit his/her office by failing to attend three (3) consecutive regular meetings of the Council without being excused by the Council. Members of the Council may ask to be excused by following the procedure described in this section.
- 13.4 For purposes of this section, and consistent with the provisions of the Open Public Meetings Act, regular Council meetings and study sessions, are regularly scheduled meetings and shall be considered regular meetings for determining whether a Council position has been vacated. For example, if a Councilmember has three (3) consecutive unexcused absences consisting of two (2) regular Council meetings and an intervening study session in a single month, such a Councilmember will have vacated the position.
- ~~13.4~~ 13.5 All regular council meetings, study sessions, and committee meetings will be accessible to the public via ZOOM or an equal virtual platform. Councilmembers may choose to attend any meeting either virtually or in-person. Any councilmember choosing to attend a meeting virtually shall notify the Mayor and City Clerk (for Regular Council Meetings and Study Sessions) and the appropriate staff liaison (for Committee meetings) no less than 24 hours' in advance to ensure proper technology is in place. so that a ZOOM (or similar) link can be circulated Virtual attendance shall be considered the same as in-person attendance for quorum and voting purposes.

Section 14. Media Representation At Council Meeting.

All public meetings of the City Council and its advisory committees shall be open to the media, freely subject to recording by radio, television, and photographic services at any time, provided that such arrangements do not interfere with the orderly conduct of the meeting.

Section 15. Council Representation.

- 15.1 If a Councilmember represents the City through electronic, social or other media, use of City letterhead, or in any public venue, for the purpose of commenting on an issue, the Councilmember shall state the majority position of the Council, if known, on such issue. Personal opinions and comments which differ from the Council majority may be expressed if the Councilmember clarifies that these statements do not represent the Council's position. Councilmembers shall provide a copy of such representations or statements to the City Clerk for the purposes of legally required record retention.
- 15.2 Councilmembers need to have other Councilmembers' concurrence before representing another Councilmember's view or position or the majority of Council's view or position with the media, another governmental agency or community organization.
- 15.3 As a matter of courtesy, letters to the editor, interviews or other communication by a Councilmember of a controversial nature, which do not express the majority opinion of the Council, should be presented to the full Council prior to publication so that Councilmembers may be made aware of the impending publication, when practical.

Section 16. Confidentiality.

- 16.1 Councilmembers shall keep confidential all written materials and verbal information provided to them during executive session to ensure that the City's position is not compromised. Confidentiality also includes information provided to Councilmembers outside of executive session when the information is considered to be exempt from disclosure under exemptions set forth in the Revised Code of Washington (RCW).
- 16.2 If the Council, in executive session, has given direction or consensus to City staff on proposed terms and conditions for any type of issue, all contact with the other party shall be done by the designated City staff representative handling the issue. Prior to discussing the information with anyone other than fellow Councilmembers, the City Attorney or City staff designated by the City Administrator or Mayor, Councilmembers should review such potential discussion with the City Administrator or Mayor. Any Councilmember having any such contact or discussion shall make full disclosure to the City Administrator, Mayor, and/or the City Council in a timely manner.

Section 17. Conflict of Interest.

- 17.1 Mayor and Councilmembers shall not, either directly or indirectly, give or receive or agree to receive any compensation, gift, reward, or gratuity from any source for any matter connected with or related to services as a Councilmember or Mayor.
- 17.2 Mayor and Councilmembers shall excuse themselves from consideration of any proceeding in which they have a direct or indirect interest. Examples of such interest include a Councilmember or Mayor as an applicant or property owner for a permit, a Councilmember or Mayor as a partner in a corporation or partnership involved in a permit or property ownership with a parcel subject to a land use permit, or involvement as tenant or resident in a structure subject to a land use permit. If such conflict exists, the affected

Councilmember or Mayor shall excuse themselves and leave the Council Chambers prior to any briefing, hearing, discussion, or other consideration of the issue.

Section 18. Public Records – Technology Use.

- 18.1 Public records created or received by the Mayor or any Councilmember should be transferred to the City Clerk's office for retention by the City in accordance with the Public Records Act, Chapter 42.17 RCW. Public records that are duplicates of those received by, or in the possession of the City, are not required to be retained. Questions about whether or not a document is a public record or if it is required to be retained should be referred to the City Attorney. Councilmembers shall complete Public Records Act training as mandated by law.
- 18.2 All electronic communications (e-mail, social media, blog etc.) sent or received by a Councilmember from either a City or personal account which are determined to be a Public Record pursuant to state law shall be subject to disclosure.
- 18.3 Electronic Communications between elected officials of a governing body can implicate the Open Public Meetings Act. If discussing City business with a quorum of fellow Councilmembers via electronic communications, it may constitute a public meeting and all the requirements for a public meeting would have to be met or a violation of the Act could occur. Councilmembers shall complete Open Public Meetings Act training as mandated by law.
- 18.4 Councilmembers are prohibited from using personal computers and devices to create, edit, store or other similar action, any writing as described in RCW 42.56.010(3) that may be a public record. Councilmembers may use a personal mobile device including smartphone or tablet to access City e-mail, provided that they do not create, edit or store writings on the device. Council also agrees to cooperate with any public disclosure request in which it would be reasonable to search those personally-owned devices for responsive records.
- 18.5 Councilmembers are required to follow the City's acceptable use policies when using City issued computers and devices. Council shall complete the required annual cyber-security training, as set for the City's acceptable use policies.
- 18.6 The use of social media to conduct city business, including communicating with constituents, generally constitutes a public record that may be subject to disclosure. All elected officials must follow the City's current elected officials social media policy, as adopted under a separate resolution. The City will provide regular training on the policy and assist with archival.

Section 19. Deputy Mayor Selection Process and Duties.

- 19.1 The Deputy Mayor shall be elected to a one (1) year term at the first Regular Council meeting in January of each year. The Mayor shall conduct the election for the Deputy Mayor as follows:

- a. The Mayor shall open ~~up~~ the floor for nominations. Nominations do not require a second.
- b. At the conclusion of nominations, the Mayor shall ask for a motion and second to close nominations. A majority vote of Council is required.
- a.c. The City Clerk shall conduct a roll call vote. Each Councilmember shall respond with the name of the nominee they wish to vote for. Any nominee receiving a majority vote of the Council shall be declared the winner of the election. In the event of a tie, the Mayor shall cast the tie breaking vote.

19.2 The Mayor shall preside at all meetings of the Council, and in the absence of the Mayor, the Deputy Mayor will act in that capacity, following established procedures and directives provided in Section 10 of the Council Rules for the Mayor. If both the Mayor and Deputy Mayor are absent, the Councilmembers present shall elect one of its members to serve as Presiding Officer until the return of the Mayor or Deputy Mayor.

Section 20. City Council Committees.

20.1 The following City Council Committees are formed by City of Sumner Resolution:

- a. Finance/Personnel
- b. Public Works
- c. Community Development/Parks
- d. Public Safety

20.2 Membership/Attendance

- a. Each committee shall have a membership of three (3) Councilmembers. A fourth Councilmember will also be appointed to serve as alternate
- b. Councilmembers wishing to attend a meeting of a committee of which they are not a regular member shall provide the Chair of that committee and the City Clerk 48 hours advanced notice of their intent to attend, and will attend in the capacity of an observer only. In accordance with the laws governing Council action, any four (4) Councilmembers participating in the transaction of the official business of a public agency by a governing body including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions, constitutes a quorum of the full Council. A meeting of a quorum of the full Council requires 24-hours public notice and publication of a special Council meeting agenda stating the business to be transacted.
- c. A Councilmember shall be removed from an appointed Committee position and replaced by the alternate member upon three (3) consecutive unexcused absences or upon five (5) total unexcused absences in any twelve month period. Removal shall come as a recommendation of the remaining members of the subject Committee and shall be placed on the Council agenda at the next regular council meeting for confirmation by the full Council.
- d. The City Council shall appoint the members of each Council Committee by the second meeting of each even numbered year. Each Council Committee shall appoint its Chair.

- e. Councilmembers may trade committee membership with another Councilmember upon a do pass recommendation of both of the affected committees. The issue will then be placed on the consent agenda of the next available regular Council meeting for confirmation by the full Council.
- f. Membership of each Committee shall be for a two (2) year term. Membership will be determined by deliberation of the full Council and upon reaching consensus or by majority vote.
- f.

20.3 Committee Work Programs and Agendas

- a. Recommendations. The Council Committee shall, with staff support, study issues and make recommendations to the full Council for action. Such recommendations may include a do pass to place the issue on a future regular Council meeting agenda for formal action by the full Council. It may also include a do not pass recommendation, which requires no further Council action. Should the Committee determine that further study of an issue by the full Council prior to taking formal action is warranted; the item will be placed on a future study session agenda for review. These actions will be clearly noted in the Committee minutes.
- b. Committee Agendas. Committee agendas shall be prepared at least two (2) business days in advance by the Committee staff in coordination with the Committee Chair and in consultation with the City Administrator or Mayor. Committee agendas shall be distributed to the full Council. If an agenda is not available to the Committee members at least two (2) business days in advance or if there is a lack of Committee business, the Committee meeting shall be cancelled. Staff shall notify the full Council at least 24 hours in advance of the time the meeting is to commence. Notice of the cancellation shall also be posted for the public. Should a Councilmember wish to submit an item to a Committee agenda, they shall coordinate with the Committee Chair to do so. The Chair shall coordinate with the staff liaison for inclusion of such items.

Section 21. Appointments To Regional Organizations.

- 21.1 Appointments to regional bodies, Ad Hoc community committees or other special committees outside the City auspices may be made in two ways: 1) the regional committee may request recommendations for ultimate appointment by the regional committee; or 2) the City may make direct appointment to a regional committee when asked to do so by that body.
 - a. Any Councilmember may express an interest in a particular subject and interest in serving on a particular regional body.
 - b. Council Committee membership shall not limit a Councilmember's interest in serving on a particular regional body.
 - c. When a regional body requests membership recommendations where the regional body makes the final appointment, the Mayor shall ask Councilmembers to state their interest for appointment. All names shall be submitted by the Mayor to the regional body which will then make the appointment(s) subject to confirmation by the Council.

- d. When the Council has the authority to make direct appointment to a regional committee, discussion shall take place with the full Council to determine interest. The Mayor or Councilmember receiving a majority vote will represent the City on that regional body.
 - e. Changes in representation to regional committees where the Council has the authority to make a direct appointment shall also be determined through full Council discussion and majority vote of the Council.
 - f. For the purpose of appointing or reappointing Council members to authorized regional committee assignments (PCRC, RCC etc.), Council will review position assignments annually at the first regular Council meeting in January.
- 21.2 When the Mayor and/or Councilmembers register to attend an official conference requiring voting delegates, such as the annual National League of Cities or Association of Washington Cities, the Council shall designate the voting delegate(s) and alternative voting delegate(s) during a public meeting, by a majority vote. When possible, said selection of voting delegate(s) shall be done on a rotating basis for the purpose of allowing all Councilmembers the opportunity to be an official voting delegate.

Section 22. Suspension and Amendment of Rules.

- 22.1 Any provision of these rules not governed by State law or ordinance may be temporarily suspended upon proper motion and second and a majority vote of the Council.
- 22.2 Amendments to Rules. Amendments to these rules shall be made by resolution of the Council, which must be laid over at least one week, and may then be made by a majority vote of the membership of the City Council. After such proposed amendments have been laid over for one week, they may be amended, added to, or deleted, and adopted at the same or a subsequent session of the Council.

Section 23. Decorum and Debate.

- 23.1 The City Council has power under general State law to impose punishment on its members, short of removal from office, for violation of State law or Council rules. When a decorum-related measure is presented for consideration to the Council, the Mayor shall recognize the appropriate individual to present the matter. When two or more Councilmembers wish to speak, the Mayor shall name the Councilmember who is to speak first. No member of the Council shall interrupt another while speaking except to make a point of order or privilege. No Councilmember shall be permitted to use derogatory or demeaning language when speaking to or about another Councilmember or member of the public.
- 23.2 If a Councilmember is violating the Rules of the Council, the Mayor or any Councilmember may call him/her to order, in which case he/she shall immediately be quiet. However, that Councilmember may appeal the ruling of the Mayor to the entire council. The Council shall, if appealed to, decide the case without debate. If the decision is in favor of the Councilmember called to order, he/she shall be allowed to proceed. If the decision is not in favor of the Councilmember called to order, he/she shall not proceed or continue in the action which has been determined to be out of order.

- 23.3 By vote of the majority of the Council, sanctions for violating the Council Rules may include any of the following:
- a. a verbal admonition,
 - b. a written reprimand,
 - c. censure,
 - d. expulsion from the meeting; and/or
 - e. removal of a Councilmember from appointed Council Committee(s) or Chair positions or removal of intergovernmental duties.

Section 24. Council Vacancies

- 24.1 A Council position shall be officially declared vacant upon the occurrence of the causes of vacancy set forth in RCW 35A.12, Council Rule Section 13, or resignation, recall, forfeiture, written intent to resign, or death of a Councilmember.
- 24.2 In the occurrence of a vacancy, the Mayor or Council will direct staff to begin the appointment process and establish an application, interview, and appointment schedule. The Council has 90 days to fill the vacancy, after which time it will be filled by the Pierce County Council.
- a. Council may request additional public processes other than those delineated here, such as open houses, forums etc. as long as they are properly noticed and open to all members of the public.
- 24.3 The Councilmember who is vacating his or her position cannot participate in the appointment process.
- 24.4 Staff will advertise for the open position electronically, advise newspapers and other forms of media as appropriate, and post notices at City Hall. Applications will be due 30 days from the date ~~of posting~~the application is made available.
- a. Staff will prepare an application form which requests appropriate information for City Council consideration of the applicants. Applicants will be asked to submit a completed application, supplemental questions, and a resume. Endorsements, letters of reference or other materials will not be accepted.
 - b. Completed applications and supplemental materials received by the deadline will be copied and circulated to the Mayor and Council. Applications will be posted electronically following PDC rules for disclosure.
 - c. At the close of the application period, all timely applications will be reviewed by the City Clerk for completion and qualification. Interested candidates that submit an incomplete application, or that do not meet the minimum legal qualifications to be appointed, will not be considered. Staff shall notify the candidate of their disqualification accordingly.
- 24.5 Interviews will ~~be held~~occur at the first available Study Session following the close of the application period, unless a special meeting needs to be called to avoid expiration of the 90 day appointment timeframe, or to avoid conflicting with other time sensitive policy issues.~~a Special Council Meeting. For efficiency, interviews may be recorded in advance and presented during the Study Session. Order of interviews will be~~

~~established by random ballot~~The City Clerk shall establish the order of the interviews/presentation by random draw at the beginning of the Study Session.

a. ~~In an effort to preserve a fair interview process, if the interviews are in person (not pre-recorded), a~~Applicants not being interviewed may be asked to temporarily leave the ~~room-meeting~~ while they are not being interviewed, but are not required ~~to do so as it is an open public meeting.~~

b. ~~No voting or straw polls may be taken in executive session.~~Following each applicant interview, Councilmembers may ask follow-up clarifying questions. Clarifying questions will be limited to three (3) minutes per applicant.

24.6 ~~Once interviews are complete~~The voting process will occur at the next available Regular Council Meeting following the interviews, unless the interviews and voting need to occur at the same special meeting to avoid expiration of the 90 day appointment timeframe. At the start of the meeting, the Mayor will call for nominations from Councilmembers for the purposes of creating a ballot. ~~Each councilmember may make one nomination.~~ No second is needed. Nominations are closed by motion, second, and a majority vote of the Council.

24.7 ~~At the close of the nominations, the Mayor may accept public comment related to the final nominees. Public comment shall be limited to two (2) minutes.~~

24.8 ~~Voting will occur in public by roll-call votes. Upon hearing their name, each Councilmember shall vote by saying the name of the nominee they wish to appoint. Any applicant receiving Aa majority vote of the sitting Council members is required for appointment shall be declared the winner. Nominees receiving the least amount of votes shall be dismissed from future rounds of voting.~~ The Council may vote as many times as ~~needed-necessary~~ to obtain a majority vote. In the case of a tie ~~between final two nominees~~, the Mayor will cast the deciding vote.

a. At any time in the process, the Council may recess to executive session ~~to discuss candidate qualifications for the limited purpose of discussing the qualifications of the candidates in accordance with state law.~~ This may be requested by any Councilmember. ~~No voting or straw polls may be taken in executive session.~~

b. The Council may move to postpone the election to a date certain if a majority vote is not received.

24.98 The Mayor shall declare the candidate receiving the majority vote as the new Councilmember, to be sworn into office and seated at the next regular Council meeting.

24.10 ~~Any deviation from this procedure shall be by motion and shall require a second and majority vote of the Council.~~

Section 254. Repealer. Resolution No. ~~1518-1486~~, adopted ~~March 18, 2021~~~~February 20, 2018~~, is hereby repealed and replaced in its entirety.

Section 265. Severability. If a section, subsection, paragraph, sentence, clause, or phrase of this resolution is declared unconstitutional or invalid for any reason by any court of competent jurisdiction;

such decision shall not affect the validity of the remaining portions of this ordinance. If the provisions of this ordinance are found to be inconsistent with other provisions of the Sumner Municipal Code, the provisions of this resolution shall control.

Section 27. Corrections by City Clerk or Code Reviser.

Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this resolution, including but not limited to the correction of clerical errors; or references to other local, state, or federal laws, codes, rules, or regulations.

Section 286. Effective Date.

This resolution shall become effective immediately upon adoption.

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington, at a regular meeting thereof this 18th day of March 2019.

ATTEST:

City Clerk Michelle Converse, CMC

Mayor William L. Pugh

APPROVED AS TO FORM:

City Attorney Andrea Marquez

CITY COUNCIL AGENDA CALENDAR**Updated February 17, 2021**

CA – CONSENT AGENDA	ES – EXECUTIVE SESSION	NB – NEW BUSINESS
UB – UNFINISHED BUSINESS	P – PRESENTATION	PH – PUBLIC HEARING PR - PROCLAMATION

MARCH 1 (RCM)

NB Ordinance No. XXXX – Arts Commission SMC Amendment
NB Ordinance No. XXXX - Street Tree Code Revisions
NB Ordinance No. XXXX – Sidewalks

MARCH 8 (SS)

- Sound Transit Financial Realignment Update
- 2020 Comprehensive Plan Update
- Police Body Cameras
- 2022-2028 Transportation Improvement Plan

MARCH 15 (RCM)

PH 2022-2028 TIP
UB Ordinance No. XXXXs (6) - 2020 Comprehensive Plan Update
CA Resolution No. XXXX – ILA City of Pacific Stewart Road Funding
CA Resolution No. XXXX - Council Rules of Procedure Amendments
NB Ordinance No. XXXX – Budget Amendment – Council Chambers Technology
NB Contract – Council Chambers Technology

MARCH 22 (SS)

- SBLSD Family Center (Marilee Hill-Anderson)
- Amended Pandemic Response Policy
- 2020 Financial Year End Review
- Winter Quarter Main Street Visioning Project Presentation

APRIL 5 (RCM)

PR Arbor Day (state 4/14)
UB 2022-2028 TIP
NB Resolution No. XXXX – ILA Fire Services with Bonney Lake
NB Resolution No. XXXX – ILA Fire Services with East Pierce Fire & Rescue
NB Commission Appointments
NB Ordinance No. XXXX – Fence Code Amendments
NB Ordinance No. XXXX – Amending SMC 9.46
NB Ordinance No. XXXX – Amending SMC 9.47
NB Ordinance No. XXXX – Budget Amendment Fire Permit Review

APRIL 12 (SS)

- Homeless Strategy Update
- Housing Action Plan Planning Commission Recommendation

APRIL 19 (RCM)

NB Resolution XXXX – Amending SRO with SBLSD

NB Forestry/Parks Commission Appointment (Stuard)

Pending

MISC.	MISC.	WHITE RIVER RESTORATION PROJECT
ROW Vacation Code Amendment		PH - Surplus Utility Property South of 24 th Street East
LEOFF 1 Policies	Contract Approval Code Amendment	UB - Resolution No. XXXX - Surplus Utility Property South of 24 th St E
Emergency Management Code Update	Temporary Use Permit – Food Trucks	PSA Golf Course Extension
Cable Franchise Agreement		
Sign Code Update		BNSF Agreement
Raffle Repeal SMC 904		CWA Agreement
CTR Ordinance Update		CA - Water Rights Cost Reimbursement Agreement
Update electronic signatures code		

February 2021

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6
6:00PM Regular Council Meeting (Virtual)	4:00 PM Public Works Committee (Virtual)		CANCELLED 6:00PM Planning Commission (Virtual)		
7	8	9	10	11	12
6:00PM Study Session (Virtual)		5:30PM Finance Committee (Virtual)	4:30PM Forestry/Parks Commission (Virtual)		
15	16	17	18	19	20
RECOGNIZED HOLIDAY CITY HALL CLOSED	6:00PM Regular Council Meeting (Virtual)	5:00PM Public Safety (Virtual) 5:30PM - CANCELLED Design Commission (Virtual)			
22	23	24	25	26	27
6:00PM Study Session (Virtual)	(DATE CHANGE – ONE TIME ONLY) 5:00PM CD Committee (Virtual)	5:00PM CD Committee (Virtual)	5:30PM Arts Commission (Virtual)		
29	30				30

*Meeting dates and times may change. Please contact City Hall to confirm this information prior to any meeting you plan to attend. **These meetings are accessible to persons with disabilities.** For individuals who require special accommodations, please contact City Hall at (253) 299-5500, 24 hours in advance.*

Name: Michelle Converse, CMC

Title: City Clerk

City of Sumner
1104 Maple Street
Sumner, Washington 98390
Ph: (253) 299-5500 Fax: (253) 299-5509
Website: **www.sumnerwa.gov**

March 2021

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6
6:00PM Regular Council Meeting (Virtual)	4:00 PM Public Works Committee (Virtual)		6:00PM Planning Commission (Virtual)		
8	9	10	11	12	13
6:00PM Study Session (Virtual)		5:30PM Finance Committee (Virtual) 6:30PM Design Commission (Virtual)	4:30PM Forestry/Parks Commission (Virtual)		
15	16	17	18	19	20
6:00PM Regular Council Meeting (Virtual)		5:00PM Public Safety (Virtual)			
22	23	24	25	26	27
6:00PM Study Session (Virtual)		5:00PM CD Committee (Virtual)	5:30PM Arts Commission (Virtual)		
29	30	31			

Meeting dates and times may change. Please contact City Hall to confirm this information prior to any meeting you plan to attend. **These meetings are accessible to persons with disabilities.** For individuals who require special accommodations, please contact City Hall at (253) 299-5500, 24 hours in advance.

Name: Michelle Converse, CMC

Title: City Clerk

City of Sumner
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