

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Discussion of Ordinance No. 960 - Amending Shoreline Municipal Code Chapter 12.30 Public Tree Management
DEPARTMENT:	Administrative Services
PRESENTED BY:	Sara Lane, Administrative Services Director
ACTION:	<input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

The Tree Preservation Code Team (TPCT) is a private citizen group that submitted 13 proposed Code amendments to the City’s Planning and Community Development Department proposing changes to various provisions of the Shoreline Municipal Code (SMC) related to tree protection and preservation. Most of these proposed amendments were to the Shoreline Development Code and were reviewed by both the Shoreline Planning Commission and the City Council. One of the TPCT’s proposed amendments proposes an amendment to SMC Chapter 12.30 to codify a notification process for removal of trees in the right-of-way (ROW). Policy questions related to public trees are not under the purview of the Planning Commission, but rather under the purview of the Parks, Recreation and Cultural Services (PRCS)/Tree Board and as such, this proposed amendment was not considered by the Planning Commission.

The PRCS/Tree Board evaluated TPCT’s proposed amendment, which proposed a 90-day notification period for ROW tree removal, and recommended that the notification period for the removal of non-hazardous trees in the ROW be set at 45 days; less than the TPCT proposal but greater than the current 14-day requirement in the Shoreline Engineering Development Manual. While staff recommended that the PRCS/Tree Board not make a recommendation to the City Council to change the tree removal notification period, staff is proposing some clean-up to the language in SMC Chapter 12.30 to reflect current delegation authority and to provide clarity for these regulations.

Tonight, Council is scheduled to discuss proposed Ordinance No. 960, which would provide for this amended Code language in SMC Chapter 12.30. Proposed Ordinance No. 960 is currently scheduled to be brought back to Council for potential action on April 18, 2022.

RESOURCE/FINANCIAL IMPACT:

There are no fiscal impacts to the staff recommended actions. Should Council direct staff to include PRCS/Tree Board recommended Code changes regarding the extended

notification period for the removal of non-hazardous trees in the ROW, there would be staff impacts that could result in fiscal impacts in the future.

RECOMMENDATION

No action is required. Staff recommends that the City Council discuss the proposed amendments to SMC Chapter 12.30 regarding the change to the delegated authority and to clarify the process for tree removal under a right-of-way permit. Subject to Council direction, proposed Ordinance No. 960 is scheduled to return to Council for potential action on April 18, 2022.

Approved By: City Manager ***DT*** City Attorney ***JA-T***

BACKGROUND

The Tree Preservation Code Team (TPCT) is a private citizen group that submitted 13 proposed Code amendments to the City's Planning and Community Development Department proposing changes to various provisions of the Shoreline Municipal Code (SMC) related to tree protection and preservation. Most of these proposed amendments were to the Shoreline Development Code and were reviewed by both the Shoreline Planning Commission and the City Council. One of the TPCT's proposed amendments, Amendment #12, proposes an amendment to SMC Chapter 12.30 to provide for changes to the notification process for removal of trees in the right-of-way (ROW). Policy questions related to public trees are not under the purview of the Planning Commission, but rather under the purview of the Parks, Recreation and Cultural Services (PRCS)/Tree Board and as such, this proposed amendment was not considered by the Planning Commission.

The PRCS/Tree Board did review TPCT proposed Amendment #12 on January 27, 2022. The TPCT proposal includes a requirement of 90-day notice for the removal of trees in the ROW, in addition to requirements for where this notification shall be posted and sent to. The TPCT-proposed amendment language to Public Tree Management Code (SMC Section 12.30.040(C)) is as follows:

SMC 12.30.040

C. Public Notice

- 1. Notice of all proposed removal of public tree(s) on public rights-of-way shall be given 90 (ninety) days in advance of public tree(s) removal. This notice shall be given by the legal entity removing the public tree(s), including but not limited to, the City of Shoreline, State of Washington, Shoreline School District, Shoreline Community College, and any entity granted permission to remove public tree(s).*
- 2. This notice, along with the arborist report and documentation, shall be:*
 - i) posted to the City's project description on the City's website;*
 - ii) listed in the monthly Currents publication;*
 - iii) emailed to every resident who requests advance notification of public tree removal;*
 - iv) posted on the public tree(s) designated for removal 30 (thirty) days in advance of tree(s) removal date on 11" x 14" laminated paper with the words "NOTICE OF TREE REMOVAL" in bold 48-point font. Signage will include*
 - (a) posting date,*
 - (b) date of tree removal, and*
 - (c) City project contact or entity project contact, phone number, email, together with the website where the public may download the arborist report and documentation. Notices shall be tied to the tree(s) with twine or wire.*
- 3. If public objections and/or questions are posed regarding the proposed public tree(s) removal, the issue shall be brought to the Director of Planning for response to the public. The Director may postpone the public tree(s) removal to*

answer the questions raised; or may hire an arborist to review the public tree(s) on site and prepare a report; or may direct the tree(s) be removed.

The staff report for this discussion with the Tree Board can be found at the following link: [20220127 PRCS Tree Board Agenda Packet \(shorelinewa.gov\)](https://www.shorelinewa.gov/20220127-PRCS-Tree-Board-Agenda-Packet).

PRCS/Tree Board Review and Proposed Amendment

Following this discussion with the PRCS/Tree Board, the Board did not support TPCT proposed Amendment #12. The Tree Board did however support codifying a shorter ROW tree removal notification requirement. The Tree Board recommended a clarification that the noticing requirement apply only to non-hazardous trees and that the notification period be set at 45 days for the removal of non-hazardous trees in the ROW. This would be an increase from the current 14-day notification requirement for ROW tree removal found in the [Engineering Development Manual \(EDM\)](#). The PRCS/Tree Board proposed amendment to SMC Chapter 12.30 reads as follows:

SMC 12.30.040

C. Public Notice. Notice of all proposed removal of non-hazardous public tree(s) on public rights-of-way shall be given 45 days in advance of the public tree(s) removal. This notice shall be given by the legal entity removing the public tree(s), including but not limited to, the City of Shoreline, State of Washington, Shoreline School District, Shoreline Community College, and any entity granted permission to remove public tree(s).

The motion and action for this recommendation are found on page 10 in the notes from the February 24th PRCS/Tree Board Meeting, which is available at the following link: <https://www.shorelinewa.gov/home/showpublisheddocument/54259/637807102902130000>).

DISCUSSION

Staff Analysis – ROW Tree Removal Noticing Period

Currently, SMC Chapter 12.30 does not address noticing requirements for the removal of public trees from the ROW. However, the 14-day noticing requirement for ROW tree removal was established in 2021 and is detailed in Section 7.4 of the EDM, which requires all trees that are approved to be removed from the ROW be posted with a [ROW Tree Removal Notification](#) at least 14 days prior to removal. The EDM is updated annually with a public process and opportunity for public input. Given that these requirements are in the EDM, staff does not believe it is necessary to also codify this requirement in the SMC.

While appreciating the objective of the PRCS/Tree Board to provide greater time for public engagement and awareness regarding notice relating to removal of public trees from the ROW, staff does not recommend increasing this notification period from 14 to 45 days for the following reasons:

1. *Impact on City projects, private development projects, and individuals authorized and permitted to remove ROW trees:* Increasing the noticing period for ROW tree removal could cause delay in City projects as well as other public and private development projects. When a ROW Permit is issued, the tree removal(s) have been reviewed and permitted through the ROW permit process and noticing on the tree for removal time greater than 14 days will not change the outcome of the removal. The permit holder may bear additional cost in time delay and potential hard dollar costs given the current market conditions if additional notification time is required.
2. *Impact on staff:* Managing and responding to additional public input generated by the additional 31 days of notification time (for a total of 45 days) detracts from staff work to accomplish other priority projects. While staff could develop and issue standard responses to each of the inquiries to educate the public on the Public Tree Management Code, Development Code, and the City's efforts to minimize impacts to trees as well as replanting requirements, each response takes time, and again, with no potential to impact or change the outcome of removal.

Proposed Ordinance No. 960- Housekeeping for SMC Chapter 12.30 - Public Tree Management

In reviewing the proposed amendments from the TPCT and PRCS/Tree Board, staff did identify multiple housekeeping and clarity amendments to the SMC Chapter 12.30. Proposed Ordinance No. 960 (Attachment A) incorporates these staff-recommended housekeeping amendments. The proposed amendments include a change to the delegated authority position title from the Parks, Recreation and Cultural Services (PRCS) Director to the Parks, Fleet and Facilities Manager, clarifies the process for tree removal under a ROW permit, which is approved by the Public Works Director, and provides for other amendments that help clarify the Code. A summary of the proposed changes is as follows:

SMC Section	Explanation of Proposed Housekeeping Amendments to Public Tree Management Code (SMC Chapter 12.30)
12.30.010	Reflects the delegated authority position title change to reflect the current organizational structure.
12.30.020	Adds the establishing Code section of the Parks, Recreation and Cultural Services Board and streamlines the Code language for public trees.
12.30.030A	Splits this Code section into two subsections for clarity; updates the position title change; eliminates a redundant statement regarding notice and opportunity for comment that is already included at the end of the subsection; and corrects the title of the City's Engineering Development Manual.
12.30.030B	Splits this Code section into two subsections for clarity; updates the position title change; provides some clean-up to the Code language regarding the City's fee schedule; and codifies a statement of what the fee in lieu of replacement trees shall be used for.

SMC Section	Explanation of Proposed Housekeeping Amendments to Public Tree Management Code (SMC Chapter 12.30)
12.30.040A	Adds a subsection title; changes the 'director' reference to the Public Works Director to reflect that the Public Works Department, not the Manager of Parks, Fleet and Facilities, issues ROW use permits; corrects the title of the City's Engineering Development Manual; and moves the requirement of the maintenance of planted trees out of this subsection and to new subsection 12.30.040C.
12.30.040B	Adds a subsection title and provides some clean-up to the Code language.
12.30.040B(1)	No change proposed.
12.30.040B(2)	Provides some clean-up and clarity to the Code language.
12.30.040B(3)	Corrects the title of the City's Engineering Development Manual and provides some clean-up and clarity to the Code language, including that a certified arborist determines when a tree is hazardous or causing damage to infrastructure.
12.30.040B(4)	Clarifies that removal is authorized under this section, not the City's clearing and grading regulations; moves the requirement of the maintenance of replacement trees out of this subsection and to new subsection 12.30.040C; and provides some clean-up to the Code language.
12.30.040B(5)	No change proposed.
12.30.040C	Moves maintenance of public trees for both planted and replacement trees to this subsection.

RESOURCE/FINANCIAL IMPACT

There are no fiscal impacts to the staff recommended actions. Should Council direct staff to include PRCS/Tree Board recommended Code changes regarding the extended notification period for the removal of non-hazardous trees in the ROW, there would be staff impacts that could result in fiscal impacts in the future.

RECOMMENDATION

No action is required. Staff recommends that the City Council discuss the proposed amendments to SMC Chapter 12.30 regarding the change to the delegated authority and to clarify the process for tree removal under a right-of-way permit. Subject to Council direction, proposed Ordinance No. 960 is scheduled to return to Council for potential action on April 18, 2022.

ATTACHMENTS

Attachment A – Ordinance No. 960
Attachment A, Exhibit A – Amendments to SMC Chapter 12.30 – Public Tree Management

ORDINANCE NO. 960

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON AMENDING CHAPTER 12.30 PUBLIC TREE MANAGEMENT OF THE SHORELINE MUNICIPAL CODE TO PROVIDE CLARITY AND TO REFLECT CURRENT DELEGATION AUTHORITY AND PRACTICES.

WHEREAS, the City of Shoreline is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington; and

WHEREAS, in 2012, with the adoption of Ordinance No. 617, the City established Chapter 12.30 Public Tree Management of the Shoreline Municipal Code (SMC) so as to be recognized as a *Tree City USA*, a program sponsored by the Arbor Day Foundation in cooperation with the United States Forest Service and the National Association of State Foresters; and

WHEREAS, recent amendments proposed by citizens to SMC Title 20, Unified Development Code, and to SMC Chapter 12.30, provided City Staff with the opportunity to review this Chapter which has not been amended since its initial establishment; and

WHEREAS, on April 4, 2021, the City Council discussed the proposed amendments, which are designed to provide clarity and to reflect current delegation authority and practices; and

WHEREAS, the City Council has considered the entire public record, public comments, written and oral, and has determined that the amendments to Chapter 12.30 are in the best interests of the citizens of Shoreline and the health, safety, and welfare of the City;

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

Section 1. Amendments. Chapter 12.30 Public Tree Management. Chapter 12.30 of the Shoreline Municipal Code, Public Tree Management, is amended as set forth in Exhibit A to this Ordinance.

Section 2. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and/or the Code Reviser are authorized to make necessary corrections to this Ordinance, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

Section 3. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to any person or situation.

Section 4. Publication and Effective Dates. A summary of this Ordinance consisting of the title shall be published in the official newspaper and shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON APRIL 18, 2022

Keith Scully, Mayor

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik Smith
City Clerk

Julie Ainsworth-Taylor
Assistant City Attorney
On behalf of Margaret King
City Attorney

Date of Publication: , 2022
Effective Date: , 2022

ORDINANCE No. 960

EXHIBIT A

Chapter 12.30

PUBLIC TREE MANAGEMENT

Sections:

- 12.30.010 Jurisdiction and administration.
- 12.30.020 Tree board.
- 12.30.030 Adoption of administrative procedures.
- 12.30.040 Public trees in the rRight-of-way ~~street trees~~.

12.30.010 Jurisdiction and administration.

It shall be the responsibility of the ~~director of the parks, recreation and cultural services department~~ parks, fleet, and facilities manager (hereafter "~~director~~" "manager") to manage and oversee the planting, care, maintenance and removal of all trees on ~~all streets, public rights-of-way, and city-owned public property within the city limits~~ (collectively, "public trees") in accordance with the provisions of this chapter.

12.30.020 Tree board.

The parks, recreation and cultural services board, created pursuant to chapter 2.55 SMC, shall is- ~~authorized to~~ serve as the city's tree board. The tree board shall be advisory to the city council. The primary responsibility of the tree board shall be to make policy recommendations concerning the management of public trees located on city-owned public property and in city- ~~rights of way~~. The tree board shall be comprised of all members of the parks, recreation and cultural services board acting in an ex officio capacity, and the roles, officers and terms of the tree board shall be the same as the parks, recreation and cultural services board.

12.30.030 Adoption of administrative procedures.

A. ~~The director~~ manager is authorized to prepare and adopt ~~after public notice and opportunity for public comment~~ procedures, technical standards, and standard plans necessary to facilitate implementation of this chapter, including a list of approved street trees in the Engineering Development ~~Guide~~ Manual after notice and opportunity for public comment.

B. ~~The director~~ manager shall make recommendations for ~~the a~~ fee in lieu of replacement ~~street~~ trees for adoption in the ~~city~~ fee schedule established by the city council as provided in Chapter 3.01 SMC and utilized for this chapter and SMC 20.50.360. The fee in lieu shall be used solely for the cost of planting and establishing public trees.

12.30.040 Public trees in the rRight-of-way ~~street trees~~.

A. Planting of public trees. A right-of-way use permit shall be required and issued by the director of public works ~~the parks, recreation and cultural services department~~ (hereafter "~~director~~") for planting ~~street~~ public trees in rights-of-way adjacent to ~~the an~~ applicant's property according to the variety and spacing approved in the Engineering Development ~~Guide~~ Manual if such activity does not physically disturb the existing or planned public use of the right-of-way. ~~Planted street trees shall be maintained by the applicant in accordance with the issued right-of-way use permit.~~

B. Non-exempt pruning and removal of public trees. A right-of-way use permit shall be required and ~~shall only be~~ issued by the director for the nonexempt pruning or removal of public trees in rights-of-way adjacent to ~~the~~ an applicant's property ~~in compliance with~~ subject to the following:

1. Limits on removal under critical area regulations.
2. ~~No permit shall be issued for removal of trees~~ Public tree removal is prohibited on rights-of-way that have not been opened with public improvements, including, but not limited to, streets, sidewalks, pathways, and underground or overhead utilities.
3. No trees listed in the Engineering Development Guide Manual as approved ~~street tree varieties~~ for planting within rights-of-way shall be removed, regardless of size, unless ~~the tree is removed by the city~~ deemed by a certified arborist as hazardous or causing damage to public or private infrastructure.
4. All existing public trees six inches in diameter at breast height or greater allowed to be removed ~~under clearing and grading regulations~~ shall be replaced with an approved variety of ~~street tree~~ in the area of removal according to the replacement formula in SMC 20.50.360(C)(1) through (3). ~~Replacement trees shall be maintained by the applicant in accordance with the issued right of way use permit.~~ If the director determines there is no suitable space for ~~replanting street~~ planting of the replacement trees in the vicinity of removal, the director will determine whether ~~the~~ an applicant shall replant at public sites approved by the director or pay a fee in lieu as established in this chapter ~~of replacement according to the current city fee schedule to be used exclusively for planting public trees in rights of way, parks or other public places.~~
5. All removed trees or pruned material shall be removed from the right-of-way and the right-of-way shall be restored in accordance with the issued right-of-way use permit.

C. Maintenance of public trees. All plated trees and replacement trees shall be maintained in good health and condition by an applicant, or their successor in interest, in accordance with the issued right-of-way use permit or other authorizing permit.