



Agenda Sheet for City Council Meeting of:

04/15/2019

Date Rec'd	4/3/2019
Clerk's File #	ORD C35758
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	CITY COUNCIL
Contact Name/Phone	LORI KINNEAR 625-6261
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Agenda Item Type	First Reading Ordinance
Agenda Item Name	0320 - AN ORDINANCE REGARDING SPOKANE'S URBAN FORESTRY PROGRAM.

Agenda Wording
 An ordinance updating Spokane's urban forestry ordinance.

Summary (Background)
 This ordinance is an update to the urban forestry ordinance and commits the City to aspirational goals concerning increasing the urban tree canopy. The ordinance also commits the city to updating the urban forestry plan every five years, and requires that the director of the urban forestry program coordinate with the neighborhood and business services division. The ordinance also creates new reforestation programs and maintains existing programs.

Fiscal Impact	Grant related? NO	Budget Account
	Public Works? NO	
Neutral	\$	#
Select	\$	#
Select	\$	#
Select	\$	#

Approvals		Council Notifications	
Dept Head	MCCLATCHEY, BRIAN	Study Session	
Division Director		Other	PIES Committee, 3/12/19
Finance	HUGHES, MICHELLE	Distribution List	
Legal	DALTON, PAT		
For the Mayor	ORMSBY, MICHAEL		
Additional Approvals			
Purchasing			

FIRST READING OF THE ABOVE
 ORDINANCE HELD ON
4/15/2019
 AND FURTHER ACTION WAS DEFERRED

 CITY CLERK

PASSED BY
 SPOKANE CITY COUNCIL:
4/22/2019

 CITY CLERK

ORDINANCE NO. C35758

An ordinance regarding Spokane's Urban Forestry Program; amending Article V of chapter 12.02 of the Spokane Municipal Code.

WHEREAS, Spokane's urban forest provides many economic, health and environmental benefits for city residents and businesses; and

WHEREAS, trees produce oxygen and filter airborne particulates which improves Spokane's air quality; and

WHEREAS, trees improve water quality and reduce storm water runoff – reducing pollutants and mitigation costs; and

WHEREAS, trees save energy costs by providing shade, contributing to summer cooling, and moderating the effects of wind – according to the U.S. Forest Service's Center for Urban Forest Research, properly placing just three trees near a home can reduce that home's energy costs by up to 30%; and

WHEREAS, there are over 76,000 street trees which have been inventoried and analyzed for value and benefits in the City of Spokane, and those trees provide tangible financial value, such as:

- Over \$700,000 in reduced heating and cooling costs annually,
- Over \$75,000 in annual reductions of atmospheric CO₂,
- Nearly \$300,000 in annual savings for our storm water mitigation efforts due to rain interception and storage, and
- Lowered crime rates and increased marketability and property values of about \$2,800,000 annually; and

WHEREAS, pavement which is shaded by trees will last 10 years longer than exposed pavement, resulting in less maintenance and savings in paving material and labor costs; and

WHEREAS, people are more likely to shop in business districts with treescaping and are likely to spend more when doing so; and

WHEREAS, patients with even just a view of greenery, such as parks, gardens, and/or trees, heal faster; and

WHEREAS, trees provide a wealth of wildlife habitat and are especially important in urban areas as connections to open space and wild areas; and

WHEREAS, studies have shown that properly-designed plantings of trees and shrubs can reduce the apparent loudness of urban areas by 6-10 decibels; and

WHEREAS, the City of Spokane recognizes the central part that trees play in our culture, our environment, and our city's distinctive character by adopting the Ponderosa Pine as our official city tree; and

WHEREAS, trees make our city more livable and a healthy urban forest plays important roles in our quality of life and the sustainability of Spokane's environment by lowering our energy costs, giving us clean air and clean water, imparting a distinctive character and beauty, enriching the aesthetic experience of the community, softening and screening urban development, providing habitat for wildlife, and adding to our history, civic pride and public life.

NOW THEREFORE, the City of Spokane does ordain:

Section 1. That Article V of Chapter 12.02 of the Spokane Municipal Code is amended to read as follows:

Article V: Urban Forestry Program

Section 12.02.900 ((Urban Forestry Program)) Findings, Purpose, and Intent
~~((A new article is created in chapter 12.02 SMC, designated Article V, Urban Forestry Program, to consist of SMC 12.02.900 through SMC 12.02.958.))~~

- A. The City of Spokane recognizes that the design of the urban environment must ultimately be for the benefit of the quality of life of the human inhabitants, and that a healthy urban forest is a key component of the quality of life.
- B. The focus of the urban forestry program is to balance competing needs of the community, in the context of limited municipal resources, while promoting and maintaining a healthy urban forest.
- C. The City of Spokane intends, by enacting this chapter, to:
 - a. promote the restoration and preservation of desirable trees and shrubs;
 - b. advocate for the establishment and retention of adequate tree planting spaces while considering the community's desire for urban aesthetics; and
 - c. as resources may allow, to address problems arising from improper planting, maintenance, or removal of trees and shrubs.
- D. The implementation of this Article V is at all times subject to appropriations. It is not a purpose of this article to create or expand any duty, responsibility, or liability on the part of the City of Spokane, its officers, agents, employees, or contractors. Any such duty nonetheless deemed created does not extend to any specific or identifiable person or class. Additionally, nothing in this article and no action taken or inaction by the City, its officers, agents,

employees, or contractors shall reduce the responsibility of other persons or entities for intentional or negligent acts or omissions, including failure to maintain their property, curtilage or related areas with reasonable care. This subsection (D) controls all other provisions.

Section ((12.02.902))12.02.905 ((Purpose))Spokane Urban Forestry Plan and Goals

- A. ~~((The city council and park board recognize that the design of the urban environment must ultimately be for the benefit of the quality of life of the human inhabitants, and that a healthy urban forest is a key component of the quality of life. The focus of the urban forestry program will be on balancing competing needs of the community, in the context of limited municipal resources, while promoting and maintaining a healthy urban forest.~~
- B. ~~The purpose of this article is to promote and protect the public health, safety and general welfare through the initiation of an urban forestry program, including supervision of the planting, pruning, removal and maintenance of trees, shrubs, and other plants within the public rights-of-way and public places of the City and by offering education and assistance to citizens to promote a healthy urban forest.~~
- C. ~~It is also the intent of the city council to:~~
- ~~1. promote the restoration and preservation of desirable trees and shrubs;~~
 - ~~2. advocate for the establishment and retention of adequate tree planting spaces while considering the community desire for urban aesthetics; and~~
 - ~~3. as resources may allow, to address problems arising from improper planting, maintenance, or removal of trees and shrubs.~~
- D. ~~The urban forestry program reflects a municipal goal, but its implementation may be subject to budget or other limitations or restrictions from time to time. It is not a purpose of this article to create or expand any duty, responsibility, or liability on the part of the City of Spokane, its officers, agents, employees, or contractors. Any such duty nonetheless deemed created does not extend to any specific or identifiable person or class. Additionally, nothing in this article and no action taken or inaction by the City, its officers, agents, employees, or contractors shall reduce the responsibility of other persons or entities for intentional or negligent acts or omissions, including failure to maintain their property, curtilage or related areas with reasonable care. This subsection (D) controls all other provisions.))~~

- A. It is the goal of the City of Spokane that thirty percent (30%) of the total land area within the City of Spokane has a healthy and functioning tree canopy coverage by 2030.
- B. It is a goal of the City of Spokane to create and maintain active re-forestation programs in Spokane.
- C. Beginning on the effective date of this section, the City of Spokane will update its urban forestry plan at least every five (5) years.

Section 12.02.910 Definitions

((The following definitions, ~~SMC 12.02.932 through SMC 12.02.958~~, apply to this article.))

- A. "Arboricultural manual" means the Arboricultural Specifications and Standards of Practice for the City of Spokane which contains regulations and standards for the planting, pruning, removal, and maintenance of trees and shrubs on public property and a program for developing and improving the tree, shrub, and other plant resources of the community.
- B. "Commercial tree work" means any work performed on street or public trees by a person retained by the property owner or public utility.
- C. "Director" means the director of the parks and recreation division or the director's designee.
- D. "Hazardous tree" means any tree or tree part that poses a high risk of damage to persons or property.
- E. "Heritage tree" means a tree or collection of trees that is particularly desirable because it has valued, unique characteristics that set it apart from other similar trees as specified by SMC 12.02.975.
- F. "Major pruning" means the pruning or cutting out of branches two inches (2") in diameter or greater, root pruning, cutting out of branches and limbs constituting greater than fifteen percent (15%) of the tree's foliage bearing area and pruning trees with branches that are within ten feet (10') of overhead power lines. The work shall retain the natural form of the tree.
- G. "Minor pruning" means pruning or cutting out of water sprouts, suckers, twigs, or branches less than two inches (2") in diameter, or which constitutes less than fifteen percent (15%) of the tree's foliage bearing area. The work shall retain the natural form of the tree. Removal of dead wood, broken branches, and stubs are included within the definition of

minor pruning. Minor pruning of street trees may be performed by the owner of the adjacent property without obtaining a permit from the City.

- H. “Public place” means property owned in fee by the City of Spokane.
- I. “Public Tree” is a tree on City-owned property. A public tree may also be a street tree.
- J. “Public utility” means any organization that has a franchise to utilize the public rights-of-way.
- K. “Right-of-way” means that strip of land:
 - 1. dedicated for public travel, including the main traveled portions of the streets and sidewalks as well as parking or planting strips, pedestrian buffer strips, and other associated areas, or over which is built, public streets, sidewalks, or alleys for public travel; or
 - 2. used for or dedicated to utilities installation within the right-of-way.
- L. “Severe crown reduction” means the specific reduction in the overall size of a tree and/or the severe internodal cutting back of branches or limbs to stubs within the tree’s crown to such a degree as to remove the normal tree canopy and disfigure the tree. Severe crown reduction is not a form of pruning and, for street trees and trees within the public right-of-way, is prohibited.
- M. “Street tree” means any tree or shrub located within the public right-of-way.
- N. “Tree committee” means the urban forestry tree committee created by SMC 04.28.010.
- O. “Tree lawn,” “parking strip,” and “planting strip” are used interchangeably to mean the area between the curb and sidewalk.
- P. “Urban forestry plan” means a comprehensive plan addressing the long-term goals and strategic planning related to tree planting, pruning, removal, and maintenance needs of trees located in public places to encourage the sustainability of the urban forest. Neighborhood specific tree plans or neighborhood land use plans which incorporate sections or language related to public trees shall be incorporated in the general urban forestry plan and neighborhoods shall consider the urban forestry plan in the development of neighborhood specific tree plans or land use plans.

Section ~~((12.02.904))~~ 12.02.915 Urban Forestry Program

A. Establishment.

The urban forestry program is established within the parks and recreation ~~((department))~~ division, which exercises jurisdiction over street trees and shrubs ~~((within the public rights-of-way-))~~ and trees and shrubs located in other public places as defined in SMC 12.02.910(H).

B. Responsible Official.

The director of parks and recreation is designated as the responsible official for administering the urban forestry program. The director may designate an employee as the urban forester to perform the duties to administer the program.

C. Authority.

1. The director regulates and permits the planting, pruning, removal, replacement, and maintenance of all street trees.
2. The director, with the advice and assistance of the tree committee, will prepare the Arboricultural Manual and associated administrative policy and will present the manual and administrative policy to the park board and city council ~~((for adoption))~~.
3. The director, with the advice and assistance of the tree committee, will prepare the urban forestry ~~((management))~~ plan and associated administrative policy and will present the plan and administrative policy to the park board, plan commission, and city council ~~for adoption~~.
4. The director examines all trees and shrubs within the scope of this article to determine whether they are contagiously diseased, dead, or hazardous, obstructing the right-of-way, or posing a threat to public safety, having the right to take samples from trees and shrubs for laboratory testing.
5. The director, with the advice and assistance of the tree committee, will develop a plan for assisting property owners with their street trees, which plan includes educational programs and criteria for financial assistance.
6. The director will develop educational programs for the public promoting proper urban forestry practices.
7. The director will facilitate the establishment of a citizen advisory committee to facilitate citizen participation in the urban forestry program.
8. In carrying out the duties prescribed by this section, the director shall consult and coordinate with the director of the neighborhood and business services division.

Section ((12.02.906))12.02.920 Hazard Evaluation Criteria

Municipal response to tree or other hazards within the scope of this article is in the City's sole discretion. In prioritizing a response, City officials may use the International Society of Arboriculture's ((~~twelve-point hazard evaluation system~~))current best practices for Tree Risk Assessment, but no obligation to act is created.

Section ((12.02.908))12.02.925 Abutting Owner Responsibilities – City Tree Maintenance List

- A. Abutting property owners are responsible for the following:
1. Protection of street tree health by obtaining all permits as required by this article for planting, removal, or pruning of street trees. The property owners may perform minor pruning of street trees ((~~on~~)) abutting their property without obtaining a permit.
 2. Care and maintenance of the tree lawn to ensure proper health of the trees.
 3. Removal and replacement of street trees which are topped or improperly pruned if the director determines that a street tree's health is severely degraded.
 4. Care and maintenance of trees on their property in such a way as to not cause a hazard to the public safety or to the health of public, landmark or street trees.
 5. Removal of trees located on their property that have been declared a public nuisance or hazard.
 6. Abutting property owners must exercise reasonable care in the use or condition of their property so as not to render the right-of-way unsafe for ordinary travel or to endanger persons or property of persons using the right-of-way. Abutting property conditions may include planting or allowing trees, shrubs, plants, or other natural or human placed installations which affect the right-of-way directly or indirectly. Uses include a use with may cause or promote damage, unauthorized alteration, or interference with the right-of-way, not by way of limitation. The abutting property includes the curtilage and areas in or near the right-of-way, whether or not actively used for public travel.
- B. Any duty imposed upon a property owner applies jointly and severally to a property occupant, but enforcement action against an occupant does not release the owner from ultimate responsibility hereunder.
- C. Sometimes, funding may become available for the ((~~park department~~))program to assist in planting new street trees, pruning, removal, or otherwise helping with street tree maintenance for street trees

on tree lawns. This effort may arise in low income neighborhoods or become available through community development federal funding or other public or private resources. No action by the ~~((park department))~~ program shall relieve a property owner of an obligation under this article except to the extent the ~~((park department))~~ program may be able to assist and support the property owner, and no municipal duty is created thereby. If a new street tree is proposed to be planted, the ~~((park department))~~ program shall work with the abutting property owner to confirm the owner's understanding of owner's responsibilities under this article. Specific reference is made to policy NE 12.5 in the Natural Environment chapter of the City of Spokane comprehensive plan, which provides for a policy of "no net loss" in street trees, explaining that street tree removal should only be granted when a tree is determined by the City to be sick, damaged, or near the end of life. This does not restrict removal for public health and safety reasons, in the determination of public safety officials.

- D. The director may develop a maintenance list for street trees or other trees in certain areas where the ~~((department))~~ program is able to perform tree maintenance work. Except in such circumstances, and only to the extent resources may be available, ~~((or to the extent SMC 12.02.935(F) may apply,))~~ actions taken under this article are at the cost and liability of the abutting property owner or other responsible party or parties, as may be determined by the director.

~~((Section 12.02.930 Definitions~~

~~The following definitions, SMC 12.02.932 through SMC 12.02.958, apply to this article.~~

~~Section 12.02.932 "Arboricultural Manual" Defined~~

~~"Arboricultural manual" means the Arboricultural Specifications and Standards of Practice for the City of Spokane which contains regulations and standards for the planting, pruning, removal, and maintenance of trees and shrubs on public property and a program for developing and improving the tree, shrub, and other plant resources of the community.~~

~~Section 12.02.934 "Commercial Tree Work" Defined~~

~~"Commercial tree work" means any work performed on street or public trees by a person retained by the property owner or public utility.~~

~~Section 12.02.936 "Director" Defined~~

~~"Director" means the director of the parks and recreation department or the director's designee.~~

~~Section 12.02.938 "Hazardous Tree" Defined~~

~~"Hazardous tree" means any tree or tree part that poses a high risk of damage to persons or property.~~

Section 12.02.940 "Person" Defined

See SMC 1.02.100.

Section 12.02.942 "Pruning" Defined

- A. ~~"Major pruning" means the pruning or cutting out of branches three inches in diameter or greater, root pruning, or cutting out of branches and limbs constituting greater than fifteen percent of the tree's foliage bearing area. The work shall retain the natural form of the tree.~~
- B. ~~"Minor pruning" means pruning or cutting out of water sprouts, suckers, twigs, or branches less than three inches in diameter, or which constitutes less than fifteen percent of the tree's foliage bearing area. The work shall retain the natural form of the tree. Removal of dead wood, broken branches, and stubs are included within the definition of minor pruning. Minor pruning may be performed by the property owner without obtaining a permit from the City.~~

Section 12.02.944 "Public Place" Defined

~~"Public place" means property owned in fee by the City of Spokane.~~

Section 12.02.945 "Public Tree" Defined

~~"Public Tree" is a tree on City-owned property or on the public right-of-way abutting City-owned property. A public tree may also be a street tree. "City-owned property" does not refer to the right-of-way.~~

Section 12.02.946 "Public Utility" Defined

~~"Public utility" means any organization that has a franchise to utilize the public rights-of-way.~~

Section 12.02.948 "Right-of-way" Defined

~~"Right-of-way" means that strip of land:~~

- A. ~~dedicated for public travel, including the main traveled portions of the streets and sidewalks as well as parking or planting strips, pedestrian buffer strips, and other associated areas, or over which is built, public streets, sidewalks, or alleys for public travel; or~~
- B. ~~used for or dedicated to utilities installation within the right-of-way.~~

~~The "right-of-way" is typically an easement over the land of the abutting property owner.~~

Section 12.02.950 "Severe Crown Reduction" Defined

~~"Severe crown reduction" means the specific reduction in the overall size of a tree and/or the severe internodal cutting back of branches or limbs to stubs within the~~

tree's crown to such a degree as to remove the normal tree canopy and disfigure the tree. Severe crown reduction is not a form of pruning.

Section 12.02.952 "Street Tree" Defined

~~"Street tree" means any tree or shrub located within the public right-of-way.~~

Section 12.02.954 "Tree Committee" Defined

~~"Tree committee" means the urban forestry tree committee created by chapter 4.28 SMC.~~

Section 12.02.956 "Tree Lawn" Defined

~~"Tree lawn" means the area within the right-of-way easement, generally the lawn between the curb and sidewalk; also known as the "parking or planting strip."~~

Section 12.02.958 "Vegetation Management Plan" Defined

~~"Vegetation management plan" means a comprehensive plan addressing the long-term goals and strategic planning related to tree planting, pruning, removal, and maintenance needs of community trees to encourage the sustainability of the urban forest. Neighborhood specific tree plans or neighborhood land use plans which incorporate sections or language related to public trees shall be incorporated in the general vegetation management plan and neighborhoods shall consider the vegetation management plan in the development of neighborhood specific tree plans or land use plans.))~~

Section ((12.02.910))12.02.960 Tree Permit Required

A. Pruning and Removal of Trees.

No person may perform major pruning ~~((of trees,))~~ or cause or authorize any person to prune or remove street trees~~((;))~~ or trees located in planting strips~~((, rights-of-way,))~~ or other public places without first filing an application and obtaining a street tree pruning/removal permit from the City.

1. Application Data.

The application must state the location, number, and kind of trees to be pruned or removed; the kind of maintenance or other work to be done; and such other information as the director may find reasonably necessary to a fair determination of whether a permit should be issued.

2. Standards for Issuance.

The director issues the permit if in his or her judgment the proposed work is consistent with the ordinance and the proposed method and workmanship are satisfactory.

3. Time.

Any permit issued shall contain a date of expiration and the work must be completed in the time allowed on the permit.

4. Major Pruning.

The City requires that the pruning be performed by a person licensed by the City pursuant to SMC 10.25.010.

- B. Planting of Trees.
No person may plant a tree in any City rights-of-way without first obtaining a street tree permit from the City.
- C. Notice of Completion.
A notice of work completion concerning tree planting, removal, or major pruning must be given by the permit holder within five days to the director for inspection. Inspection shall be completed within ten working days.
- D. Annual Permit for City Departments and Utilities with Easements or Franchises Within the Rights-of-Way.
City departments and utilities may apply for an annual permit to perform pruning, planting, or removal of street trees~~((within the rights-of-way))~~. The permit application must include an annual plan that identifies work that will be done during the year. The permit holder must file quarterly reports which will identify all work done on street trees and trees in public places.
- E. Emergency Pruning and Removal.
If immediate removal or major pruning is required to protect the health and safety of the public, tree work to mitigate the immediate hazard may be performed without a permit. The director must be notified on the first working day after the tree work is begun and a permit must be obtained. In the case of a declaration of emergency notification may be made within a reasonable time.
- F. The director may decline to issue a permit, or revoke a permit issued, to any person who refuses or neglects to comply with any of the provisions of this code.

Section ~~((12.02.912))12.02.965~~ Removal, Pruning of Trees and Shrubs

- A. The director may authorize or order removal of or may remove street trees and shrubs situated within the rights-of-way, or other treatment or pruning, whenever one or more of the following criteria are met:
 - 1. The tree or shrub is hazardous ~~((or other good cause))~~as determined by SMC 12.02.920.
 - 2. The tree or shrub is damaging public improvements or public utilities and removal is necessary because of the installation of, or potential or actual damage to, a sidewalk, parkway, curb, gutter, pavement, sewer line, underground utility or other municipal improvement.

3. There is infection or infestation of trees or shrubs with a disease or pest detrimental to the growth, health or life of such trees and which infection or infestation cannot be controlled or removed.
 4. The vegetation obstructs rights-of-way, authorized traffic signs or is determined to interfere with line of sight or creates other identified traffic or safety concerns.
 5. The tree's health is severely degraded because of improper pruning, including severe crown reduction.
- B. When the engineering services department determines that vegetation obstructs a public right-of-way, it notifies the director. Unless an emergency requires immediate abatement by the City, the director may utilize the procedures in SMC ~~((10.20.020))~~12.02.0210 ~~((SMC 12.02.930,))~~ or any other lawful means for pruning or removal.
- C. As a condition of removal, the director requires replacement with trees or shrubs that are appropriate for the location, unless replacement is not possible.
- D. If a street tree is to be removed at the order of the director, unless immediate removal is necessary to protect public health and safety, he notifies the property owner and tenants thirty (30) days prior to the proposed date of removal. The notice states the reason(s) for the removal and the proposed date of the removal. An order of removal may include an estimated cost and provide the property owner with the option of procuring removing within a time specified by authorized persons, but no estimate shall bind the City to accept any amount less than the true and actual cost determined after corrective action is taken.
- E. For City projects which will require removing one or more trees, the department will notify the property owner and tenants thirty (30) days prior to the proposed date of removal. A copy of the notice shall also be delivered to the department of neighborhood services and code enforcement within the same time frame.
- F. Questions affecting right-of-way management are referred to the director of the engineering services department. The parks and recreation director may also refer inquiries about interdepartmental assistance to the director of engineering services, where a healthy tree may be preserved with extra measures involving additional cost or expense, on a site by site basis.

Section ~~((12.02.914))~~12.02.970 Tree Protection, Conservation and Preservation

- A. All street and public trees near any excavation, demolition, or construction of any building, structure, street, or utility work must be sufficiently guarded

and protected by those responsible for such work as to minimize potential injury to said trees and to maximize their chance for survival. When street and public trees are near the project, any construction permits issued by the City must be approved by the director, who may require protective measures as specified in the Arboricultural Manual.

- B. No person may destroy, injure, or deface any street tree or public tree on public property by any means, including, but not limited to, the following methods:
1. Impede the free passage of water, air, or fertilizer to the roots of any tree, shrub, or other plant by depositing vehicles, concrete, asphalt, plastic sheeting, or other material detrimental to trees or shrubs on the tree lawn or on the ground near any tree((-));
 2. Pour any toxic material on any tree or on the ground near any tree((-);
 3. Cause or encourage any fire or burning near or around any tree((-);
 4. Severely reduce the tree crown(~~except when pruning of trees under utility wires or obstructing the right-of-way as allowed by a permit issued by the director~~). Removal or replacement is preferred to severe crown reduction((-);
 5. Carve or attach any sign, poster, notice, or other object on any tree or fasten any rope, wire, cable, nails, screws, staples, or other device to any tree except as used to support a young or broken tree; however, nothing in this section shall be construed in such a manner that it forbids lighting of a decorative or seasonal nature, provided that such lighting is not attached in such a way as to cause permanent damage to the tree((-); or
 6. Plant trees reaching an expected mature height of twenty-five feet (25') or more under overhead power lines.
- C. No person may prevent, delay, or interfere with the director, or the director's designee, or any City employee in the execution or enforcement of the provisions of this article or otherwise violate this Article V.
- D. Any person responsible for a violation of this section must pay the cost of repairing or replacing any tree or shrub damaged by the violation and may be subject to treble the amount of damages assessed in any enforcement action brought by the City, pursuant to RCW 64.12.030. The value of trees and shrubs is to be determined in accordance with the latest revision of the Guide for Plant Appraisals as published by the International Society of Arboriculture.
- E. In addition to remedies under subsection (D) of this section, violation of this section is a class 1 civil infraction. The director has the discretion to issue a warning for a first-time violation.

Section ~~((12.02.916))12.02.975~~ Protection of Public and Private Historic and Heritage Trees

- A. The historic and heritage tree preservation designation recognizes the significance of trees to the City. A tree may be retained beyond its useful life because of its contribution to the environment and City character. The intent of this ordinance is to balance the preservation of historic and heritage trees with the growth and development of the City of Spokane. A heritage or historical tree is designated by the tree committee based on the following criteria:
1. Has historical significance to a person, place, or event.
 2. Has attained significant size in height, caliper, or canopy spread for its age and species.
 3. Has special aesthetic qualities for its species.
 4. Is prominently visible to the public, along major roads, or public places.
 5. Possesses rare horticulture value.
 6. Is not a hazard or obstruction.
 7. The owner of the tree agrees in writing to the "Heritage" designation of the tree and has complied with the nomination steps set forth in subsection D of this section.
- B. The purpose of the heritage tree program shall be to accomplish the following:
1. Increase public awareness of trees in general and specifically Spokane's urban forest.
 2. Draw attention to and protect those significant heritage trees that are unique within the terms of ~~((as specified by))~~this section~~((SMC 12.02.916))~~.
 3. Provide publicity for increased awareness of the purpose and activities of the Spokane urban forestry tree committee (UFTC), the UFTC citizen advisory committee and the urban forestry program.
 4. Encourage public participation in the identification and perpetuation of heritage trees throughout the City.
- C. ~~((The definition of "heritage tree" is a tree or collection of trees that is particularly desirable because it has valued, unique characteristics that set it apart from other similar trees as specified by SMC 12.02.916.))~~
- D. The process for nomination shall be as follows:
1. Any individual or group of individuals interested in identifying and preserving heritage trees may nominate a tree or trees on any Spokane City property for "heritage" status.

2. The city council may nominate a tree or collection of trees on City property for heritage tree status.
 3. Heritage tree nominations shall be submitted to the urban forest tree committee on nomination forms provided by the urban forestry program of the City.
 4. The nomination shall at least include:
 - a. a description of the tree nominated;
 - b. the characteristics that merit the tree being designated for heritage tree status, (as designated within the terms of this section)(~~in SMC 12.02.916~~)including the history of the tree, if known;
 - c. a photograph of the tree; and
 - d. a map locating the tree.
 5. The owner of the property on which the nominated tree is located shall agree to the nomination by signing the consent statement on the nominating form.
 6. The owner of the property on which the nominated tree is located must agree in writing to allow the tree to be placed on a City map of heritage trees.
 7. To inform future property owners, the owner of the property will be encouraged in the notification letter to record a notice to title indicating the location of the heritage tree on the property.
 8. Upon recommendation by the urban forest tree committee, the council may remove designation of any tree as a heritage tree if it finds that such designation is no longer appropriate.
- E. The authority and process for designation of heritage trees shall be as follows:
1. The urban forest tree committee (UFTC) shall consider heritage tree nominations at their regular meetings, using the heritage tree designation guidance document to make their determination. The consideration meetings should take place within two months from receipt of a nomination. No tree may be given heritage tree status unless a quorum of UFTC members discuss and vote in favor of the heritage tree nomination.
 2. Criteria to be considered by the urban forest tree committee for recommending a nomination for heritage tree status shall include the following (as designated within the terms of this section)(~~by SMC 12.02.916~~):
 - a. Has historical significance to a person, place, or event.
 - b. Has attained significant size in height, caliper, or canopy spread for its age and species.

- c. Has special aesthetic qualities for its species.
 - d. Is prominently visible to the public, along major roads or public places.
 - e. Possesses rare horticultural value.
 - f. Is not a hazard or obstruction.
 - g. The owner of the tree agrees in writing to the "heritage" designation of the tree and has complied with the nomination steps set forth in subsection D of this section.
3. All heritage trees will be identified and recorded in a register maintained by the urban forestry tree committee and the urban forestry program.
 4. Notice of all trees identified as heritage trees by the urban forest tree committee shall be forwarded to the mayor. All designated trees, including names of the nominator and the property owner, will then be acknowledged in a letter from the mayor to the nominator and property owner. This letter will be provided by the urban forestry program to the mayor's staff. Further individual heritage tree publicity is at the discretion of the mayor and the urban forest tree committee, such as proclamations and publicity releases.
 5. The urban forest tree committee shall give biannual updates to the city council on the number of trees designated.
- F. The city will provide the owner with a professional arborist's assessment of the health of the tree and recommendations for maintaining the tree according to accepted pruning and care standards.
- G. A heritage tree or collection of trees is retained by the property owner and does not become the property or responsibility of the City. The property owner is responsible for all maintenance and liability issues pertaining to the tree or trees. Prior to removal of a heritage tree, a property owner must consult with the urban forest tree committee, as specified on the consent form. The City strongly encourages all heritage tree property owners to retain these significant tree(s). However, a heritage tree designation does not prohibit a property owner from developing a property and/or removing the heritage tree or trees subject to the City's tree retention regulations.
- H. The tree committee may establish additional procedures for nomination of heritage trees consistent with this section. A registry of historic trees is maintained and the designation is indicated on the City tree inventory.

Section ((12.02.918))12.02.980 Disposal of Urban Forest Products

The urban forester may sell wood and other forest products generated during urban forestry and park operations. The proceeds from such sales will be deposited in the urban forestry fund, as provided in SMC 07.08.135.

Section ((12.02.920))12.02.985 Appeal

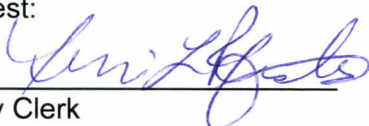
Decisions of the director under SMC ((12.02.910))12.02.930 and SMC ((12.02.912)) 12.02.935 may be appealed by the property owner to the ((tree committee))hearing examiner within thirty (30) days of receipt of the permit denial or the director's decision. The appeal notice must be in writing and submitted to the director. The notice must include, at a minimum, the following information:

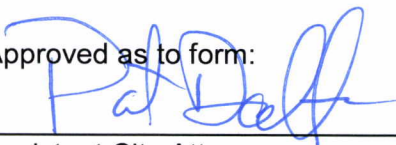
- A. Name, address and telephone number of applicant.
- B. Location of trees involved in the appeal.
- C. Decision being appealed; and
- D. A concise statement of the reasons for appeal.


~~((The appeal is heard at the next regularly scheduled meeting of tree committee following receipt of the notice of appeal. Decisions of the tree committee may be appealed to the hearing examiner by filing a notice of appeal with the director within fifteen days of the tree committee's decision with a copy also filed with the City hearing examiner.))~~Any appeal from the decision of the hearing examiner is by writ to the appropriate court. There is no right of stay of any order pending appeal unless allowed by the director, conditioned upon posting of a bond or other security or requirements as the director may order.~~((An appealing party may request emergency review of a director's denial or conditioning of any stay, pending appeal, by the chair of the tree committee. Consideration of such a request is at the chair's sole discretion.))~~

PASSED by the City Council on APRIL 22, 2019


Council President

Attest:

City Clerk

Approved as to form:

Assistant City Attorney


Mayor

APRIL 26, 2019
Date

MAY 27, 2019
Effective Date

