



City of Woodland

REPORT TO MAYOR AND CITY COUNCIL

AGENDA ITEM

TO: THE HONORABLE MAYOR
AND CITY COUNCIL

DATE: October 6, 2009

SUBJECT: Ordinance Amending Chapter 20A of the Municipal Code Relating to the Preservation of Trees

Report in Brief

The City Council has previously received extensive information on the need to revise the current Municipal Code Chapter 20A relating to the preservation and maintenance of trees. During a review of Chapter 20A staff noticed errors and obsolete references to commissions and/or City groups that no longer exist or have since been added. Therefore, staff felt it was necessary to amend Chapter 20A to accurately reflect the current needs and organizational structure and presented those recommended changes to the Council at the September 15, 2009 meeting. There were no concerns expressed by Council at that time.

Staff recommends that City Council adopt the attached Ordinance amending Chapter 20A of the Woodland Municipal Code relating to the preservation of trees.

Background

Chapter 20A of the City's Municipal Code regulates the planting, removal and preservation of street trees, heritage trees, specimen trees and landmark trees on public property and specified private property within the City. Attachment No. 1 is the Ordinance for your consideration and adoption.

Discussion

The responsibilities of the former Tree Commission have been consolidated in practice within the Parks & Recreation Commission. The proposed changes introduce the "Urban Forestry Group" as the City's work unit headed by an appropriately certified Arborist as responsible for preserving and maintaining trees within the City. In addition, the Ordinance designates the Director of Public Works with the authority to issue permits for various work to trees covered by the Ordinance, include pruning and removal. An appeal of the Director's decision may be first directed to the Parks & Recreation Commission which must be considered during a regular public meeting. Should a permit applicant disagree with the Commission's decision, the next level of appeal is proposed as the

City Manager. Similar to the authority currently assigned to the City Council, the City Manager's decision on the appeal is final.

The proposed changes to Chapter 20A will maintain the City's current focus on the preservation of trees within Woodland. Support of this ordinance would reflect the City's continuing commitment to the community's urban forest and the quality of life that these assets provide to the city's residents and property owners.

Public Contact

Posting of the City Council agenda.

Commission Recommendation

The Parks & Recreation Commission supports the amendments to Chapter 20A of the Woodland Municipal Code relating to the preservation of trees.

Alternative Courses of Action

1. Adopt an Ordinance to amend Chapter 20A of the Woodland Municipal Code relating to the preservation of trees as described herein.
2. Provide comments and direction associated with the proposed changes to Chapter 20A of the Woodland Municipal Code relating to the preservation of trees.
3. Cease further consideration of the proposed changes Chapter 20A of the Woodland Municipal Code.

Recommendation for Action

Staff recommends that the City of Woodland City Council approve Alternative No. 1.

Prepared by: Sue Vannucci, Director of
Administrative Services

Mark G. Deven
City Manager

Attachment: Ordinance

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF WOODLAND, CALIFORNIA, AMENDING CHAPTER 20A
OF THE WOODLAND MUNICIPAL CODE RELATING TO
THE PRESERVATION OF TREES**

WHEREAS, the City of Woodland recognizes the importance of trees to the residents of and visitors to the City, and that the community has an interest in preserving trees as important natural resources which provide scale, color, visual buffers between land uses, and increased property values, and which contribute to the environment by improving general aesthetics, modifying temperatures by providing shade and reducing heat and glare, reducing wind velocity, purifying and replenishing oxygen, and controlling soil erosion; and

WHEREAS, the Chapter 20A of the City's Municipal Code regulates the planting, removal and preservation of street trees, heritage trees, specimen trees and landmark trees on public property and specified private property within the City; and

WHEREAS, the City Council wishes to amend Chapter 20A as provided for in this Ordinance to ensure the preservation, proper maintenance and continued growth of the City's urban forest.

NOW, THEREFORE, the City Council of the City of Woodland, California, does hereby ordain as follows:

Section 1. Purpose. The purpose of this ordinance is to amend Chapter 20A of the Woodland Municipal Code related to the preservation of trees.

Section 2. Authority. The City Council enacts this ordinance under the authority granted to cities by Article XI, Section 7 of the California Constitution.

Section 3. Amendment. Chapter 20A is hereby amended to read in full as shown in Exhibit "A".

Section 4. Severability. If any provision or clause of this Ordinance or any application of it to any person, firm, organization, partnership or corporation is held invalid, such invalidity shall not affect other provisions of this Ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this Ordinance are declared to be severable.

Section 5. Effective Date and Notice. This ordinance shall take effect thirty (30) days after its adoption and, within fifteen (15) days after its passage, shall be published at least once in a newspaper of general circulation published and circulated within the City of Woodland.

PASSED AND ADOPTED by the City Council of the City of Woodland this
____ day of March, 2009, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marlin H. Davies, Mayor

ATTEST:

Susan L. Vannucci, City Clerk

APPROVED AS TO FORM:

Andrew J. Morris, City Attorney

EXHIBIT “A”

AMENDED CHAPTER 20A

**CHAPTER 20A
TREES**

20A-1-010	Findings / Purpose
20A-1-020	Definitions
20A-1-030	Director of Public Works Duties
20A-1-040	Composition and Procedural Rules of the Parks and Recreation Commission
20A-1-050	Street trees--Activities requiring a tree permit
20A-1-060	Street trees--Activities Exempted
20A-1-070	Tree Permit
20A-1-080	Appeals
20A-1-090	Development Projects--Tree Plan
20A-1-100	Tree Replacement Program
20A-1-110	Liability / Responsibility
20A-1-120	Public Nuisance
20A-1-130	Emergency Response
20A-1-140	Stop Work Order
20A-1-150	Stop Work Order - Appeal
20A-1-160	Violation—Penalty

Sec. 20A-1-010. Findings / Purpose

It is now recognized that the planting and preservation of trees enhance the natural scenic beauty of the City, increase life-giving oxygen, promote ecological balance, provide natural ventilation, air filtration, temper the effect of extreme temperatures, increase property values, improve the lifestyle of residents, and enhance the identity of the City.

For these reasons the City Council finds that in order to promote the public health, safety and general welfare of the City, while at the same time recognizing individual rights to development private property in a manner which will not be prejudicial to the public interest, nor prohibit development of private property, it is necessary to enact regulations governing the planting, removal and preservation of street trees, heritage trees, specimen trees and landmark trees on public property and specified private property within the City.

Sec. 20A-1-020. Definitions

As used in this chapter the following words and terms shall have the meaning hereinafter set forth:

“Development project” shall be as defined at Government Code Section 65928.

“*Director of public works*” means the Director of Public Works or designated representative.

“*Drip line area*” means the area measured from the trunk of the tree outward to a point at the perimeter of the outermost branch structure of the tree.

“*Fronting property*” means real property parallel to a public street or sidewalk and adjacent thereto.

“*Heritage tree*” means any valley oak tree with a trunk diameter of thirty-three inches or more at breast height (fifty-four inches) which is of good quality in term of health, vigor, growth and conformity to generally accepted horticultural standards of shape for its species.

“*Landmark tree*” means a tree or stand of trees which is of historical or public significance as designated by the City Council upon the recommendation of all of the following groups and/or commissions:

- (1) The Parks and Recreation Commission;
- (2) The Historical Preservation Commission; and
- (3) The Urban Forestry Group.

“*Major maintenance*” means and includes major trimming or pruning or cabling, and any other similar act which promotes the life, growth, health or beauty of trees, excepting watering and minor pruning. Major trimming and pruning shall mean the removal of branches of three inches in diameter or greater.

“*Owner*” means the legal owner of real property fronting upon any street as shown on the last equalized assessment roll.

“*Public nuisance*” means:

- (1) Any dead or dying tree, whether located on City-owned property or on private property;
- (2) Any otherwise healthy tree, whether located on City-owned property or on private property which harbors insects or diseases which reasonably may be expected to injure or harm any tree, shrub or other plant;
- (3) Any tree, or portion thereof whether location on City-owned property or on private property which by reason of location or condition constitutes an imminent danger to the health, safety or welfare of the general public;
- (4) Any tree, or portion thereof whether location on City-owned property or on private property which obstructs the free passage of pedestrian or vehicular traffic or which obstructs a street light;

(5) Any tree, or portion thereof whether location on City-owned property or on private property which dangerously obstructs the view in the visibility triangle” as such may be determined by the director of public works pursuant to ordinance.

“*Public street*” means any improved street, road or avenue located within the City and dedicated to the public, but excepting alleys adjacent to residential back yards.

“*Specimen tree*” means any tree of interest because of size or unusual species, other than a heritage tree, which is of good quality in terms of health, vigor or growth and conformity to generally accepted horticultural standards of shape for its species, as designated by the City Council upon the recommendation of both the Parks and Recreation Commission and the Urban Forestry Group.

“*Street tree*” means any tree growing within the tree maintenance strip, whether or not planted by the City.

“*Top*” means the severe cutting back of tree limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

“*Tree*” means any live woody plant having one or more well-defined perennial stems with a diameter at maturity of six inches or more measured at fifty-four inches above ground level (breast height).

“*Tree maintenance strip*” means a strip of land parallel to a public street and adjacent thereto, extending from the back of the curb of the street, or the edge of the paved portion of the street if the street does not have a curb at that location, to the edge of the sidewalk furthest from the street.

“*Tree permit*” means written authorization by the Director of Public Works to perform an activity which requires a permit under this chapter.

“*Urban Forestry Group*” means a group of City employees, headed by an International Society of Arboriculture (ISA) certified arborist, charged with preserving and maintaining trees within the City.

Sec. 20A-1-030. **Director of Public Works Duties**

The Director of Public Works shall perform the following duties:

(1) Determine suitable and desirable species of street trees and the areas in which, and the conditions under which, such street trees shall be planted. The Director of Public Works may consult with the tree commission and others familiar with the subject of such plantings;

(2) Supervise, direct and control the planting, location, placement, major maintenance, removal, relocation and replacement of street trees;

(3) Perform other duties as set forth in this chapter;

(4) Provide periodic reports to the City Council on activities that take place as a result of enforcement of this chapter.

Sec. 20A-1-040. Composition and Procedural Rules of the Parks and Recreation Commission

The Parks and Recreation Commission shall act as the tree commission. The composition and procedural rules of the Parks and Recreation Commission are set forth in Sections 2-7-24 et seq. of this code.

Sec. 20A-1-050. Street trees--Activities requiring a tree permit

Except as hereinafter provided it shall be unlawful for any person, (other than a city worker working within his/her assigned duties) to do any of the following acts, with respect to street trees, without a tree permit issued by the Director of Public Works:

(1) Plant any tree within a tree maintenance strip;

(2) Move, remove, top, cut down, poison, set fire to or permit fire to burn in proximity to, or perform any act which results in the unnatural death or destruction of a street tree;

(3) Perform any activity that will interfere with or retard the natural growth of any street tree;

(4) Perform any work or permit any work to be performed within the drip line area of a street tree which would endanger the tree;

(5) Perform major maintenance on a street tree.

Sec. 20A-1-060. Street trees--Activities Exempted

(a) Nothing contained in Section 20A-1-50 shall be construed to prohibit a fronting property owner from performing maintenance work on a street tree, other than major maintenance as defined in this chapter.

(b) Nothing contained in Section 20A-1-50 shall be construed to prohibit a public utility from performing such acts with respect to street trees as may be necessary to make repairs, comply with applicable safety regulations, or avoid the interruption of services.

Sec. 20A-1-070. Tree Permit

(a) The Director of Public Works shall issue tree permits to a fronting property owner seeking to perform any activity for which a tree permit is required by this chapter only if the following conditions are met:

(1) The owner has established, to the director's satisfaction, that there is a need for the proposed work on the street tree but that the city is unable to do the work within the time frame desired by the owner; and

(2) The owner has established, to the director's satisfaction, that the persons who are to perform the work are qualified to do so; and

(3) The director, in his sole discretion, has determined that any potential detriment to the tree population entailed by the proposed work, is justified in the individual case. In making this determination, the director shall consider factors such as the probability that the proposed work will destroy or seriously injure the street tree, the street tree's health, the desirability of that species as a street tree, whether the street tree's condition and the size threaten serious damage to property, the condition and number of other street trees in the vicinity, whether there are other less onerous means to accomplish the applicant's goals, and other related criteria.

(b) All work performed on street trees pursuant to a tree permit issued by the director under this section shall be completed within a sixty-day period from the issuance of the tree permit, or within such longer period as the director shall specify.

(c) The director may condition any tree permit granted pursuant to this section for the removal of a tree, on the permittee removing and, where the director determines it to be appropriate, replacing the street tree. In such cases, the full cost of removal and replacement shall be borne by the owner and such service shall not be provided by the City.

(d) The director may condition any tree permit granted pursuant to this section on other conditions as the director determines to be necessary.

(e) The provisions of Section 20A-1-70 shall apply whenever an owner seeks a tree permit to remove or trim a street tree to facilitate moving any building or other structure.

Sec. 20A-1-080. **Appeals**

(a) Any application for a tree permit which has been denied by the Director of Public Works may be appealed to the Parks and Recreation Commission for review and action.

(b) Any such appeal and all accompanying documents will be placed on the agenda of the next regular Parks and Recreation Commission meeting. Written notice of the date, time and place of such meeting shall be mailed to the applicant not less than ten days prior to the date of the meeting.

(c) The Parks and Recreation Commission may approve the application unconditionally, conditionally or partially, or may deny the application.

(d) The Parks and Recreation Commission shall consider the provisions of Section 20A-1-70 when reviewing a tree permit application which has been denied by the Director of Public Works.

(e) A written statement of the action of the Parks and Recreation Commission on the application shall be mailed to the applicant within ten calendar days following the Parks and Recreation Commission meeting.

(f) Any interested person wishing to appeal a decision of the Parks and Recreation Commission must file a written appeal with the City Clerk. Such written appeal must be placed in the U.S. mail, properly addressed with postage prepaid within ten calendar days of the date the written decision of the Parks and Recreation Commission is mailed to the applicant. Any such appeal shall be accompanied by fees as prescribed in the current schedule of fees as adopted by the City Council.

(g) The appeal shall set forth the action or decision complained of, the reason(s) alleging that the action or decision should be altered or overruled and shall be signed by the applicant or his authorized agent.

(h) The City Clerk shall set the appeal for hearing before the City Council within forty-five days after the appeal is filed. Upon hearing the matter, the City Council may grant, conditionally grant, or deny the appeal. The decision on the appeal shall be announced at the close of the hearing and shall become final at that time.

Sec. 20A-1-090. **Development Projects--Tree Plan**

An application for a development project shall be accompanied by a tree plan containing the following information:

(1) Contour map showing the location, size, species and condition of all existing trees which are located upon the property proposed for development;

(2) Identification of those trees which the applicant proposes to preserve and those which are proposed to be removed and the reason for such removal;

(3) A program for the preservation of street trees, heritage, specimen, landmark trees and trees with aesthetic value (trees with a nine-inch diameter or larger, measured fifty-four inches above the ground, in healthy condition) during and after completion of the development project, as required in the city standard specifications, engineering design standards, Section 8, grading and erosion control;

(4) A program for the replacement of any trees proposed to be removed, as required by Section 20A-1-100;

(5) Any change in the trees to be saved and/or removed as designated on the approved development plan shall only be permitted upon the written approval of the director.

Sec. 20A-1-100. **Tree Replacement Program**

A person owning or controlling a development project shall be required to replace street trees other than heritage, specimen or landmark trees, approved for removal as part of the approval of the project in accordance with subsection (1). Each heritage, specimen and/or landmark tree approved for removal shall be replaced in accordance with subsection (2).

(1) For each six inches or fraction thereof of the diameter of a tree which was approved for removal, two trees of an approved species, each of a minimum fifteen-gallon container size shall be planted on the project side. However, an increased number of smaller size trees may be planted if approved by the director, or a fewer number of such trees of a larger size if approved by the director.

(2) For each six inches or fraction thereof of the diameter of a tree which was approved for removal, four trees of an approved species, each of a minimum fifteen-gallon container size, shall be planted on the project site. However, an increased number of smaller size trees may be planted if approved by the director, or a fewer number of such trees of a larger size if approved by the director.

(3) If the development site is inadequate in size to accommodate the replacement trees, the trees may be planted on public property with the approval of the director. Upon the request of the developer and the approval of the director, the City may accept an in-lieu payment of the current retail price per fifteen-gallon replacement tree on condition that all such payments shall be used for tree-related educational projects and/or planting programs of the City.

(4) All trees planted under the provisions of this section shall be guaranteed for a period of one year from the date of final acceptance of the development project by the City. Any tree which does not survive for one year from that date shall be replaced by the developer and the replacement tree shall be guaranteed for one year.

Sec. 20A-1-110. **Liability / Responsibility**

This chapter shall not be construed to impose any liability upon the City, its officers or employees for the performance of any act or the failure to perform any act under this chapter, and shall not relieve the owner from the duty to keep any tree upon owner's property in such condition as to prevent it from causing damage or constituting a nuisance. By enactment of this chapter the City is not assuming responsibility for the maintenance or major maintenance of street trees.

Sec. 20A-1-120. **Public Nuisance**

The Director of Public Works is authorized to cause the abatement of any public nuisance as defined under this chapter in accordance with the provisions of Chapter 14A of the Woodland Municipal Code.

Sec. 20A-1-130. **Emergency Response**

An owner is not precluded by this chapter from taking action, in the event of an emergency, which would otherwise violate the terms of this chapter if such action is necessary to minimize danger. In the event such emergency action is taken, the owner shall notify the director of public works or designated representative by the next working day.

Sec. 20A-1-140. **Stop Work Order**

Whenever the Director of Public Works determines that an action being taken is in conflict with this chapter, he shall cause to be issued a stop work order which shall prohibit such action. The stop work order shall set forth the alleged violations and may list remedies to be taken to correct the violations. The person receiving the stop work order shall report in writing to the Director of Public Works within forty-eight hours regarding the steps to be taken to correct the violations or to appeal the posting of the stop work order. The stop work order shall remain in effect until a finding is made that the circumstances giving rise to its order no longer exist. Any party receiving a stop work order may appeal through the process outlined in Section 20A-1-150.

Sec. 20A-1-150. **Stop Work Order - Appeal**

Any person dissatisfied with the decision of the Director of Public Works to issue a stop work order made under Section 20A-1-140 may appeal such decision to the City Council. Such appeal shall be in writing, stating the reasons therefor, and, except as otherwise provided herein, shall be filed with the City Clerk not later than ten days after the date of the director's decision. The City Clerk shall set the appeal for hearing before the City Council within forty-five days after the appeal is filed. Notice of the time and place of the hearing shall be given to the appellant at least ten days in advance thereof by mail, postage prepaid. The decision of the City Council shall be final.

Sec. 20A-1-160. **Violation--Penalty**

(a) Any person violating any provision of this chapter or failing to comply with any of its mandatory provisions shall be guilty of an infraction, punishable as set forth in Section 1-3-7 of the Woodland Municipal Code.

(b) Each person shall be guilty of a separate offense for each tree affected and for each day or portion thereof that a violation of this chapter is committed, continued or permitted to occur or continue.

(c) If, as a result of a violation of this chapter, the injury, mutilation or death of a street tree, heritage tree, specimen tree, or landmark tree occurs, the cost of repair or replacement of such tree, including enforcement costs, shall be borne by the person in violation of the chapter. The replacement value of tree(s) shall be determined by a certified arborist in accordance with the latest revision of A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens, as published by the International Society of Arboriculture (ISA). Cost levied and paid pursuant to this subsection shall be in addition to, and not in lieu of, any fine imposed pursuant to subsection (a).

(d) In addition to the general penalty set forth above, any condition caused or permitted to exist in violation of this chapter shall be deemed a public nuisance and may be summarily abated by the City or Director of Public Works in accordance with Chapter 14A of the Woodland Municipal Code and other applicable provisions of law. Each day such condition exists shall be regarded as a new and separate offense.

(e) Nothing contained in this section shall limit the right of the City Council to authorize the City Attorney or District Attorney to seek or obtain any other form of judicial relief, legal or equitable, to which the City would be otherwise entitled.