



## GENERAL GOVERNMENT COMMITTEE MEETING AGENDA

Online via Zoom

Wednesday, March 09, 2022  
3:00 PM

1. Call to Order
2. Roll Call
- [3.](#) Approval of Minutes: General Government Committee, February 9, 2022
- [4.](#) Urban Forestry Management Plan – Street Tree Plan Scope of Work (Brad Medrud)
- [5.](#) Urban Forestry Management Plan – Tree Preservation Regulation Update, Scope of Work (Brad Medrud)
- [6.](#) Interlocal Agreement for Electrification Cost Assessment (Brad Medrud)
7. Additional Items
8. Adjourn

### Remote Meeting Information

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**TUMWATER GENERAL GOVERNMENT COMMITTEE**  
**MINUTES OF VIRTUAL MEETING**  
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**CONVENE:** 3:00 p.m.

**PRESENT:** Chair Michael Althausen and Councilmembers Joan Cathey and Leatta Dahlhoff.

Staff: City Administrator John Doan, City Attorney Karen Kirkpatrick, Planning Manager Brad Medrud, and Executive Assistant/Deputy City Clerk Hanna Miles.

**APPROVAL OF MINUTES:**  
**JANUARY 12, 2022:**

**MOTION:** Councilmember Dahlhoff moved, seconded by Chair Althausen, to approve the minutes of January 12, 2022 as presented. Motion carried. Councilmember Cathey abstained.

**ORDINANCE NO. O2022-003, PRELIMINARY DOCKET FOR 2022 COMPREHENSIVE PLAN MAP AND TEXT AMENDMENTS AND CORRESPONDING REZONES:** Manager Medrud presented the preliminary docket of Comprehensive Plan Amendments. Amendments to the Tumwater Comprehensive Plan are considered at the beginning of each year. The amendments can include text, map, zoning map, and private and public rezones. Each year in September, the City publishes a public notice announcing the acceptance of applications for consideration as part of the City's Preliminary Docket process. The Planning Commission reviews the preliminary docket and recommends which amendments should move forward for inclusion in the final docket.

The 2022 Preliminary Docket includes the following amendments:

- Two proposed private map amendments and associated rezones:
  1. **Wells Littlerock Comprehensive Plan Land Use Map Amendment and Corresponding Rezone.** The application was submitted by proponent Glenn Wells, a local developer, for 2.76 acres comprised of three adjacent parcels located to the south of 7223 Littlerock Road SW owned by Marvin Beagles. The current Comprehensive Plan map designation and zone district is Single Family Medium Density Residential (SFM). The proponent proposes changing the map designation and zone district to Multi-Family Medium Density Residential (MFM). The parcels are vacant. Surrounding uses are zoned Mixed Use.
  2. **Bath Littlerock Israel Comprehensive Plan Land Use Map Amendment and Corresponding Rezone.** The application was submitted by proponent Peter Condyles. The property owner is Dayabir Bath. The

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amendment applies to two adjacent parcels totaling 1.97 acres located at 6940 Littlerock Road SW and 1850 Israel Road SW. A single-family house is located on one parcel. The second parcel is vacant. Current zoning of the surrounding area is Mixed Use. The applicant proposes changing the Comprehensive Plan Land Use designation and the zone district from Mixed Use (MU) to General Commercial (GC). Historically, the two parcels proposed for the amendment were part of the 2017 Sullivan Comprehensive Plan Map and Zoning amendments considered by the City Council in 2017 and 2018. The 2017 amendments changed the two parcels in addition to four other parcels in the area from Mixed Use Overlay (MUO) Comprehensive Map Designation and zone district to Mixed Use (MU). The Mixed Use Overlay (MUO) requires components of residential and commercial uses. The City's Mixed Use (MU) zone district does not require a mix of uses. At the time, the City Council did not support another amendment pertaining to parcels 1 through 6, which included the Bath Littlerock Israel property to General Commercial. The Council did not approve the amendment in order to maintain some level of mixed use along Littlerock Road.

- Three proposed public text amendments include:
  3. **Neighborhood Character.** Review Comprehensive Plan Housing and Land Use Elements and determine if there are amendments needed to address “neighborhood character.”
  4. **Thurston Climate Mitigation Plan.** Update greenhouse gas emission (GHG) targets in the Conservation Element to address HB 2311 – Review Comprehensive Plan Conservation and Land Use Elements and determine if there are amendments needed to address HB 2311 2022 Text Amendments.
  5. **Essential Public Facilities Amendments.** Review the Comprehensive Plan Land Use Element and determine if there are amendments needed to address essential public facilities, including but not limited to: intensive inpatient facilities; long-term residential drug treatment facilities; and recovery house facilities.

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- One proposed public map amendment and associated rezone includes:
  6. **Dennis/Linderson Triangle.** The City proposed the amendment for a portion of 5.73 acres of vacant land located at 6501 Linderson Way SW at the western corners of Linderson Way SW and Dennis Street SW. During the 1980s, Linderson Avenue was located along I-5 with no separation. The area to the south has redeveloped to multifamily uses. The proposal would change the Comprehensive Plan map designation and zone district from Single Family Medium Density Residential (SFM) to Multifamily High Density Residential (MFH).

Manager Medrud reported the Planning Commission recommended moving all proposed amendments forward for further review as part of the final docket. Staff recommended not moving the Bath Amendment forward. The Commission disagreed and recommended including all amendments as part of the final docket process. During the review of the history of the site and recent changes as part of the 2017/2018 Comprehensive Plan amendment for the Sullivan amendment, those subject parcels had been considered and evaluated. Staff did not believe a change in the area has occurred that would warrant an amendment at this time.

Councilmember Dahlhoff recalled that she was a member of the Commission at that time when the Commission recommended changing the parcel to General Commercial (GC) as no activity had occurred under the existing zoning and the Commission believed that changing the zoning might incentivize development. There were many conversations and the Council elected to retain the zoning to preserve the opportunity for the property to develop as mixed use.

Councilmember Cathey asked about the ownership of the property for the last amendment proposal. Manager Medrud said the property is privately owned by the owner of a multifamily development located immediately to the south of the property. The property serves as the multifamily development's open space area.

Manager Medrud reported the next step is for the committee to consider forwarding the docket to the City Council for a worksession on February 22, 2022 or for consideration by the Council on March 1, 2022. The action establishes the final docket for further review by staff with the final docket presented to the Commission in July for review followed by reviews by the committee and the Council in fall 2022.

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Councilmember Dahlhoff asked whether additional information is available pertaining to the Bath property in terms of why General Commercial versus Mixed Use is preferred by the property owner. Manager Medrud advised that the applicant provided information to the City outlining the lack of interest for selling the property and lack of interest because of the zoning of the property.

Chair Althausen recalled that one of the Council's concerns for zoning the property to General Commercial was because the property is located close to the Littlerock Road roundabout and concerns about the property redeveloped as a gas station or a drive through with egress to close to a busy roundabout. Additionally, the Council preferred locating high intense commercial uses closer to the freeway and away from the residential uses and retain mixed use along the Littlerock Road corridor.

Councilmember Cathey supported retaining existing zoning as it is appropriate to maintain mixed use along the corridor. Chair Althausen agreed as well. Councilmember Dahlhoff recommended including the proposed amendment for the benefit of new Councilmembers to review the background associated with the property, although she also supports retaining the existing zoning of Mixed Use.

**CONSENSUS:**

**The General Government Committee supported moving the entire Preliminary Docket for 2022 Comprehensive Plan Map and Text Amendments and Corresponding Rezones forward to the City Council for a worksession with a recommendation that the Bath amendment should not be included as one of the recommended actions.**

**TUMWATER HOUSING  
ACTION PLAN –  
POTENTIAL MEASURES  
FOR ADDRESSING  
TENANT PROTECTIONS:**

Manager Medrud briefed the committee on the status of potential tenant protections. He reviewed the status of some of the measures as the state has passed some legislation addressing some of the proposed measures. The City's work group discussed the following draft list of potential measures to consider for amendments to the Tumwater Municipal Code and evaluated what measures should or should not move forward:

Measure 1: Prohibit use of online bidding platforms (Not recommended to move forward)

Measure 2: Require landlords to distribute certain housing related information, including rights and responsibilities to tenants (Recommend moving forward)

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Measure 3: Require that deposits, as well as recurring and one time fees be in written agreements (Recommend moving forward)

Measure 4: Make landlord failure to comply a renter defense to eviction and the landlord subject to liability and penalties (Recommend moving forward)

Measure 5: Prohibit waiving of city requirements (Recommend moving forward)

Measure 6: Prohibit retaliation (Not recommended to move forward)

Measure 7: Require notification a set number of days prior to eviction due and of no cause eviction (Recommend moving forward)

Measure 8: Require notification a set number of days prior to any rent increase (Recommend moving forward)

Measure 9: Require a landlord to allow a tenant to pay the deposit and move in and administrative fees over a period of up to a number of months and allow tenants the ability to pay security and last month rent over a period of three months after moving in in lieu of upfront so there is less initial barrier to entry (Not recommended to move forward)

Measure 10: Add source of income protections in housing rental code (Not recommended to move forward)

Measure 11: Add citizenship status protections in housing rental code (Not recommended to move forward)

Measure 12: Limit fees a landlord could charge (Not recommended to move forward)

Measure 13: First-in-time tenancy required (Not recommended to move forward)

Measure 14: Add criminal conviction status protections in housing rental code (Not recommended to move forward)

Measure 15: Require landlords to show good cause to terminate a month-to-month. (Not recommended to move forward)

Measure 16: Tenant relocation assistance fund (Not recommended to move forward)

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Measure 17: Provide relocation payment for any low-income tenant displaced by the reasons in Measure #7 (Not recommended to move forward)

Manager Medrud explained that Measures 1 and 6 were removed because the City is not experiencing any issues (Measure 1) and Measure 6 has been addressed by recent state legislation. Measures 9 -15 were reviewed with the Council. The Council directed not proceeding with the measures at that time. Those measures would be best addressed by the state or they might extend into the realm of regulating economic issues, which is outside the City's authority.

Councilmember Cathey asked whether the state's booklet on tenant rights has been updated to reflect changes in recent legislation. She is aware of several situations where community members experienced discrimination because of their citizenship or ethnicity. Chair Althaus affirmed he experienced similar situations in his previous position with clients experiencing discrimination in Tumwater. Approximately one year following legislation on source of income, the City also expanded provisions in the Tumwater Municipal Code to reflect citizenship in alignment with state legislation.

City Attorney Kirkpatrick affirmed the City updated housing protection codes in 2020 and included both source of income protection and protection for citizenship or immigration status.

Councilmember Cathey asked about the method of enforcement when the codes are violated. City Attorney Kirkpatrick said any complaints or allegations are referred to her office.

Discussion ensued on challenges associated with informing the tenant community of current protections and methods for reporting abuses.

Manager Medrud reviewed the status of Measures 12 through 15. Based on Council and staff discussions, he explained why the measures would not be pursued. Other measures pertaining to communication and education were retained.

Measure 18: Create a list of landlords for communication regarding notices and enforcement.

Measure 19: Contract with Dispute Resolution Center for tenant and landlord conflict resolution services

In addition to the measures and the actions identified as part of the Housing Action Plan, staff proposes combining the actions and

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initiating a discussion on identifying priorities, consider funding options for providing support or for additional staffing, and methods to pursue for communicating to landlords and tenants. Staff has contacted other jurisdictions to discuss the status of tenant protections, which will be shared with the Council. Additionally, staff and some tenants and landlords have engaged in individual conversations, as well as with housing advocates. Following the establishment of priorities moving forward, staff plans to continue those conversations.

Manager Medrud reviewed a proposed priority list of actions:

1. Measure 18: Create a list of landlords for communication regarding notices and enforcement
  - Action 5.d. Establish a rental registration program to improve access to data and share information with landlords. *Councilmember Cathey asked whether the City has identified rental properties in the City. Manager Medrud explained that it would be possible to identify multifamily housing units as a first step. Identifying other properties, such as single-family or duplex units that are rented by the property owner is much more difficult. The City of Lacey has a residential building registration program focusing on multifamily developments of 20 units or more. Councilmember Cathey pointed out that many of the abuses occur by owners of duplexes, triplexes, and single-family homes. She supports some method of identifying single-family and duplex rental units. Manager Medrud advised that if the action is approved to move forward, staff would develop a proposed program for consideration by the Council. Councilmember Dahlhoff supported a regionalized process to ensure consistency between the jurisdictions. Councilmember Cathey supported publishing information that could be provided to tenants. Chair Althausser added that the measure would support the ability to communicate with tenants and landlords. Often, funding and other forms of support are provided by the state or the federal government. It would be helpful for the City to have the information to facilitate sending notices to tenants and landlords communicating the availability of resources. Manager Medrud said based on the input, staff would proceed to prepare a proposal for the program.*
2. Measure 19: Contract with Dispute Resolution Center for tenant and landlord conflict resolution services. *Manager Medrud reported staff proposes developing a proposal for a*

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*process. Chair Althausen supported the proposal as it provides a resource for tenants and landlords to resolve issues rather than pursuing court action, which might affect a tenant's future ability to rent. Manager Medrud affirmed support for staff to develop a proposal. Councilmember Cathey asked that staff also address ways the City could improve communications to the community of both regulations and opportunities.*

3. *Action 5.b. Fund Housing Navigators to assist households, renters, homeowners, and landlords with housing issues. The proposal is essentially an ombudsman who would serve as a resource for tenants and landlords. The position might not necessarily reside within the City but would include working closely with the Regional Housing Council or another regional entity to establish a position. The City of Olympia has developed navigator programs focused primarily on ensuring the homeless are connected to services.*
4. *Action 2.e. Identify and implement appropriate tenant protections that improve household stability. Manager Medrud reported the action includes all measures recommended to move forward and would be an ordinance or code changes to address all the issues. Staff could pursue the action in conjunction with the development of the first two proposals as a package of three issues to consider. Chair Althausen supported incorporating the priority with the work program for concurrency with the first two proposals. The third action for the ombudsman would likely be tiered in priority because of the level of effort to establish a program.*
5. *Action 1.k. Enhance enforcement of property maintenance codes to keep housing in good repair. Manager Medrud reported the City currently relies on a complaint-driven process for code violations. The proposal would elevate the rental list to another level by implementing a program of periodic inspection of rental properties. The Council included the proposal within the Housing Action Plan. Implementing the priority would require a high level of effort and likely would follow the first several priorities. Councilmember Cathey supported the proposal to ensure subhousing is not included in the City's rental market. Councilmember Dahlhoff referred to the committee's previous request for staff to contact Thurston County staff to identify any complaints the county has received as a way to collect data as a starting point as the priority is developed for future implementation. In response to questions on the complaint process for code violations, Manager Medrud advised that all complaints should be directed to code enforcement through the Tumwater Police Department. The police department contacts appropriate department staff for*

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*any building or landscaping issues. Councilmember Dahlhoff added that many people are not comfortable with contacting the police department or fear retaliation, which is why the City's program with the Dispute Resolution Center is important to as it would provide another avenue for collecting the information and addressing the issue.*

6. Action 2.f. Develop a technical assistance or education program for small landlords. *The proposal is to assist landlords in making changes to properties to be in compliance without overburdening tenants with improvements.*
7. Action 2.h. Fund an energy assistance program for rental housing/make landlords do upgrades when the unit is sold.
8. Action 2.g. Assist non-profits in the process of acquiring mobile home parks to turn them into public trusts so that lot rental fees can be controlled. *Manager Medrud advised that staff has had discussions with several non-profits for options in the community. Staff proposes relying on non-profits to contact owners to identify potential opportunities. Councilmember Dahlhoff encouraged proactively supporting the priority as many parks house seniors. Chair Althausen recommended revising the action by including language that speaks to preserving existing housing.*
9. Action 2.d. Support down payment assistance programs for homeownership and programs that assist people entering the rental market. *Manager Medrud advised that the action is likely a regional effort but was included to ensure the option is explored.*
10. Action 2.c. Adopt short-term rental regulations to minimize impacts on long-term housing availability.
11. Action 2.a. Have developers provide tenants displaced by redevelopment with relocation assistance. *The priority is another action that would be coordinated regionally.*

Manager Medrud advised that the next step is revising the status of actions based on the input for review by the committee followed by referral to the Council.

Chair Althausen supported the proposed next steps while also expressing interest in feedback from the committee about addressing the ordinance concurrently as the City attempts to pursue the first two priorities. Next steps could include drafting the ordinance of tenant protections while directing staff to pursue efforts on the first two communication and education priorities.

Councilmember Cathey suggested consideration of options for the City to communicate current efforts by the City to tenants as the City

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pursues actions. Chair Althausen noted that although the ordinance would include tenant rights, the second tier of programmatic elements of communication and education would be an effective way to communicate the information.

Manager Medrud recommended the next step could include a broad overview of the actions with the Council; however, his concern is beginning with the ordinance as it is important to consider ways to communicate information to the community and will follow up with Director Matlock and staff on the best approach. Chair Althausen agreed with the option of pursuing the programmatic elements first but is concerned about how it would impact the timeline with respect to the ordinance. Outlining the communications program might require months until the Council could consider the ordinance, which might entail another discussion as to whether that delay would be viable.

Manager Medrud offered to schedule an additional meeting between City Administrator Doan, City Attorney Kirkpatrick, Director Matlock, Manager Medrud, and Chair Althausen on next steps to ensure the Council is informed before communicating information to the community. Chair Althausen supported the recommendation.

**ADDITIONAL ITEMS:**

There were no additional items.

**ADJOURNMENT:**

**With there being no further business, Chair Althausen adjourned the meeting at 4:24 p.m.**

Prepared by Puget Sound Meeting Services, [psmsoly@earthlink.net](mailto:psmsoly@earthlink.net)

TO: General Government Committee  
 FROM: Brad Medrud, Planning Manager  
 DATE: March 9, 2022  
 SUBJECT: Urban Forestry Management Plan – Street Tree Plan

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1) Recommended Action:

Review attached memorandum and be prepared to discuss.

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2) Background:

The next step in the implementation of the Urban Forestry Management Plan is the preparation of a *Street Tree Plan*. The new *Street Tree Plan*, which will be an element of the *Urban Forestry Management Plan*, is intended to be the reference for all policies, regulations, and guidance for street trees in the City and replace the 2003

The process will involve hiring a consultant to work with staff, stakeholders, and the Tree Board, Planning Commission, and City Council to update the city's street tree regulations (TMC 12.24) as well as reviewing and potentially updating other relevant sections of TMC Title 12 *Streets, Sidewalks and Public Places*, Title 16 *Environment*, and Title 17 *Land Division*. The Tumwater Development Guide, the *Littlerock Road Subarea Plan*, the *Tumwater Town Center Street Design Plan*, and the *Capitol Boulevard Community Zone Design Guidelines* will also be reviewed.

The attached draft scope of work for the consultant will be included in a Request for Proposals (RFP) that the City will be issuing for a consultant to work on the regulation update.

In addition, the City's tree preservation (TMC 16.08) and landscape buffering and screening regulations (TMC 18.47) will also be updated in 2022.

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3) Policy Support:

Conservation Element Policy C-1.1: Protect the ecological integrity of the natural environment while allowing for compatible growth and development.

Conservation Element Policy C-1.5: Maximize retention of a healthy tree cover and native vegetation and encourage restoration, replacement, and enhancement of unhealthy trees and disturbed vegetation.

Land Use Element Implementation Policy 16: Implement the Urban Forestry Management Plan through the municipal code, Development Guidelines, City employee processes, and community education and engagement.

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4) Alternatives:

None.

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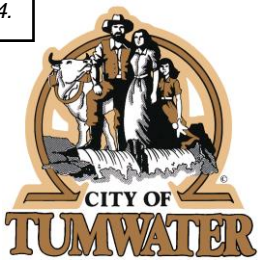
5) Fiscal Notes:

Staff has submitted an application for a grant under the Washington State Department of Natural Resources' 2022 Community Forestry Assistance Grant to help pay work on the Plan. If grant funds were awarded, the match would be an internally funded work program task.

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6) Attachment:

A. Urban Forestry Management Plan – Street Tree Plan Scope of Work Memorandum



City Hall  
555 Israel Road SW  
Tumwater, WA 98501-6515  
Phone: 360-754-5855  
Fax: 360-754-4138

## Memorandum

Date: March 9, 2022

To: General Government Committee

From: Brad Medrud, Planning Manager

Subject: Urban Forestry Management Plan –  
Street Tree Plan, Scope of Work

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### Issue

Street trees are an essential part of the character of the City. As part of a healthy community and urban forest, they provide many environmental, economic, and community benefits. Street trees work constantly to mitigate the negative effects of development, while protecting and enhancing lives within the community. In addition to environmental benefits such as improving and protecting water and air quality, directly and indirectly addressing the effects of climate change, and buffering urban noise, street trees also have socioeconomic and aesthetic benefits, including promoting equity and environmental justice within the community by ensuring each neighborhood in the City receives community investment and support.

The City Council adopted the *Urban Forestry Management Plan* on March 2, 2021 after four years of work. The City's urban forest consists of all trees and understory plants on public and private property in the City. It includes a diverse mix of vegetation that is managed by a broad group of individuals and groups that are located in a range of urban and natural settings including private properties, developed parks, rights-of-way, conservation areas, and other public lands.

The *Urban Forestry Management Plan* guides the stewardship of the urban forest within the City through a series of implementation actions. Twenty-five actions in the City's *Urban Forestry Management Plan* address street trees and the most important of these are the following three actions with their overall objectives:

**Objective 1.1.** Increase canopy cover in the City to expand the community and urban forest.

**Action C.** Require appropriate tree planting in new development and redevelopment, by emphasizing proper planning for trees, correct planting techniques, and aftercare that supports the healthy establishment of newly planted trees.

## Urban Forestry Management Plan – Street Tree Plan

## Scope of Work

March 9, 2022

**Objective 4.1.** Update the *Urban Forestry Management Plan* and supporting regulations regularly and ensure they work in harmony with other City strategic priorities.

**Action D.** Review tree preservation, landscaping, and street tree regulations regularly to ensure that they are working with other City strategic priorities, plans, and regulations, responding to changes in climate, and implementing the *Urban Forestry Management Plan*.

**Action E.** Review and update the Comprehensive Street Tree Plan regularly to reflect “The Right Tree in the Right Place” strategies, including plantings in planter strips and medians and encourage planting of native tree species, where appropriate.

The next step in the implementation of the *Urban Forestry Management Plan* is the preparation of a *Street Tree Plan*, which is intended to guide street tree planting and maintenance in the City as an element of the 2021 *Urban Forestry Management Plan*. The *Street Tree Plan* will incorporate elements of the 2002 *Comprehensive Street Tree Plan* that was prepared by Washington Forestry Consultants, Inc.

Work on the *Street Tree Plan* will include updating Tumwater Municipal Code (TMC) 12.24 *Street Trees*, Chapter 3 of the *Tumwater Development Guidelines*, as well as review and update other relevant regulations, plans, and procedures for maintaining street trees with the *Urban Forestry Management Plan*’s primary goal of ensuring “The Right Tree in the Right Place.”

The purpose of the *Street Tree Plan* is to guide the maintenance, management, and improvement of the street tree component of the community and urban forest in the City for the benefit of the entire community over the next 20 years. The *Street Tree Plan* and the regulations establish the minimum requirements and standards for development and redevelopment of individual properties in the City as it relates to the street trees. The information for the *Street Tree Plan* will come from multiple sources, including stakeholder groups and inventories and surveys completed as part of the development of the *Urban Forestry Management Plan*.

As part of work on the *Urban Forestry Management Plan*, in 2018 more than 25 volunteers worked with staff and our consultant to inventory, measure, and catalogue more than 3,500 street trees using geographic information systems (GIS) and global positioning systems (GPS). Trees were identified by species, measured trunks at diameter breast height or four and a half feet above the ground, and canopy width, and rated for structure, condition, and health.

The street tree inventory included most City-owned trees planted in rights-of-way between a public sidewalk and a City street. In addition to common tree measurements described above, the inventory teams collected data on sidewalk displacement and planting location types in order to study relations between tree species and types of hardscape damage. This data has been incorporated into the City’s GIS-based asset management system.

## Urban Forestry Management Plan – Street Tree Plan

## Scope of Work

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On September 22, 2021, the Tree Board and Planning Commission took a field trip to four different sites in the City to review street trees conditions and then provided input on the *Street Tree Plan* scope of work at more than seven meetings in the summer and fall of 2021 and the winter of 2022.

The *Street Tree Plan* will identify recommendations regarding sustainable resource management for street trees in the City that can be used by residents, homeowner associations, commercial and industrial property owners, developers, landscape architects, arborists, tree professionals, and tree and landscape maintenance staff including the following criteria for sustainable resource management:

Criteria	Key Purpose
<b>Management Plan</b>	Develop and implement a management plan for street trees on public right of ways that includes updating tree design and planting guidelines to provide for long-term development and health of the trees by providing enough space for them to grow.
<b>Funding</b>	Develop and maintain adequate funding to implement the <i>Street Tree Plan</i> .
<b>Staffing</b>	Employ and train adequate City staff to implement the <i>Street Tree Plan</i> .
<b>Assessment Tools and Data Management</b>	Develop methods to collect information about the street trees on a routine basis.
<b>Species and Site Selection</b>	Provide guidelines and specifications for street tree species use, on a context-defined basis.
<b>Standards For Tree Care</b>	Adopt and adhere to professional standards for street tree care.
<b>Public Safety</b>	Maximize public safety with respect to street trees.
<b>Equity</b>	Ensure that ensuring each neighborhood in the City receives community investment and support by requiring street trees to be planted on all public and private streets, and in all new development
<b>Reuse</b>	Create a closed system for street tree waste.

All natural and built systems change over time. Adaptive changes must be actively planned, managed, and maintained over the course of the *Street Tree Plan*'s duration to result in effective benefits. Lack of planning and management is evident where street trees are planted in places that do not allow for growth, which can lead to conflict with sidewalks and utilities. Proactive planning, management, and

## Urban Forestry Management Plan – Street Tree Plan

### Scope of Work

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maintenance are needed to keep street trees in the City sustainable and in balance with other urban priorities.

The conditions under which trees grow in the City are often less than optimal. The soils in developed areas are often severely compacted, low in organic content and may contain construction debris. Trees often have restricted rooting space, and the space they do have is often covered with concrete or asphalt, reducing access to water and gas exchange from the soil to the air, critical to tree health.

Because the urban environment is a complex combination of human growth and disturbed environments, the selection of street trees used to create a healthy, sustainable urban environment should include a mixture of native and non-native trees, with no single species dominating. The predominance of a single species will increase the susceptibility of street trees to pests or disease.

The *Street Tree Plan* will provide a comprehensive list of street trees appropriate for all of the City's arterial and collector streets, as well as a general list for all other street types and include a detailed tree planting specification for use in transportation and engineering projects that could also be used for parks and recreation projects. The tree planting plan, specifications, and maintenance guidelines will ensure that the durable, long-term, canopy forming trees will be planted along City streets, forming the linkages between neighborhoods in the City.

The *Street Tree Plan* is proposed to be organized into four chapters and series of appendices.

**Chapter 1 – Introduction** describes the reasons why the City developed the Plan, its benefits, and its purpose.

**Chapter 2 – Background** refers to the existing regulations and street tree surveys completed.

**Chapter 3 – Street Tree Planning** describes the vision for future street tree plantings.

**Chapter 4 – Street Tree Planting** contains recommendations for street tree planting and maintenance.

**Appendices** include information specific street trees to be planted, as well as planting and pruning recommendations.

### Grant Application

The City submitted a Community Forestry Assistance grant application on February 22, 2022 to the Department of Natural Resources to support a consultant to work on the *Street Tree Plan*. The purpose of the grant is to assist communities with planning and implementing projects that improve management, care, and public engagement with trees growing in parks, natural areas, and along public rights-of-way. As part of the grant, projects also need to address social and environmental disparities in

## Urban Forestry Management Plan – Street Tree Plan

## Scope of Work

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Washington communities by investing in community-identified urban forestry needs that advance environmental, social, or public health outcomes.

**Draft Scope of Work**

1. Prepare Public Engagement Plan, which will:
  - a. Define the stakeholders for the process of creating the *Street Tree Plan*, their different information needs, and their role in the update process:
    - 1) Residential property owners
    - 2) Homeowner associations
    - 3) Commercial, industrial, and institutional property owners
    - 4) Residential, commercial, industrial, and institutional developers
    - 5) City maintenance staff
    - 6) City development review staff, including planning, building and development engineering staff
    - 7) City code enforcement staff
    - 8) Professional consultants, such as landscape architects, foresters, and arborists
    - 9) Tree cutting/landscape maintenance companies
  - b. Explicitly address how the *Street Tree Plan* will promote equity and environmental justice
  - c. Establish external and internal stakeholder groups
  - d. Contain a project schedule for:
    - 1) Community and stakeholder meetings
    - 2) Staff stakeholder meetings
    - 3) Draft work product delivery schedule for review by staff, stakeholders, and the Tree Board, Planning Commission, and City Council
    - 4) Public worksessions with the Tree Board and the Planning Commission
    - 5) Formal adoption of the supporting regulations through the Tree Board, the Planning Commission, including a public hearing, General Government Committee briefing, City Council worksession, City Council consideration and adoption
  - e. Identify materials for the implementation of the Public Engagement Plan
    - 1) City website and social media materials
    - 2) Materials to support the external and internal stakeholder groups

## Urban Forestry Management Plan – Street Tree Plan

## Scope of Work

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- 3) Explanatory materials to support the community and stakeholder meetings, public worksessions with the Tree Board, Planning Commission, and City Council, and adoption of the *Street Tree Plan* and supporting regulations
  - f. Review of the draft Public Engagement Plan by City staff, Tree Board, Planning Commission, and City Council
- 2. Implementation of the Public Engagement Plan
  - a. Conduct stakeholder meetings
    - 1) External stakeholders
    - 2) Internal stakeholders
  - b. Conduct a public open house, if needed
  - c. Conduct public worksessions with the Tree Board and Planning Commission
  - d. Conduct formal adoption of the *Street Tree Plan* and supporting regulations through the Tree Board, the Planning Commission, including a public hearing, General Government Committee briefing, City Council worksession, and City Council consideration and adoption
  - e. Prepare materials for the implementation of the Public Engagement Plan
- 3. Prepare the *Street Tree Plan*, which would include the following sections:
  - a. Introduction, describing the reasons why the City developed the *Street Tree Plan*, its benefits, and its purpose
  - b. Background, referring to the process for creating the *Street Tree Plan*, public engagement process updating regulations, and street tree surveys completed
  - c. Street tree planning, describing the vision for future street tree plantings, including:
    - 1) Arterials and connectors
    - 2) Guidance for other street types
    - 3) Street tree design recommendations
  - d. Street tree planting, containing recommendations for the following:
    - 1) Street tree planting and maintenance guidance
    - 2) Street tree management responsibilities
    - 3) Best management practices for street tree care
    - 4) Street tree planting list
    - 5) Street tree planting specifications and details

## Urban Forestry Management Plan – Street Tree Plan

## Scope of Work

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- 6) Street tree pruning guidelines
- e. Shorter, individual documents derived from the *Street Tree Plan* for specific audiences and their needs:
  - 1) Residential property owners and homeowner associations
  - 2) City maintenance staff
  - 3) Tree cutting/landscape maintenance companies
- 4. Prepare amendments to the following, as needed:
  - a. Tumwater Municipal Code Amendments:
    - 1) TMC Title 12 *Streets, Sidewalks and Public Places* (TMC 12.08 *Street and Sidewalk Obstructions*, TMC 12.12 *Construction of Curbs and Sidewalks*, and TMC 12.24 *Street Trees*)
    - 2) Title 16 Environment (TMC 16.08 *Protection of Trees and Vegetation*)
    - 3) Title 17 Land Division (TMC 17.04 *Definitions*)
  - b. *Tumwater Development Guide*, Chapter 3 *General Engineering Considerations* and Chapter 4 *Transportation*, text and details
  - c. *Littlerock Road Subarea Plan*, Chapter 5 *Implementation*
  - d. *Tumwater Town Center Street Design Plan*
  - e. *Capitol Boulevard Community Zone Design Guidelines*
  - f. The ordinance should be assessed for compliance with the Growth Management Act (GMA) requirement to comply with the Attorney General's Guidance regarding takings

**Schedule**

- May and June 2022 – RFP process and consultant selection
- July 2022 – Project start
- July 1, 2022 – June 1, 2023 – Department of Natural Resources grant money will be available
- December 31, 2022 – Project completion

Notice of Intent and SEPA Review

- August 2022 – Submit Notice of Intent to Commerce
- August 2022 – SEPA Review

Urban Forestry Management Plan – Street Tree Plan  
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Tree Board Meetings

- July 11, 2022 – Tree Board worksession
- August 8, 2022 – Tree Board worksession
- September 12, 2022 – Tree Board worksession

Planning Commission Meetings

- August 23, 2022 – PC worksession
- September 13, 2022 – PC worksession
- September 27, 2022 – PC hearing

City Council Meetings

- October 12, 2022 – GGC briefing
- October 25, 2022 – CC worksession
- November 15, 2022 – CC consideration

**Other Notes**

- The street tree survey completed as part of the development of the Urban Forestry Management will be used to determine which tree species caused the most infrastructure damage.
- At the December 14, 2021 City Council worksession on the Planning Division department work program, Councilmember Dahl recommended contacting the company she used that would like to review 'tree' related documents and plans. They also voiced interest in joining the Tree Board if there is room in the future. <https://www.doubledtreelc.com/>
- Also at the December 14, 2021 City Council worksession, Councilmember Schneider recommended avoiding the Bradford pear as a street tree.
- Staff has asked our Permitting Division staff if they could provide recent as-built plans and landscaping plans for recent projects such as Skyview to the Planning Commission and Tree Board. As part of this scope of work, staff will spend a worksession taking the Planning Commission and Tree Board through the development review process.
- Staff has reviewed materials related to the scope of work provided by Ben Thompson and his staff at the Washington State Department of Natural Resources.
- On December 16, 2021, the City issued the job posting for the new sustainability coordinator position, which will be taking lead on urban forestry projects in 2022. The position closed in January 2022 and staff are reviewing

## Urban Forestry Management Plan – Street Tree Plan

### Scope of Work

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candidate for the position in February and March 2022. The new sustainability coordinator will be taking over as lead staff for the Tree Board, but Planning Division staff will continue to lead the work on the code update.

TO: General Government Committee  
FROM: Brad Medrud, Planning Manager  
DATE: March 9, 2022  
SUBJECT: Urban Forestry Management Plan – Tree Preservation Regulation Update, Scope of Work

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1) Recommended Action:

Review attached memorandum and be prepared to discuss.

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2) Background:

The next step in the implementation of the *Urban Forestry Management Plan* is the preparation of an update to the City's tree preservation regulations. The process will involve hiring a consultant to work with staff, stakeholders, and the Tree Board, Planning Commission, and City Council to update the City's tree and vegetation preservation regulations (Tumwater Municipal Code (TMC) 16.08 *Protection of Trees and Vegetation*), as well as review and update other relevant regulations, plans, and handouts.

The attached draft scope of work for the consultant will be included in a Request for Proposals (RFP) that the City will be issuing for a consultant to work on the regulation update.

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3) Policy Support:

Conservation Element Policy C-1.1: Protect the ecological integrity of the natural environment while allowing for compatible growth and development.

Conservation Element Policy C-1.5: Maximize retention of a healthy tree cover and native vegetation and encourage restoration, replacement, and enhancement of unhealthy trees and disturbed vegetation.

Land Use Element Implementation Policy 16: Implement the Urban Forestry Management Plan through the municipal code, Development Guidelines, City employee processes, and community education and engagement.

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4) Alternatives:

None.

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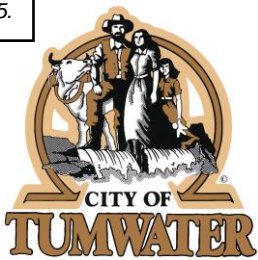
5) Fiscal Notes:

Although City staff time is internally supported, the funding for the consultant is suggested to come from the Permit Reserve Fund. A budget amendment would be required at year's end. These funds are collected to support permit review activity, such as compliance with tree preservation requirements. There are ample funds to pay for this project.

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6) Attachment:

- A. *Urban Forestry Management Plan* – Tree Preservation Regulation Update Scope of Work Memorandum



City Hall  
555 Israel Road SW  
Tumwater, WA 98501-6515  
Phone: 360-754-5855  
Fax: 360-754-4138

## Memorandum

Date: March 9, 2022

To: General Government Committee

From: Brad Medrud, Planning Manager

Subject: Urban Forestry Management Plan –  
Tree Preservation Regulation Update, Scope of Work

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### Issue

Trees are an essential part of the character of the City. As part of a healthy community and urban forest, they provide many environmental, economic, and community benefits. Trees and their associated vegetation work constantly to mitigate the negative effects of development, while protecting and enhancing lives within the community. In addition to environmental benefits such as improving and protecting water and air quality, directly and indirectly addressing the effects of climate change, and buffering urban noise, trees also have socioeconomic and aesthetic benefits, including promoting equity and environmental justice within the community by ensuring each neighborhood in the City receives community investment and support.

The Tumwater City Council made urban forestry one of four top priority actions for 2022-23. The City Council adopted the *Urban Forestry Management Plan* on March 2, 2021 by Ordinance No. O2020-004 after four years of entirely City-funded work by City staff, stakeholders, a consultant, the Tree Board, and the Planning Commission. The City's urban forest consists of all trees and understory plants on public and private property in the City. It includes a diverse mix of vegetation that is managed by a broad group of individuals and groups that are located in a range of urban and natural settings including private properties, developed parks, rights-of-way, conservation areas, and other public lands.

The focus of the *Urban Forestry Management Plan* is the “The Right Tree in the Right Place” and the *Plan* guides the stewardship of the urban forest within the City through a series of implementation actions. The primary actions that address the preservation of trees and vegetation include:

**Goal 1.** Restore and enhance the community and urban forest.

**Objective 1.1.** Increase canopy cover in the City to expand the community and urban forest.

## Urban Forestry Management Plan – Tree Preservation Regulation Update

## Scope of Work

March 9, 2022

**Action B.** Ensure that landscaping regulations provide for the preservation of trees with potential and the planting of new trees and understory when removing existing trees and understory on public and private properties.

**Action C.** Require appropriate tree planting in new development and redevelopment, by emphasizing proper planning for trees, correct planting techniques, and aftercare that supports the healthy establishment of newly planted trees.

**Goal 2.** Protect and preserve the community and urban forest, which includes trees, understory, habitat, and soils.

**Objective 2.1.** Use regulatory and non-regulatory approaches to protect and retain the community and urban forest to the extent practicable within the context of necessary growth and development.

**Action A.** Enforce tree protection regulations to protect healthy existing trees and forested areas and replace on public and private properties.

**Action J.** Designate, register, and promote heritage trees.

**Goal 4.** Balance the protection and support of the community and urban forest with other City strategic priorities, which include, in part, providing affordable housing, developing a walkable urban community, economic development, addressing climate change, and protecting endangered species.

**Objective 4.1.** Update the *Urban Forestry Management Plan* and supporting regulations regularly and ensure they work in harmony with other City strategic priorities.

**Action D.** Review tree preservation, landscaping, and street tree regulations regularly to ensure that they are working with other City strategic priorities, plans, and regulations, responding to changes in climate, and implementing the *Urban Forestry Management Plan*.

The next step in the implementation of the *Urban Forestry Management Plan* is the preparation of an update to the City's tree preservation regulations. The process will involve hiring a consultant to work with staff, stakeholders, and the Tree Board, Planning Commission, and City Council to update the City's tree and vegetation preservation regulations (Tumwater Municipal Code (TMC) 16.08 *Protection of Trees and Vegetation*), as well as review and update other relevant regulations, plans, and handouts.

The draft scope of work for the consultant below will be included in a Request for Proposals (RFP) that the City will be issuing later in March 2022 for a consultant to work on the regulation update.

Urban Forestry Management Plan – Tree Preservation Regulation Update  
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### **Purpose of the Regulations**

Currently, TMC 16.08 *Protection of Trees and Vegetation* establishes the purpose of the tree and vegetation preservation regulations is to:

- A. To promote public health, safety and general welfare of the citizens of Tumwater, and to retain as many existing mature trees as possible, without preventing the reasonable development and maintenance of land;*
- B. To preserve and enhance the city's physical and aesthetic character by preventing indiscriminate removal or destruction of trees and ground cover, and by encouraging development that incorporates existing trees and ground cover into site development practices;*
- C. To retain trees and vegetation for their positive environmental effects including, but not limited to, the protection of wildlife habitat;*
- D. To promote identification and protection of trees that have historical significance; are unusual due to their size, species, or age; are unusual for their aesthetic quality; or have other values or characteristics that make them worthy of protection;*
- E. To prevent erosion and reducing the risk of landslides;*
- F. To protect environmentally sensitive areas;*
- G. To minimize surface water runoff and diversion. To reduce siltation and other pollution entering city storm sewer systems, other utility improvements, and the city's rivers, streams, and lakes;*
- H. To retain trees and ground cover to assist in abatement of noise, to provide wind breaks, and for improvement of air quality;*
- I. To promote building and site planning practices that are consistent with the city's natural topographical, soil, and vegetation features and to reduce landscaping costs for new development by utilizing existing trees and ground cover to help fulfill landscaping requirements;*
- J. To ensure prompt development, restoration and replanting, and effective erosion control of property after land clearing;*
- K. To promote conservation of energy;*
- L. To educate the public regarding urban forestry;*
- M. To implement objectives of the State Environmental Policy Act and Growth Management Act; and*
- N. To implement and further the city's comprehensive plan and other related ordinances.*

The complete current version of TMC 16.08 *Protection of Trees and Vegetation* can be found at the end of this memorandum.

Urban Forestry Management Plan – Tree Preservation Regulation Update  
 Scope of Work  
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### **Draft Scope of Work**

The anticipated Scope of Work includes, but is not limited to:

➤ **Task 1: Project Administration**

The Consultant will work with City staff to do the following:

- a. Attend one (1) kickoff meeting with City Staff
- b. Conduct meetings with City Staff and general coordination with the City Project Manager during the course of the project. There may be up to six (6) general coordination meetings with City Staff during the project.

➤ **Task 2: Prepare Public Engagement Plan**

The Consultant will take the lead and work with City staff to do the following:

- a. Define the stakeholders for the update process, their different information needs, and their role in the update process:
  - 1) Residential property owners
  - 2) Homeowner associations
  - 3) Commercial, industrial, and institutional property owners
  - 4) Residential, commercial, industrial, and institutional developers
  - 5) Professional consultants, such as landscape architects, foresters, and arborists
  - 6) Tree cutting/landscape maintenance companies
  - 7) City development review staff, including planning, building and development engineering staff
  - 8) City maintenance staff
  - 9) City code enforcement staff
- b. Explicitly address how the Public Engagement Plan will promote equity and environmental justice
- c. Establish external and internal stakeholder groups
- d. Develop a project schedule for:
  - 1) Community and stakeholder meetings
  - 2) Staff stakeholder meeting schedule
  - 3) Draft work product delivery schedule for review by staff, stakeholders, and the Tree Board, Planning Commission, and City Council
  - 4) Public worksessions with the Tree Board and the Planning Commission

Urban Forestry Management Plan – Tree Preservation Regulation Update  
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- 5) Formal adoption of the supporting regulations through the Tree Board, the Planning Commission, including a public hearing, General Government Committee briefing, City Council worksession, City Council consideration and adoption
- e. Identify materials for the implementation of the Public Engagement Plan
  - 1) City website and social media materials
  - 2) Materials to support the external and internal stakeholder groups
  - 3) Explanatory materials to support the community and stakeholder meetings, public worksessions with the Tree Board and Planning Commission, and adoption of the regulations
- f. Coordinate review of the draft Public Engagement Plan by City staff, Tree Board, Planning Commission, and City Council

➤ **Task 3: Implement the Public Engagement Plan**

The Consultant will take the lead and work with City staff to do the following:

- a. Conduct stakeholder meetings
    - 1) External stakeholders
    - 2) Internal stakeholders
  - b. Conduct a public open house, if needed
  - c. Conduct one (1) worksession with the City Council prior to the start of the formal amendment approval process
  - d. Prepare materials for the implementation of the Public Engagement Plan
- **Task 4: Prepare work products, as needed**

The Consultant will support City staff to do the following:

- a. Amendments to the following, as needed, in the final form of an ordinance:
  - 1) Municipal Code in Title 16 Environment (TMC 16.08 *Protection of Trees and Vegetation*)
  - 2) Other relevant sections of the Tumwater Municipal Code as identified during the process
  - 3) *Tumwater Development Guide*, text and details as needed
  - 4) *Citywide Design Guidelines*, text and details as needed
  - 5) *Comprehensive Plan* and Subarea Plans as needed
  - 6) *Little Rock Road Subarea Plan*, Chapter 5 *Implementation* as needed

Urban Forestry Management Plan – Tree Preservation Regulation Update  
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7) *Capitol Boulevard Community Zone Design Guidelines* as needed

- b. The ordinance should be assessed for compliance with the Growth Management Act (GMA) requirement to comply with the Attorney General's Guidance regarding takings

➤ **Task 5: Formal amendment approval process**

The Consultant will work with City staff to do the following:

- a. Conduct public briefings and worksessions with the Tree Board and Planning Commission, included two joint worksessions.
- b. Conduct formal adoption of the regulations through the Tree Board, the Planning Commission, including a public hearing, General Government Committee briefing, City Council worksession, City Council consideration and adoption
- c. It is anticipated that there will be ten (10) Tree Board, Planning Commission, General Government Committee, and City Council meetings total.

➤ **Task 6: Reimbursable Expenses (Travel, Data Costs, and Printing)**

**Proposed Schedule**

- January 18, 2022 – City Council approved 2022 long range planning work program – Completed
- February 14, 2022 – Tree Board input on draft scope of work – Completed
- March 8, 2022 – Planning Commission input on draft scope of work – Completed
- March 9, 2022 – General Government Committee input on draft scope of work
- March – April 2022 – RFP process and consultant selection
- May 2022 – Consultant work starts

Tree Board Meetings

- May 9, 2022 – Tree Board worksession
- June 13, 2022 – Tree Board worksession
- July 11, 2022 – Tree Board worksession – Schedule joint meeting with Planning Commission
- August 8, 2022 – Tree Board worksession – Schedule joint meeting with Planning Commission

Urban Forestry Management Plan – Tree Preservation Regulation Update  
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Notice of Intent and SEPA Review

- July 2022 – Submit Notice of Intent to Commerce
- July 2022 – SEPA Review

Planning Commission

- July 12, 2022 – Planning Commission worksession – Schedule joint meeting with Tree Board
- July 26, 2022 – Planning Commission worksession
- August 9, 2022 – Planning Commission worksession – Schedule joint meeting with Tree Board
- August 23, 2022 – Planning Commission hearing

City Council

- March 9, 2022 – GGC briefing
- May 24, 2022 – City Council Worksession
- September 14, 2022 – GGC briefing
- September 27, 2022 – City Council worksession
- October 11, 2022 – City Council worksession
- October 25, 2022 – City Council consideration
- October – November 2022 – Project completion

**Other Notes**

- The Urban Forestry Management Plan was reviewed for guidance in developing the scope of work.
- Staff has asked our Permitting Division staff if they could provide recent as-built plans and landscaping plans for recent projects such as Skyview to the Planning Commission and Tree Board. As part of this scope of work, staff will spend a worksession taking the Planning Commission and Tree Board through the development review process.
- Staff has reviewed materials related to the scope of work provided by Ben Thompson and his staff at the Washington State Department of Natural Resources.
- On December 16, 2021, the City issued the job posting for the new sustainability coordinator position, which will be taking lead on urban forestry

## Urban Forestry Management Plan – Tree Preservation Regulation Update

## Scope of Work

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projects in 2022. The position closed in January 2022 and staff are reviewing candidate for the position in February and March 2022. The new sustainability coordinator will be taking over as lead staff for the Tree Board, but Planning Division staff will continue to lead the work on the code update.

Urban Forestry Management Plan – Tree Preservation Regulation Update  
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**Chapter 16.08**

**PROTECTION OF TREES AND VEGETATION**

Sections:

- 16.08.010 Short title.
- 16.08.020 Purposes.
- 16.08.030 Definitions.
- 16.08.035 City tree protection professional.
- 16.08.038 Forest practice applications.
- 16.08.040 Tree account.
- 16.08.050 Permit required – Applications – Requirements – Processing – Conditions of issuance.
- 16.08.060 Performance and maintenance bond may be required.
- 16.08.070 Standards.
- 16.08.072 Maintenance requirements.
- 16.08.075 Heritage trees designated.
- 16.08.080 Exemptions.
- 16.08.090 Alternative plans.
- 16.08.100 Appeal procedure.
- 16.08.110 Violation – Criminal penalties.
- 16.08.120 Violation – Civil penalties – Presumption – Other remedies.

**16.08.010 Short title.**

This chapter shall be known and may be cited as the “tree and vegetation protection ordinance” of the city.

(Ord. O2002-012, Amended, 07/16/2002; Ord. O94-029, Amended, 09/20/1994; Ord. 1190, Added, 05/16/1989)

**16.08.020 Purposes.**

The regulations are adopted for the following purposes:

- A. To promote public health, safety and general welfare of the citizens of Tumwater, and to retain as many existing mature trees as possible, without preventing the reasonable development and maintenance of land;
- B. To preserve and enhance the city’s physical and aesthetic character by preventing indiscriminate removal or destruction of trees and ground cover, and by encouraging development that incorporates existing trees and ground cover into site development practices;
- C. To retain trees and vegetation for their positive environmental effects including, but not limited to, the protection of wildlife habitat;
- D. To promote identification and protection of trees that have historical significance; are unusual due to their size, species, or age; are unusual for their aesthetic quality; or have other values or characteristics that make them worthy of protection;
- E. To prevent erosion and reducing the risk of landslides;
- F. To protect environmentally sensitive areas;
- G. To minimize surface water runoff and diversion. To reduce siltation and other pollution entering city storm sewer systems, other utility improvements, and the city’s rivers, streams, and lakes;
- H. To retain trees and ground cover to assist in abatement of noise, to provide wind breaks, and for improvement of air quality;
- I. To promote building and site planning practices that are consistent with the city’s natural topographical, soil, and vegetation features and to reduce landscaping costs for new development by utilizing existing trees and ground cover to help fulfill landscaping requirements;

# Urban Forestry Management Plan – Tree Preservation Regulation Update

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### March 9, 2022

- J. To ensure prompt development, restoration and replanting, and effective erosion control of property after land clearing;
- K. To promote conservation of energy;
- L. To educate the public regarding urban forestry;
- M. To implement objectives of the State Environmental Policy Act and Growth Management Act; and
- N. To implement and further the city's comprehensive plan and other related ordinances.

(Ord. O2006-014, Amended, 04/17/2007; Ord. O2002-012, Amended, 07/16/2002; Ord. O2000-012, Amended, 08/01/2000; Ord. O97-029, Amended, 03/17/1998; Ord. O94-029, Amended, 09/29/1994; Ord. 1190, Added, 05/16/1989)

#### **16.08.030 Definitions.**

- A. "Buildable area" is that portion of a parcel of land wherein a building, parking and other improvements may be located and where construction activity may take place. Buildable area shall not include streams, flood hazard areas, geological hazard areas or wetlands and their buffers as defined in TMC Chapter 18.04. For the purpose of calculating required tree protection open space area, existing and newly dedicated city rights-of-way shall not be included.
- B. "City" means the city of Tumwater, Washington.
- C. "Code administrator" means the director of the community development department or the director's designated representative.
- D. "Conversion option harvest plan (COHP)" means a voluntary plan developed by the landowner and approved by the Washington State Department of Natural Resources and the city of Tumwater, indicating the limits and types of harvest areas, road locations, and open space. This approved plan, when submitted to the Department of Natural Resources as part of the forest practice application and followed by the landowner, maintains the landowner's option to convert to a use other than commercial forest product production (releases the landowner from the six-year moratorium on future development).
- E. Critical Root Zone or CRZ. Unless determined otherwise by the tree protection professional, the root protection zone for trees means an area contained inside an area on the ground having a radius of one foot for every inch of tree diameter, measured from four and one-half feet above ground level, but in no event shall the root protection zone be less than a six-foot radius.
- F. "Drip line" of a tree means an imaginary line on the ground created by the vertical projections of the foliage at its circumference.
- G. "Environmentally sensitive area" means any lands with the following characteristics:
  - 1. "Geologically hazardous areas" as defined in TMC Chapter 16.20;
  - 2. Lakes, ponds, stream corridors, and creeks as defined in TMC Chapter 16.32;
  - 3. Identified habitats with which endangered, threatened, or sensitive species have a primary association as defined in TMC Chapter 16.32;
  - 4. Wetlands as defined in TMC Chapter 16.28.
- H. "Grading" means excavation, filling, or any combination thereof. Excavation and grading is governed by the International Building Code (IBC).
- I. "Greenbelt" means certain designated areas of a project or development that are intended to remain in a natural condition, and/or private permanent open space, or serve as a buffer between properties or developments.

# Urban Forestry Management Plan – Tree Preservation Regulation Update

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- J. “Greenbelt zone” means any area so designated on the official zoning map of the city and subject to the provisions of TMC Chapter 18.30.
- K. “Ground cover” means vegetation that is naturally terrestrial excluding noxious or poisonous plants and shall include trees that are less than six inches in diameter measured at four and one-half feet above ground level.
- L. “Hazardous tree” means any tree that, due to its health or structural defect, presents a risk to people or property.
- M. “Heritage tree(s)” means tree(s) designated by the city and their owners as historical, specimen, rare, or a significant grove of trees.
- N. “Historic tree” means any tree designated as an historic object in accordance with the provisions of TMC Chapter 2.62.
- O. “Land clearing” or “clearing” means any activity which removes or substantially alters by topping or other methods the vegetative ground cover and/or trees.
- P. “Open space” means unoccupied land that is open to the sky and which may or may not contain vegetation and landscaping features, subject to the provisions in TMC 17.04.325 and 17.12.210.
- Q. “Parcel” means a tract or plot of land of any size which may or may not be subdivided or improved.
- R. “Qualified professional forester” is a professional with academic and field experience that makes them an expert in urban forestry. This may include arborists certified by the International Society of Arboriculture, foresters with a degree in forestry from a Society of American Foresters accredited forestry school, foresters certified by SAF, or urban foresters with a degree in urban forestry. A qualified professional forester must possess the ability to evaluate the health and hazard potential of existing trees, and the ability to prescribe appropriate measures necessary for the preservation of trees during land development. Additionally, the qualified professional forester shall have the necessary training and experience to use and apply the International Society of Arboriculture’s Guide for Plant Appraisal and to successfully provide the necessary expertise relating to management of trees specified in this chapter.
- S. “Topping” is the removal of the upper crown of the tree with no consideration of proper cuts as per the current ANSI A300 Standard. Cuts created by topping create unsightly stubs that promote decay within the parent branch and can cause premature mortality of a tree. Topping a tree is considered to be a removal, and may require a tree removal permit.
- T. “Tree” means any healthy living woody plant characterized by one or more main stems or trunks and many branches, and having a diameter of six inches or more measured four and one-half feet above ground level. Healthy in the context of this definition shall mean a tree that is rated by a professional with expertise in the field of forestry or arbor culture as fair or better using recognized forestry or arbor cultural practices. If a tree exhibits multiple stems and the split(s) or separation(s) between stems is above grade, then that is considered a single tree. If a tree exhibits multiple stems emerging from grade and there is visible soil separating the stems, then each soil-separated stem is considered an individual tree. Appropriate tree species under six inches may be considered with approval of the city tree protection professional.
- U. “Tree plan” is a plan that contains specific information pertaining to the protection, preservation, and planting of trees pursuant to this chapter.
- V. “Tree protection open space” is a separate dedicated area of land, specifically set aside for the protection and planting of trees.
- W. “Tree protection professional” is a certified professional with academic and field experience that makes him or her a recognized expert in urban tree preservation and management. The tree protection professional shall be either a member of the International Society of Arboriculture or the Society of American Foresters or the Association of Consulting Foresters, and shall have specific experience with urban tree management in the Pacific Northwest. Additionally, the tree protection professional shall have the necessary training and experience to use and apply the

# Urban Forestry Management Plan – Tree Preservation Regulation Update

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International Society of Arboriculture's Guide for Plant Appraisal and to successfully provide the necessary expertise relating to management of trees specified in this chapter.

(Ord. O2013-017, Amended, 08/19/2014; Ord. O2013-025, Amended, 01/07/2014; Ord. O2011-002, Amended, 03/01/2011; Ord. O2006-014, Amended, 04/17/2007; Ord. O2002-012, Amended, 07/16/2002; Ord. O97-029, Amended, 03/17/1998; Ord. O94-029, Amended, 09/20/1994; Ord. 1311, Amended, 04/07/1992; Ord. 1190, Added, 05/16/1989)

#### **16.08.035 City tree protection professional.**

In the city's interest of achieving professional assistance in the city's tree protection efforts and achieving consistency in tree protection decisions; the city shall contract with a "city tree protection professional" that qualifies as a tree protection professional under the definition of this chapter. The tree protection professional shall be responsible for providing the information and services required of a tree protection professional described herein.

Individual applicants will be responsible for payment of costs of the tree protection professional for projects necessitating work to be performed by the tree protection professional with the exception that the code administrator may waive payment by the applicant for minor work of the tree protection professional in determining an exempt project; provided however, that the city shall be responsible for billing and collecting costs charged to the applicant and transferring payment to the tree protection professional unless the city has opted for some other mechanism of providing for the costs, such as inclusion of costs in application fees.

(Ord. O2002-012, Amended, 07/16/2002; Ord. O97-029, Added, 03/17/1998)

#### **16.08.038 Forest practice applications.**

Pursuant to RCW 76.09.240, requiring local jurisdictions to set standards for and to process class IV forest practice applications, such permits shall be processed as a land clearing permit, and shall meet the requirements of this chapter.

A. The application of this chapter to forest practice activities regulated by the Washington State Forest Practices Act (Chapter 76.09 RCW) shall be limited to:

1. General forest practices.

B. This chapter is intended to allow the city of Tumwater to assume jurisdiction for approval of general forest practices, approvals occurring in the city of Tumwater, as authorized under the Washington State Forest Practices Act, Chapter 76.09 RCW. Until such time as jurisdiction for these permits is transferred to the city by the State Department of Natural Resources, the city will act as the State Environmental Policy Act (SEPA) lead agency for all general forest practice approvals occurring within the city limits. This chapter shall rely upon existing definitions contained within the Washington State Forest Practices Act (Chapter 76.09 RCW), Rules for the Washington State Forest Practices Act (Chapter 222-16 WAC), and the Tumwater Municipal Code.

(Ord. O2006-014, Amended, 04/17/2007; Ord. O2002-012, Added, 07/16/2002)

#### **16.08.040 Tree account.**

There is hereby established within the city a "tree account" for the purposes of acquiring, maintaining and preserving wooded areas, and for planting and maintaining trees within the city.

A. Collections and Deposits. All fines collected for violations of this chapter shall be deposited into the tree account. All donations and mitigation fees collected related to the preservation of trees or the enhancement of wooded buffer areas shall also be deposited into the tree account.

B. Maintenance of Account. The tree account shall be maintained by the finance director as a separate, interest-bearing account.

C. Use of Funds. Funds in the tree account shall be used only upon appropriation by the city council. Funds may be withdrawn from the tree account with the approval of the code administrator, and may be used for any purpose consistent with the intent of this chapter. Funds used to plant trees may be used only on city-owned property, or on

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property upon which the city has been granted an easement for the purpose of establishing or maintaining trees or other vegetation.

(Ord. O2002-012, Amended, 07/16/2002; Ord. O94-029, Added, 09/20/1994)

#### **16.08.050 Permit required – Applications – Requirements – Processing – Conditions of issuance.**

A. No person, corporation, or other legal entity not exempt under TMC 16.08.080 shall engage in land clearing or tree removal in the city without having received a land clearing permit.

B. Requirement Established. The application for land clearing permit shall be submitted with any project permit as defined in TMC 14.02.020(O), including single-family and duplex structures unless a land clearing permit was previously reviewed as part of prior project permit. A tree protection plan is required to obtain a land clearing permit and is also required for any land development not exempt under TMC 16.08.080. The tree protection plan shall be developed by a qualified professional forester and be submitted in conjunction with other environmental submittals and site plan development permits. For single-family homes on lots created prior to November 1994, the applicant has the option of using the city tree protection professional to prepare the permit application. This service will be provided at the same hourly rates charged to the city under its contractual arrangement with the tree protection professional.

C. An application for a land clearing permit shall be submitted on a form provided by the city. Accompanying such form shall be a report which includes the following information:

1. General vicinity map;
2. Date, north arrow and scale;
3. Property boundaries, the extent and location of proposed clearing and major physical features of the property (streams, ravines, etc.);
4. Tree Inventory. Drawn to scale on the preliminary or conceptual site plan: a map delineating vegetation types. Each type should include the following information:
  - a. Average trees and basal area per acre, by species and six-inch diameter class. For nonforested areas, a general description of the vegetation present.
  - b. Narrative description of the potential for tree preservation for each vegetation type. This should include soils, wind throw potential, insect and disease problems, and approximate distance to existing and proposed targets.
  - c. Description of any off-site tree or trees, which could be adversely affected by the proposed activity;
5. Tree Protection Plan. Drawn to scale on the site plan, grading and erosion control and landscape plans. It should include the following information:
  - a. Surveyed locations of perimeters of groves of trees and individual trees to be preserved, adjacent to the proposed limits of the construction. General locations of trees proposed for removal. The critical root zones of trees to be preserved shall be shown on the plans.
  - b. Limits of construction and existing and proposed grade changes on site.
  - c. Narrative description, buildable area of the site, and graphic detail of tree protection, and tree maintenance measures required for the preservation of existing trees identified to be preserved.
  - d. Timeline for clearing, grading and installation of tree protection measures.
  - e. Final tree protection plan will be drawn to scale on the above described plans and submitted with the final application packet;

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6. Tree Replacement Plan. Drawn to scale on the site and landscape plans. The tree replacement plan shall be developed by a licensed Washington landscape architect, Washington certified nursery professional, ISA certified arborist, board certified horticulturist, qualified professional forester or Washington certified landscaper. It should include the following information:

- a. Location, size, species and numbers of trees to be planted.
  - b. Narrative description and detail showing any site preparation, installation and maintenance measure necessary for the long-term survival and health of the trees.
  - c. Narrative description and detail showing proposed locations of required tree planting, site preparation, installation and maintenance within critical root zones of preserved groups or individual trees.
  - d. Cost estimate for the purchase, installation and three years' maintenance of trees;
7. A timeline for implementation and monitoring of the tree protection, and/or replacement plan;
  8. A plan indicating how the site will be revegetated and landscaped;
  9. A proposed time schedule for land clearing, land restoration, revegetation, landscaping, implementation of erosion controls, and any construction of improvements;
  10. Information indicating the method to be followed in erosion control and restoration of land during and immediately following land clearing;
  11. A note indicating that the city will have the right of entry upon the subject property for the purpose of performing inspections consistent with the provisions of this chapter;
  12. The approved tree protection plan map will be included in contractor's packet of approved plans used for construction on the project; and
  13. Other information as deemed appropriate to this chapter and necessary by the code administrator or city tree protection professional.

D. In addition to the requirements noted in subsection C of this section, on timbered property greater in size than one acre or commercial property with more than fifteen trees, or other sites the city deems necessary because of special circumstances or complexity, the code administrator may require review of the site and proposed plan and submittal of a report by the city's tree protection professional for compliance with the requirements of this chapter.

Further provided, that the code administrator may modify the submittal requirements of subsections C and D of this section, on individual applications where the information is not needed or is unavailable.

E. Each application shall be submitted with a fee established by resolution of the city council, to help defray the cost of handling the application, no part of which fee is refundable.

F. The code administrator shall notify the applicant whether the application is complete within twenty-eight calendar days of receipt of the application. If incomplete, the code administrator shall indicate in the notice the information required to make the application complete. The code administrator shall approve, approve with conditions or deny the permit within thirty calendar days of receipt of the complete application, or within thirty calendar days of completion of any environmental review, whichever is later. For applications such as site development proposals where there is more than a land clearing permit pending, the code administrator shall, whenever feasible, coordinate reviews, notices and hearings, and act upon the land clearing permit concurrently with other pending permits.

G. Any permit granted under this chapter shall expire eighteen months from the date of issuance, unless said permit is associated with another development permit. If it is associated with another development permit, the restrictions and deadlines of that approval will apply. Upon a written request, a permit not associated with another development permit may be extended by the code administrator for one six-month period. Approved plans shall not be amended without being resubmitted to the city. Minor changes consistent with the original permit intent will not

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require a new permit fee or full application standards to be followed. The permit may be suspended or revoked by the city because of incorrect information supplied or any violation of the provisions of this chapter.

H. Once issued, the permit shall be posted by the applicant on the site, in a manner so that the permit is visible to the general public.

(Ord. O2017-022, Amended, 12/05/2017; Ord. O2006-014, Amended, 04/17/2007; Ord. O2002-012, Amended, 07/16/2002; Ord. O97-029, Amended, 03/17/1998; Ord. O94-029, Amended, 09/20/1994; Ord. 1190, Added, 05/16/1989)

### **16.08.060 Performance and maintenance bond may be required.**

A. The code administrator may require bonds and bond agreements in such form and amounts as may be deemed necessary to assure that the work shall be completed in accordance with the permit. Bonds, if required, shall be furnished by the applicant or property owner. A bond agreement shall provide assurance that the applicant has sufficient right, title and interest in the property to grant the city all rights set forth in the agreement.

B. In lieu of a bond, the applicant may file assigned funds or an instrument of credit with the city in an amount equal to that which would be required in a bond.

C. The amount of bonds or other assurance instrument shall not exceed the estimated cost of the total restoration, revegetation, planting or landscaping work planned, as determined by the code administrator.

D. The duration of any bond or other required surety shall be not less than three years from the date that said restoration, revegetation, planting or landscaping has been accepted by the code administrator.

(Ord. O2006-014, Amended, 04/17/2007; Ord. O2002-012, Amended, 07/16/2002; Ord. O94-029, Amended, 09/20/1994; Ord. 1190, Added, 05/16/1989)

### **16.08.070 Standards.**

All land clearing not exempt under TMC 16.08.080 shall conform to the approved plan and the following standards and provisions unless alternate procedures that are equal to or superior in achieving the purposes of this chapter are authorized in writing by the code administrator:

A. No land clearing and/or ground surface level changes shall occur in a greenbelt zone as delineated on the official zoning map except as required for uses permitted in that zone. In addition, such land clearing and/or ground surface changes shall be subject to all other applicable standards and regulations;

B. Land clearing in designated greenbelt, open space, tree tract or buffer areas of approved and recorded subdivisions or approved projects which would substantially alter the character or purpose of said greenbelt or buffer areas is prohibited, except in cases involving land clearing plans approved by the code administrator for removal of hazard trees, invasive or noxious plant species and replanting with native plant and tree species;

C. Erosion control measures shall be provided by the applicant's professional engineer, in conformance with the Drainage Design Erosion Control Manual for the Thurston Region, Washington, as currently written and subsequently amended. The erosion control measures shall be reviewed and subject to approval by the code administrator. The requirement for a professional engineer may be waived by the code administrator on a case-by-case basis;

D. Land clearing shall be accomplished in a manner that will not create or contribute to landslides, accelerated soil creep, settlement and subsidence on the subject property and/or adjoining properties;

E. When land clearing occurs that does not include development, the proposal shall contain provisions for the protection of natural land and water features, vegetation, drainage, retention of native ground cover, and other indigenous features of the site;

F. Land clearing shall be accomplished in a manner that will not create or contribute to flooding, erosion, or increased turbidity, siltation, or other form of pollution in a watercourse;

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G. Land clearing in wetlands, and fish and wildlife habitat areas shall be in accordance with the provisions of TMC Chapter 16.28, Wetland Protection Standards, and TMC Chapter 16.32, Fish and Wildlife Habitat Protection;

H. During the months of November, December, and January, no land clearing shall be performed in areas with average slopes of fifteen percent or greater, or any slopes of forty percent or greater;

I. During the months of November, December, and January, no land clearing shall be performed in areas with fine-grained soils and a slope greater than five percent. For the purposes of this section, fine-grained soils shall include any soil associations which are classified in hydrologic soil groups C or D, as mapped in the Thurston County Soil Survey, or as determined by a qualified soil scientist;

J. Land clearing shall be undertaken in such a manner as to preserve and enhance the city's aesthetic character. The site shall be revegetated and landscaped as soon as practicable, in accordance with the approved revegetation plan. Where the construction schedule does not provide for revegetation of the site prior to October 15 of any year, all disturbed areas shall be hydro seeded or otherwise revegetated on an interim basis. The revegetation plan shall include plantings along public streets and adjoining property boundaries, especially between areas of differing intensities of development. For land clearing permits that are part of a specific development proposal, land use development shall be initiated or a vegetative screen or buffer established within six months of the date of initiation of land clearing activities;

K. Land clearing shall be conducted so as to expose the smallest practical area of soil to erosion for the least possible time, consistent with the construction schedule. Provisions shall be made for interim erosion control measures;

L. Land clearing activities shall be limited to the hours of 7:00 a.m. to 8:00 p.m. on weekdays and 9:00 a.m. to 8:00 p.m. on Saturdays in accordance with TMC Chapter 8.08;

M. Open burning of land clearing debris is prohibited. Slash shall be properly disposed of off site or chipped and applied to the site within six months of the completion of the land clearing. Chipped material deposited on the site shall be spread out or other means used to prevent fire hazard;

N. Any trees to be retained shall be flagged or otherwise marked to make it clear which tree or groups of trees are to be retained;

O. Any trees or groups of trees to be retained shall have temporary fencing installed around the critical root zone. Temporary fencing must be adequate to protect the critical root zone of trees designated for retention. On construction sites where circumstances warrant, the code administrator may require more substantial tree protection fencing, as necessary, to protect intrusion of construction activity into the CRZ areas. Machinery and storage of construction materials shall be kept outside of the CRZ of trees designated for retention. The code administrator may require fencing beyond the CRZ if, in the code administrator's determination, such additional protection is needed to protect the tree from damage. Trees designated for retention shall not be damaged by scoring, ground surface level changes, compaction of soil, attaching objects to trees, altering drainage or any other activities that may cause damage of roots, trunks, or surrounding ground cover;

P. Any trees designated for retention shall be field verified by the city tree protection professional before land clearing begins;

Q. Not more than thirty percent of the trees on any parcel of land shall be removed within any ten-year period, unless the clearing is accomplished as part of an approved development plan. Such clearing shall be done in such a way as to leave healthy dominant and codominant trees well distributed throughout the site (taking into account the interdependency of the trees) unless, according to the determination of the city tree protection professional, this requirement would conflict with other standards of this section. For every tree removed at least one replacement tree shall be planted. Replacement trees shall consist of seedlings of the same or similar species to those trees removed, which shall be at least two years old. In lieu of this planting of replacement trees, the applicant may contribute a cash payment to the city's tree account in an amount equal to one hundred twenty-five percent of the retail value replacement cost. The time schedule for the planting of replacement trees shall be specified in the approved plan. If a land clearing permit is applied for as part of a development plan within ten years of clearing under this subsection,

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all trees removed under this standard will be counted towards required tree retention/replacement when a land clearing permit is issued;

R. When land clearing is performed in conjunction with a specific development proposal not less than twenty percent of the trees, or not less than twelve trees per acre (whichever is greater), shall be retained.

Provided, however, where it can be demonstrated that the trees on a site were planted as part of a commercial Christmas tree farm, then no less than seventeen percent or twelve trees per acre, whichever is less, shall be retained. Commercial tree farm status must be verified by the city tree protection professional.

#### 1. Size, Type and Condition of Retained Trees.

- a. For the purpose of calculating tree retention standards, trees twenty-four inches or greater in diameter measured four and one-half feet above ground level shall count as two trees.
- b. Species such as willow, cottonwood, poplar and other species, the roots of which are likely to obstruct or injure site improvements, sanitary sewers or other underground utilities, shall not be considered trees for the purpose of calculating tree retention standards if located within the buildable portion of the lot.
- c. A tree must meet the following standards in order to be counted for the purpose of meeting tree retention standards:
  - i. Must have a post-development life expectancy of greater than ten years;
  - ii. Must have a relatively sound and solid trunk with no extensive decay or significant trunk damage;
  - iii. Must have no major insect or pathological problems;
  - iv. Must have no significant crown damage;
  - v. Should be fully branched and generally proportional in height and breadth for the tree age;
  - vi. Must be windfirm in their post-development state.

#### 2. These standards may be waived or modified by the code administrator if the applicant provides substantial evidence demonstrating that strict compliance would make reasonable use of the property impracticable for three or more of the following reasons:

- a. Removal of the tree or trees is needed to enable use of a solar system. A waiver for this reason must be accompanied by a bond assuring completion of the solar system within the timeframe associated with the underlying building permit issued for the project.
- b. The tree retention standard cannot be achieved because of the necessity of complying with applicable zoning and development requirements including, but not limited to, residential densities, open space requirements for active recreation, floor area ratios (FAR), parking requirements, stormwater requirements, street construction requirements, etc.
- c. The tree retention standard cannot be achieved because the tree or trees do not have a reasonable chance of survival once the site is developed or modified and may pose a threat to life or property if retained.
- d. The applicant has made reasonable efforts to reconfigure or reduce the building footprint(s), site access, on-site utility systems and parking area(s) to avoid impacts to trees on the property.
- e. For commercial and industrial land uses, the project pro forma demonstrates that economically viable use of the property cannot be achieved while meeting the tree retention standards in this chapter. This standard is presumed to be met without a pro forma if the area disturbed by development of the property would be less than eighty-five percent of the land.

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- f. The granting of the waiver or modification will not result in increasing the risk of slope failure, significant erosion or significant increases in surface water flows that cannot be controlled using best management practices.
3. Where the standard is waived or modified, the applicant shall plant not less than three trees for each tree cleared in excess of the standard.
  - a. These replacement trees shall be at least two inches in diameter measured at a height of six inches above the root collar.
  - b. Replacement trees shall be planted on the same parcel as the proposed development, unless the code administrator approves of an alternate location.
  - c. Replacement trees must first be planted in a “tree protection open space.” The tree protection open space shall be comprised of a minimum of five percent of the buildable area for the purpose of retaining existing trees and/or for the planting of replacement trees. Replacement trees in the tree protection open space shall be a mix of native coniferous and deciduous trees. The tree protection open space shall be a contiguous area. The tree protection open space is required to be eighty percent covered by tree canopy after fifteen years utilizing retained and/or replacement trees. Approved trees and their CRZ area within a critical area buffer may count for up to fifty percent of the required tree protection open space. Stormwater facilities can be considered as part of the tree protection open space if trees can be retained and/or planted successfully and not disable the operating functions of the facility.
  - d. If more replacement trees are required than necessary to meet the canopy requirement in the tree protection open space, then these trees (either native and/or nonnative species) can be planted elsewhere on the parcel(s).
  - e. If the city tree protection professional determines that more replacement trees are required than can be planted in the tree protection open space and the rest of the parcel, then the applicant shall contribute a cash payment to the city’s tree account in an amount determined by the current city fee resolution.
4. In situations where a parcel of land to be developed does not meet the retention standards above in an undeveloped state, the applicant shall be required to reforest the site to meet the applicable standard outlined above at a 1:1 ratio as a condition of project approval.
5. In determining which trees shall be given the highest priority for retention, the following criteria shall be used:
  - a. Heritage or historic trees;
  - b. Trees which are unusual due to their size, age or rarity;
  - c. Trees in environmentally sensitive areas;
  - d. Trees that act as a buffer to separate incompatible land uses;
  - e. Trees which shelter other trees from strong winds that could otherwise cause them to blow down;
  - f. Trees within greenbelts, open space, tree protection open space or buffers;
  - g. Trees with significant habitat value as identified by a qualified wildlife biologist or by the city tree protection professional; and
  - h. Trees which are part of a continuous canopy or which are mutually dependent, as identified by a qualified professional forester or the city tree protection professional;
- S. In addition to the provisions of this chapter, the cutting or clearing of historic trees requires the issuance of a certificate of appropriateness in accordance with TMC Chapter 2.62.

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(Ord. O2013-017, Amended, 08/19/2014; Ord. O2006-014, Amended, 04/17/2007; Ord. O2002-012, Amended, 07/16/2002; Ord. O97-029, Amended, 03/17/1998; Ord. O94-029, Added, 09/20/1994)

**16.08.072 Maintenance requirements.**

A. Maintenance Requirement. Trees are to be maintained in a vigorous and healthy condition, free from diseases, pests and weeds. Trees which become diseased, severely damaged or which die shall be removed by the owner as soon as possible but no later than sixty days after notification by the city. As it pertains to this section, all replacement trees that die shall be replaced with healthy trees of the same size and species as required by the approved tree protection plan for the property. If retained trees die due to construction damage or negligence on the part of the applicant, the city tree protection professional shall determine the appraised landscape value of the dead trees, and the applicant shall plant the equivalent value of trees back onto the site. In the event that space is not available for the required replacement trees (as determined by the city tree protection professional), the equivalent value shall be paid into the tree fund.

B. For areas dedicated as tree protection open space areas, street trees and single-family residential land divisions, the maintenance requirement of this section shall be in effect for three years from the date the final plat is approved or the trees are planted. The tree plan shall be a condition of approval and identified on the face of the plat. The applicant shall also execute a covenant in a form agreeable to the city, which shall require the applicant and his successors to comply with the maintenance requirement of this section. The covenant shall obligate both the property owner and the homeowner's association and shall be recorded with the county auditor. The recording fee shall be paid by the applicant.

C. For multifamily residential, commercial, and industrial developments, the maintenance requirement for all trees covered by the tree plan shall apply in perpetuity. The applicant shall execute a covenant in a form agreeable to the city, which shall require that the applicant and his successors comply with the maintenance requirement imposed by this section. The covenant shall be binding on successor property owners and owners' associations. The covenant shall be recorded with the county auditor and the recording fee shall be paid by the applicant.

D. Maintenance Agreement. Each development to which the maintenance requirement for this chapter applies and that contain a heritage tree(s) shall also be subject to a maintenance agreement. The code administrator shall require the applicant to execute a maintenance agreement with the city, in a form acceptable to the city attorney, which shall include the provisions of the maintenance requirement in this chapter, to ensure the survival and proper care of any heritage trees identified in the tree plan.

E. Failure to Maintain. Retained trees, replacement trees and street trees as per the requirements of this chapter and/or TMC Chapter 18.47, Landscaping, shall be maintained according to the American National Standards Institute, current edition of the American National Standards, ANSI A300. Failure to regularly maintain the trees as required in this section shall constitute a violation of this chapter and, if applicable, the plat covenant.

(Ord. O2006-014, Added, 04/17/2007)

**16.08.075 Heritage trees designated.**

A. Trees can be nominated for designation by citizens, the Tumwater tree board, or city staff.

1. Application for heritage tree designation must be submitted to the community development department. The application must include a short description of the trees, including address or location, and landowner's name and phone number. The application must be signed by both the landowner and nominator.
2. The tree board reviews the application and makes a recommendation to the city council.
3. All heritage trees will be added to city tree inventory and public works maps.

B. Trees that are designated as heritage trees shall be classified as follows:

1. Historical – A tree which by virtue of its age, its association with or contribution to a historical structure or district, or its association with a noted citizen or historical event.

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2. Specimen – Age, size, health, and quality factors combine to qualify the tree as unique among the species in Tumwater and Washington State.
3. Rare – One or very few of a kind, or is unusual in some form of growth or species.
4. Significant Grove – Outstanding rows or groups of trees that impact the city's landscape.

C. The city will provide an evaluation and recommendation for tree health and care and will provide up to one inspection annually upon request of the landowner. The city may, at its discretion, provide a plaque listing the owner's name and/or tree species/location.

#### D. Heritage Tree Removal.

1. A tree removal permit is required for removal of any heritage tree(s).
2. The city tree protection professional shall evaluate any heritage trees prior to a decision on the removal permit. Recommendations for care, other than removal, will be considered.
3. Dead or hazardous trees are exempt from a tree removal permit after verification by the city tree protection professional.

E. Heritage Tree Declassification. Any heritage tree may, at any time, be removed from heritage tree status at the request of the landowner after providing two weeks' written notice to the community development department. Unless an agreement can be reached to preserve the tree, the tree will be removed from the heritage tree inventory list and the plaque, if any, will be removed.

(Amended during 2011 reformat; O2006-014, Amended, 04/17/2007; Ord. O2002-012, Amended, 07/16/2002; Ord. O2000-012, Added, 07/18/2000)

#### **16.08.080 Exemptions.**

The following shall be exempt from the provisions of this chapter; provided however, the code administrator may require reasonable documentation verifying circumstances associated with any proposal to remove trees under any of the following exemptions:

- A. Land clearing in emergency situations involving immediate danger to life or property. For every tree cleared under this exemption, at least one replacement tree shall be planted. Except for the number of trees, replacement trees shall conform to the standard for replacement trees described in TMC 16.08.070(R);
- B. Land clearing associated with routine maintenance by utility companies such as the power company and telephone company. Utility companies shall notify the community development department at least two weeks prior to the start of work and shall follow appropriate vegetation management practices;
- C. Land clearing performed within any public right-of-way or any public easement, when such work is performed by a public agency and the work relates to the installation of utilities and transportation facilities (such as streets, sidewalks and bike paths). To the greatest extent possible, all such work shall conform to the standards set forth in this chapter;
- D. Land clearing within ten feet (when required for construction) of the perimeter of the single-family or duplex dwellings and associated driveways or septic systems must be indicated on the plot plan submitted to the building official with an application for a building permit. This exemption does not apply to land clearing located within environmentally sensitive areas, or to areas subject to the provisions of the shoreline master program;
- E. Clearing of dead, diseased, or hazardous trees, after verification by the city tree protection professional. For every tree cleared under this exemption, at least one replacement tree shall be planted. Except for the number of trees, replacement trees shall conform to the standard for replacement trees described in TMC 16.08.070(R);
- F. Clearing of trees that act as obstructions at intersections in accordance with the municipal code;

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G. The removal of not more than six trees from any parcel of land in three consecutive calendar years. This exemption does not apply to heritage or historic trees, or to trees located in a greenbelt or greenbelt zone, or in wetlands or critical areas and their buffers or to tree topping. A letter of “waiver” for the exempt removals must be obtained from the community development department prior to tree removal;

H. Land clearing associated with tree farming operations specifically preempted by Chapter 76.09 RCW, Washington Forest Practices Act; provided, that a harvesting and reforestation plan is submitted to the code administrator prior to any land clearing;

I. Clearing of noxious ground cover for the purposes of utility maintenance, landscaping, or gardening. This exemption applies solely to ground cover, for protected trees clearing must conform to subsection G of this section;

J. Clearing of trees that obstruct or impede the operation of air traffic or air operations at the Olympia Airport. The tree replacement standards of this chapter must be met. Trees should be replanted outside the air operations area;

K. Clearing of not more than six trees every three consecutive calendar years on developed properties, when such clearing is necessary to allow for the proper functioning of a solar-powered energy system. Such clearing may be done only after verification of the need to clear the trees, issuance of a waiver letter, and the issuance of a building permit for such a system by the code administrator.

(Amended during 2011 reformat; O2006-014, Amended, 04/17/2007; Ord. O2002-012, Amended, 07/16/2002; Ord. O97-029, Amended, 03/17/1998; Ord. O94-029, Amended, 09/20/1994; Ord. 1311, Amended, 04/07/1992; Ord. 1190, Added, 05/16/1989)

### **16.08.090 Alternative plans.**

Required tree mitigation must conform to the standards contained in this chapter unless alternate plans that are equal to or superior in achieving the purposes of this chapter are authorized in writing by the code administrator. The code administrator may modify or waive the requirements of this chapter only after consideration of a written request for any of the following reasons:

A. Special circumstances relating to the size, shape, topography or physical conditions, location, or surroundings of the subject property, or to provide it with use rights and privileges permitted to other properties in the vicinity and zone in which it is located;

B. Improvement as required without modification or waiver would not function properly or safely or would not be advantageous or harmonious to the neighborhood or city as a whole;

C. The proposed modification would result in an increased retention of mature trees and/or naturally occurring vegetation on the site;

D. The proposed modification represents a superior result than that which could be achieved by strictly following the requirements of this chapter, the proposed modification complies with the stated purpose of TMC 16.08.020 and the proposed modification will not violate any city of Tumwater codes or ordinances.

Any modifications under this chapter shall be as limited as possible to achieve the aim of relating required mitigation for tree protection to the impacts caused by the individual development.

(Ord. O2006-014, Amended, 04/17/2007; Ord. O2002-012, Amended, 07/16/2002; Ord. 1190, Added, 05/16/1989)

### **16.08.100 Appeal procedure.**

Any person aggrieved by a decision or an action of the code administrator in the enforcement or implementation of this chapter may, within fourteen calendar days of such decision or action, file a written appeal to the hearing examiner. Any decision of the hearing examiner may be appealed to the Thurston County superior court in accordance with the provisions of TMC Chapter 2.58.

(Ord. O2017-022, Amended, 12/05/2017; Ord. O2006-014, Amended, 04/17/2007; Ord. O2002-012, Amended, 07/16/2002; Ord. O94-029, Amended, 09/20/1994; Ord. 1259, Amended, 11/06/1990; Ord. 1190, Added, 05/16/1989)

# Urban Forestry Management Plan – Tree Preservation Regulation Update

## Scope of Work

March 9, 2022

### **16.08.110 Violation – Criminal penalties.**

A. Any person who violates the provisions of this chapter or fails to comply with any of the requirements shall be guilty of a misdemeanor and subject to the penalties set forth in TMC 1.12.010. In keeping with the city's concern regarding protection of the environment, the court should consider the imposition of minimum fines of no less than \$1,000 per occurrence. Each day such violation continues shall be considered a separate, distinct offense. In cases involving land clearing in violation of this chapter, the clearing of any area up to the first acre shall be considered one offense, and the clearing of each additional acre and of any additional fractional portion that does not equal one more acre shall each be considered a separate and distinct offense.

B. Any person who commits, participates in, assists or maintains such violation may be found guilty of a separate offense and suffer the penalties as set forth in subsection A of this section.

C. In addition to the penalties set forth in subsections A and B of this section, any violation of the provisions of this chapter is declared to be a public nuisance and may be abated through proceedings for injunctive or similar relief in superior court or other court of competent jurisdiction.

D. Upon determination that a violation of the provisions of this chapter has occurred, the building official shall withhold issuance of building permits for the affected property until corrective action is taken by the responsible party. However, if mitigating circumstances exist and reasonable commitments for corrective action are made, the building official may issue building permits. Such corrective action may include:

1. Restoration and replanting of surface vegetation with plant material similar in character and extent as existed prior to the unauthorized clearing;
2. Implementation of drainage and erosion control measures;
3. Replanting of trees equal in value to those lost through unauthorized clearing. The value of the trees removed shall be determined by the city's tree protection professional using landscape tree appraisal methodology published in the current edition of the International Society of Arboriculture's Guide for Plant Appraisal.

(Ord. O2002-012, Amended, 07/16/2002; Ord. O97-029, Amended, 03/17/1998; Ord. O94-029, Amended, 09/20/1994; Ord. 1311, Amended, 04/07/1992; Ord. 1190, Added, 05/16/1989)

### **16.08.120 Violation – Civil penalties – Presumption – Other remedies.**

A. As a supplement or alternative to the remedies set forth in TMC 16.08.110, the code administrator shall have the authority to seek civil penalties for violation of the provisions of this chapter.

Any person, corporation, partnership or other entity being the owner of real property or holder of timber rights upon such property who violates the provision of this chapter or fails to comply with any of its requirements shall upon a proper showing be deemed to have committed a class 1 civil infraction as defined by TMC 1.10.120(D)(1). Civil liability shall also attach to others who violate the provisions of this chapter, whether or not such violation occurs at the direction of the owners or holder of timber rights.

As provided by law, the Tumwater municipal court is hereby vested with jurisdiction to hear civil infraction cases under this chapter. Said cases shall be heard by the court without jury and upon a finding that the infraction has been committed by a preponderance of the evidence.

The code administrator shall have the authority to charge as a separate violation each such tree removed or destroyed.

B. Presumption. For purposes of administration and prosecution of alleged violations of this chapter, there is hereby created a rebuttable presumption that the person whose name appears on tax records of the Thurston County assessor, with respect to the real property in question, has responsibility for ensuring that violations of provisions of this chapter do not occur on the property in question.

Urban Forestry Management Plan – Tree Preservation Regulation Update  
Scope of Work  
March 9, 2022

C. In addition to the penalties set forth in this chapter, any violation of the provisions of this chapter is declared to be a public nuisance and may be abated through proceedings for injunctive or similar relief in superior court or other court of competent jurisdiction.

D. Upon determination that a violation of the provisions of this chapter has occurred, the building official shall withhold issuance of building permits for their affected property until corrective action is taken by the responsible party. However, if mitigating circumstances exist and reasonable commitments for corrective action are made, the building official may issue building permits. Such corrective action may include:

1. Restoration of surface vegetation with plant material similar in character and extent as existed prior to the unauthorized clearing;
2. Implementation of drainage and erosion control measures;
3. Replanting of trees equal in value to those lost through unauthorized clearing. The value of the trees removed shall be determined by the city's tree protection professional using landscape tree appraisal methodology published in the current edition of the International Society of Arboriculture's Guide for Plant Appraisal.

(Amended during 2011 reformat; O2002-012, Amended, 07/16/2002; Ord. O97-029, Amended, 03/17/1998; Ord. O94-029, Added, 09/20/1994)

TO: General Government Committee  
FROM: Brad Medrud, Planning Manager  
DATE: March 9, 2022  
SUBJECT: Interlocal Agreement for Electrification Cost Assessment

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1) Recommended Action:

Forward the Interlocal Agreement for Electrification Cost Assessment to the April 5, 2022 City Council consent calendar.

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2) Background:

The City Council accepted the *Thurston Climate Mitigation Plan* (2020) as a framework to guide future action addressing local sources of greenhouse gas emissions that contribute to global climate change. The *Plan* identifies building electrification as one of the most important strategies to achieve substantial reductions in local greenhouse gas emissions.

The cities of Lacey, Olympia, and Tumwater and Thurston County staff have prepared a draft Interlocal Agreement for Electrification Cost Assessment, which will evaluate the costs associated with building and operating all-electric housing, commercial development, and mixed-used development in Thurston County. The partners will contract with ECONorthwest to do the work. The City of Olympia will take the lead on project management.

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3) Policy Support:

Conservation Element Policy C-1.6: Reduce communitywide greenhouse gas emissions 45 percent below 2015 levels by 2030 and 85 percent below 2015 levels by 2050 to ensure that local communities do their part to keep the global average temperature from rising more than 2°C.

Conservation Element Policy C-1.7: Implement the strategies contained in the most recent version of the accepted *Thurston Climate Mitigation Plan*.

Land Use Element Policy LU-1.14: Coordinate the Land Use Element with the strategies in the most recent version of the *Thurston Climate Mitigation Plan*.

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4) Alternatives:

☐ None.

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5) Fiscal Notes:

The City will pay the City of Olympia \$7,619 upon delivery of the final analysis results and memorandum. Sufficient funding is available in the sustainability project line item of Nondepartmental.

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6) Attachment:

A. Interlocal Agreement for Electrification Cost Assessment

**Interlocal Agreement  
Between Thurston County and the Cities of Lacey, Olympia, and Tumwater  
for the Development of a Regional Building Electrification Cost Assessment**

**THIS AGREEMENT** (“Agreement”) is made and entered into as of the date of the last signature below (which is the “effective date”) by and between the City of Lacey, a Washington municipal corporation (“Lacey”); the City of Olympia, a Washington municipal corporation (“Olympia”); the City of Tumwater, a Washington municipal corporation (“Tumwater”); and Thurston County, a Washington municipal corporation (“County”), collectively referred to herein as “the Parties” and individually as “Party.”

**WHEREAS**, RCW 39.34.010 permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner pursuant to forms of governmental organization that will accord best with geographic, economic, populations, and other factors influencing the needs and development of local communities; and

**WHEREAS**, pursuant to RCW 39.34.080, each Party is authorized to contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform; provided, that such contract is authorized by the governing body of each Party to the contract and sets forth its purposes, powers, rights, objectives, and responsibilities of the contracting parties; and

**WHEREAS**, the Parties understand that human activities, especially combustion of fossil fuels, are leading to increased levels of carbon dioxide and other greenhouse gases in the atmosphere that are altering the climate, resulting in such impacts as reduced snowpack, ocean acidification, sea level rise, increased flooding, summer droughts, loss of habitat, and increased forest fires; and

**WHEREAS**, these environmental impacts of climate change create economic and public health impacts, and disproportionately impact the most vulnerable and marginalized populations, and the Parties are greatly concerned over all these impacts on the Thurston County region and their respective communities; and

**WHEREAS**, the Parties have each adopted a resolution with a common emissions baseline and targets to reduce communitywide emissions 45% below 2015 levels by 2030 and 85% below 2015 levels by 2050; and

**WHEREAS**, the Parties have each adopted a resolution accepting the *Thurston Climate Mitigation Plan (2020)* as a framework to guide future action addressing local sources of greenhouse gas emissions that contribute to global climate change; and

**WHEREAS**, the *Thurston Climate Mitigation Plan* identifies building electrification as one of the most important strategies to achieve substantial reductions in local greenhouse gas emissions; and

**WHEREAS**, the Parties believe that regionally coordinated implementation of the *Thurston Climate Mitigation Plan* is essential to the most efficient and effective deployment of the plan’s actions; and

**WHEREAS**, the Parties wish to contract with ECONorthwest, given ECONorthwest's staff expertise, to evaluate the costs associated with building and operating all-electric housing, commercial development, and mixed-used development in Thurston County;

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, the Parties agree as follows:

**I. Purpose and Goals of Agreement**

The purpose of this Agreement is to conduct a regionally coordinated building electrification cost assessment to support the implementation of the Thurston Climate Mitigation Plan. The assessment will evaluate the financial implications (including development and operation costs) associated with constructing new homes, businesses, and mixed-use establishments in Thurston County that integrate electric infrastructure, instead of gas-powered appliances, for cooking, space heating, and water heating.

**II. Services Provided by Olympia**

Olympia will act as the Lead Agency of behalf of the Parties in administering the Consultant Agreement with ECONorthwest. Olympia will submit invoices to each Party for their share of the Consultant's costs.

A description of the services to be performed by Olympia is set forth in Exhibit A Scope of Work, attached hereto, and incorporated herein by reference.

Olympia shall be responsible to monitor the actions of the Consultant, and if ECONorthwest fails to comply with an applicable term or condition of their contract, Olympia shall take appropriate actions to ensure ECONorthwest complies with the fiscal conditions of the contract.

Olympia shall pay ECONorthwest for services rendered in the month following the actual delivery of the work and will remit payment within thirty (30) days from the date of receipt of invoice.

No payment shall be made for any work performed by ECONorthwest, except for work identified and set forth in this Agreement and exhibit incorporated by reference into this Agreement.

**III. Services Provided by Lacey**

A description of the services to be performed by Lacey is set forth below:

1. Lacey shall pay Olympia \$7,619 upon delivery of the final analysis results and memorandum; and
2. Lacey shall attend a project Kickoff Meeting, facilitated by ECONorthwest, provide any necessary data or planning documents as discussed at the meeting, and approve the project schedule prepared by ECONorthwest following the meeting; and
3. Lacey shall attend monthly project team meetings, facilitated by ECONorthwest, and provide timely input and support to guide the project as needed; and

4. Lacey shall provide guidance on the specific strategies and policies that ECONorthwest should analyze, prior to beginning work on evaluating strategy implications; and
5. Lacey shall provide one round of review on the draft analysis results from ECONorthwest.

**IV. Services Provided by Tumwater**

A description of the services to be performed by Tumwater is set forth below:

1. Tumwater shall pay Olympia \$7,619 upon delivery of the final analysis results and memorandum; and
2. Tumwater shall attend a project Kickoff Meeting, facilitated by ECONorthwest, provide any necessary data or planning documents as discussed at the meeting, and approve the project schedule prepared by ECONorthwest following the meeting; and
3. Tumwater shall attend monthly project team meetings, facilitated by ECONorthwest, and provide timely input and support to guide the project as needed; and
4. Tumwater shall provide guidance on the specific strategies and policies that ECONorthwest should analyze, prior to beginning work on evaluating strategy implications; and
5. Tumwater shall provide one round of review on the draft analysis results from ECONorthwest.

**V. Services Provided by Thurston County**

A description of the services to be performed by Thurston County is set forth below:

1. Thurston County shall pay Olympia \$7,619 upon delivery of the final analysis results and memorandum; and
2. Thurston County shall attend a project Kickoff Meeting, facilitated by ECONorthwest, provide any necessary data or planning documents as discussed at the meeting, and approve the project schedule prepared by ECONorthwest following the meeting; and
3. Thurston County shall attend monthly project team meetings, facilitated by ECONorthwest, and provide timely input and support to guide the project as needed; and
4. Thurston County shall provide guidance on the specific strategies and policies that ECONorthwest should analyze, prior to beginning work on evaluating strategy implications; and
5. Thurston County shall provide one round of review on the draft analysis results from ECONorthwest.

**VI. Indemnification and Insurance**

Each Party shall defend, indemnify, and hold the other parties, their officers, officials, employees, and volunteers harmless from any and all claims, injuries, damages, losses, or suits, including reasonable attorney fees, arising out of or in connection with the indemnifying Party's

performance of this Agreement, including injuries and damages caused by the negligence of the indemnifying Party's officers, officials, and employees.

Each Party shall maintain liability insurance; this may be fulfilled by a Party's membership and coverage in Washington Cities Insurance Authority (WCIA), a self-insured municipal insurance pool, or another recognized self-insured municipal risk pool.

**VII. No Separate Legal Entity Created; No Real or Personal Property to be Acquired or Held**

This Agreement creates no separate legal entity. No real or personal property will be acquired or held as part of carrying out this Agreement. To the extent any Party furnishes property for purposes of carrying out this Agreement, such property must be returned to that Party upon termination of this Agreement, or upon that Party's withdrawal from this Agreement.

**VIII. Relationship of the Parties**

The employees or agents of each Party who are engaged in the performance of this Agreement shall continue to be employees or agents of that Party and shall not be considered for any purpose to be employees or agents of the other Party. This Agreement is for the benefit of the Parties, and no third-party beneficiary relationship is intended.

**IX. Duration of Agreement**

This Agreement shall terminate on December 31, 2022, unless earlier terminated as provided in Section XI, below.

**X. Amendment of Agreement**

This Agreement may be amended only by written agreement by all Parties and executed in accordance with chapter 39.34 RCW.

**XI. Termination of Agreement**

This Agreement may be terminated upon mutual agreement of the Parties. Any party may withdraw upon thirty (30) days written notice to the other Parties.

**XII. Interpretation and Venue**

This Agreement is governed by the laws of the State of Washington as to interpretation and performance. Venue for enforcement of any provision of this Agreement, or for any lawsuit arising out of or relating to this Agreement, is the Superior Court of Thurston County.

**XIII. Entire Agreement**

This Agreement sets forth all terms and conditions agreed upon by the Parties and supersedes all prior agreements oral or otherwise with respect to the specific subject matter addressed herein.

**XIV. Recording**

Prior to its entry into force, Thurston County shall file this Agreement with the Thurston County Auditor's Office.

**XV. Counterparts**

This Agreement may be executed in counterparts, and all such counterparts once so executed together must be deemed to constitute one final agreement, as if one document had been signed by all Parties, and each such counterpart, upon execution and delivery, must be deemed a complete original, binding on the parties. A faxed or email copy of an original signature must be deemed to have the same force and effect as the original signature. A Party may sign by digital or electronic signature, which signature shall be effective as permitted by law.

**XVI. Rights**

This Agreement is between the signatory Parties only and does not create any third-party rights.

**XVII. Notice**

Any notice required under this Agreement must be to the party at the address listed below and it becomes effective five business days following the date of deposit with the United States Postal Service.

**THURSTON COUNTY**

Attn: Josh Cummings, Community Planning and Economic Development Director  
 Re: Climate Plan Implementation  
 Thurston County  
 2000 Lakeridge Dr. SW  
 Olympia, WA 98502

**CITY OF OLYMPIA**

Attn: Pamela Braff, Climate Program Manager  
 Re: Climate Plan Implementation  
 City of Olympia  
 P.O. Box 1967  
 Olympia, WA 98507-1967

**CITY OF LACEY**

Attn: Rick Walk, Community Development Director  
 Re: Climate Plan Implementation  
 City of Lacey  
 420 College Street SE  
 Lacey, WA 98503

**CITY OF TUMWATER**

Attn: Brad Medrud, Planning Manager  
 Re: Climate Plan Implementation  
 City of Tumwater  
 555 Israel Road SW  
 Tumwater, WA 98501

**XVIII. Waiver**

A failure by a Party to exercise its rights under this Agreement shall not preclude that Party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the Party and attached to the original Agreement.

**XIX. Severability**

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

**XX. Records Retention and Audit**

During the progress of the work and for a period not less than six (6) years from the completion of the tasks set forth herein, the records and accounts pertaining to the work and accounting therefore are to be kept available for inspection by any Party and the Federal and State Government and copies of all records, accounts, documents, or other data pertaining to the work will be furnished upon request. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claim, or audit finding has been resolved even though such litigation, claim, or audit continues past the six-year retention period.

**[The remainder of this page is left intentionally blank. Signatures follow on next page.]**

This Agreement is hereby entered into between the Parties, and it shall take effect on the date of the last authorizing signature affixed hereto:

**GOVERNMENT AGENCY EXECUTIVE****APPROVED AS TO FORM**

<b>CITY OF LACEY</b> 420 College Street SE Lacey, WA 98503  <hr/> <b>Scott Spence, City Manager</b> <b>Date</b>  <b>CITY OF OLYMPIA</b> 601 4th Ave East Olympia, WA 98501  <hr/> <b>Steven J. (Jay) Burney, City Manager</b> <b>Date</b>  <b>CITY OF TUMWATER</b> 555 Israel Road SW Tumwater, WA 98501  <hr/> <b>Debbie Sullivan, Mayor</b> <b>Date</b>  <b>THURSTON COUNTY</b> 2000 Lakeridge Drive SW Olympia, WA 98502  <hr/> <b>Ramiro Chavez, County Manager</b> <b>Date</b>	<b>CITY OF LACEY</b> 420 College Street SE Lacey, WA 98503  <hr/> <b>David Schneider, City Attorney</b>  <b>CITY OF OLYMPIA</b> 601 4th Ave East Olympia, WA 98501  <hr/> <b>Mark Barber, City Attorney</b>  <b>CITY OF TUMWATER</b> 555 Israel Road SW Tumwater, WA 98501  <hr/> <b>Karen Kirkpatrick, City Attorney</b>  <b>THURSTON COUNTY</b> 2000 Lakeridge Drive SW Olympia, WA 98502  <hr/> <b>Jon Tunheim, Prosecuting Attorney</b>
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