

City of Bellingham Policies

Title: STREET TREE PLANTING, REMOVAL AND MAINTENANCE POLICY
Code: PAR 06.00.01
Chapter: Parks, Recreation and Cemetery
Type of Policy: Departmental
Date Developed: June 1, 1979
Developed by: Byron Elmendorf, Parks & Recreation Director
Date Revised: August 1, 1993
Revised by:
Approved By: Tim Douglas, Mayor

Cancels:
See Also:

Purpose

Scope

All trees and other vegetation in the street right -of-way.

Definitions

Policy/Conditions

The City of Bellingham recognizes the contribution of street trees to the livability of the community . The aesthetic, historic and functional value of street trees must be protected by clear guidelines for the planting, removal and maintenance of city street trees .

Procedure

I. Maintenance Responsibility

- A. By the Parks & Recreation Department. The Parks & Recreation Department shall maintain all street trees located on planting strips adjacent to streets listed on the City maintenance responsibility list included as an appendix to this policy 📄. The Parks & Recreation Department is not responsible for maintenance or replacement of street trees or other vegetation on streets not on the maintenance responsibility list .
- B. By the Abutting Property Owner. The abutting owner is responsible for the maintenance of street trees and other vegetation located on planting strips adjacent to streets not listed in the City maintenance responsibility list . The abutting property owner is also responsible for the maintenance of vegetation other than street trees which are on the City maintenance responsibility list . The abutting property owner shall maintain trees and other vegetation on unimproved rights -of-way. The Public Works Department shall enforce compliance of the maintenance responsibility of the abutting property owner in the cases of hazardous and obstructive street trees or other vegetation as outlined in Section III of this policy .
- C. Leaf Removal. Removal of leaves in the Fall are generally the responsibility of the abutting property owner. This includes trees within the City Maintenance Responsibility List and those outside of those streets. The exception to this policy are for trees located in two commercial areas . These include the Central Business District (CBD) and the Fairhaven Business District . In these commercial areas, the abutting property owners may sweep the leaves into the street to be picked up by the Public Works street sweeper .

II. Street Tree Permit Procedure

A. Department Responsibilities for Coordination of Street Tree Permits

1. Planning Department

- a. Provide a Street Tree Application as requested by the public .

- b. Provide a handout information including a Street Tree Brochure and a recommended tree listing .
- c. Require Street Tree Permit to be completed for any project requiring street tree installation under the Land Use Development Ordinance (zoning code), Subdivision Ordinance or other land use codes. The procedure is as follows :

1. A Street Permit will be completed by the applicant or staff , a landscaping plan will be attached, and it will be routed to the Public Works Department and Parks & Recreation Department for approval.

2. Once the permit is approved , the back "hard copy" will be forwarded to the Planning Department along with any conditions or changes in the landscaping plan .

3. The Planning Department will attach the Street Tree Permit to the Building Permit and specify a street tree inspection by the Parks & Recreation Department on the Building Permit . The Final Occupancy Permit will not be granted unless the street tree installation is approved by the Parks & Recreation Department .

d. Route completed Street Tree Permit Application to Public Works Department if application is for planting and to the Parks & Recreation Department if the application is for removal or pruning .

2. Public Works Department

- a. Inspect job site and approve or disapprove application based upon impact of tree right -of-way.
- b. Route permit application to Parks & Recreation Department .
- c. If permit is disapproved by Public Works , Parks & Recreation Department will meet with Public Works to determine if a change of tree species or tree location would be acceptable . If a compromise solution is not possible , the permit will be returned to the applicant by the Parks & Recreation Department as disapproved .

3. Parks & Recreation Department

- a. Contact permit applicant and inspect site .
- b. Determine if licensed trimmer is required .
- c. Approve or disapprove application and notify applicant of decision .
- d. Inspect work after completion .

B. Permit Requirements

- 1. Trimming and Removal of Trees. No person shall perform major pruning or remove trees in planting stripes, improved rights-of-way, or other public places , or cause or authorize any person to trim , prune or remove trees in public places , without first filing an application and receiving a Street Tree Permit from the City .

Unimproved Street or Alley Vegetation. A Street Tree Permit is not required for clearing , cutting or removal of vegetation in unimproved street or alley rights of way . In these areas, a person must comply with Bellingham Municipal Code Chapter 16.60. This code requires City approval prior to the initiation of clearing or cutting activities through the issuance of a building permit , street or utility construction permit or an approved management plan . Please contact the Planning and Community Development Department (676-6982) or the Public Works Department (676-6961) for further information.

a. Application Data. The application shall state the kind , size and condition of trees to be trimmed or removed; the kind of trimming to be administered ; and other such information as the Director of Parks & Recreation shall find reasonably necessary to a fair determination of whether a permit should be issued.

b. Standards of Issuance. The Director of Parks & Recreation Department shall issue the permit

provided that he finds the desired action or treatment is necessary and that the proposed method and workmanship are satisfactory .

c. **Major Pruning.** The City may require that the pruning be performed by a licensed tree trimmer . This determination will be made as part of the Street Permit process .

d. **Tree Topping.** Tree topping, which is the removal of the leader stem of a tree , is unlawful as a normal practice. Trees severely damaged by storms or other causes , or where other pruning practices are impractical may be exempted from this restriction at the determination of the Director of the Parks & Recreation Department.

e. **Removal of Trees.** The stumps and roots of trees shall be removed to a point at least one foot below the top of the adjacent curb or proposed curb grade .

f. **Tree Replacement Location.** As a condition to the granting of a Tree Removal Permit , the Parks & Recreation Department may require the applicant to relocate or replace trees .

2. **Planting of Trees.** No person shall plant a tree or other vegetation in improved right of ways without first filing an application and obtaining a Street Tree Permit from the City . Upon receipt of an application for a permit to plant or set out in excess of ten (10) trees, the Director of the Parks & Recreation Department shall have the authority to require from the applicant a detailed declaration of intentions either in the form of a planting plan or written statement . All planting plans shall be drawn in ink and submitted in duplicate . One copy of each plan or statement of intention shall , when approved by the Director of Parks & Recreation Department, be returned to the applicant and one copy shall be kept on file by the Director of Parks & Recreation Department. All statements filed in lieu of a planting plan shall contain the same information as required on the plan . All planting plans shall accurately show:

a. The proposed street including pavement , curb, gutter, parking strip and sidewalk areas to a definite indicated scale .

b. The variety and size of each tree proposed to be planted and of those already existing within the proposed street lines, either indicated on the plans or referenced with a number to a key list .

c. The proposed location of each proposed tree together with the location of each existing tree within the proposed street line in scaled relation to other features of the plan .

d. The distance between trees in any direction .

C. **Time Period.** Any Street Tree Permit issued shall expire thirty (30) days from date of issuance unless otherwise specified .

D. **Denial of Permit - Appeal Process.** A decision denying a request for a Street Tree Permit may be appealed to the City Council Parks Committee . The appeal notice shall be in writing and submitted to the Director of Parks & Recreation Department. the notice shall include, at a minimum, the following information: name, address, telephone number of the applicant , location of trees involved in the appeal, decision being appealed, reference to any applicable code or ordinance , and a concise statement of the reasons for appeal . The appeal shall be heard at the next regularly scheduled meeting of the City Council Parks Committee following receipt of the appeal notice .

III. Removal or Treatment of Trees , Plants and Shrubs

A. Hazard Tree

1. **Definition.** Any tree or tree part which poses a high risk of damage to persons or property .

2. **Determination.** The Parks & Recreation Department will make the determination of a hazard tree .

3. **Maintenance Responsibility.** The Parks & Recreation Department will remove the hazard tree if the tree is included on the City Maintenance Responsibility List . The Public Works Department shall be responsible for ensuring removal of hazard trees which are outside the City Maintenance Responsibility List. The Public Works Department may either notify the abutting property owner through the abatement process to have the tree removed , or remove the tree themselves if the tree

is an imminent danger to the traveling public . Any hazard or downed tree that is removed by the Public Works Department will only be removed to the point that it is deemed safe by the traveling public. The abutting property owner is responsible for any further removal or clean up .

B. Obstructive Tree

1. Definition. Any tree, part of tree, or other vegetation which impedes vehicle or pedestrian traffic or obstructs the vision of vehicle drivers of pedestrians of traffic control devices when traveling from one roadway to another .
2. Determination. The Public Works Department will make the determination of an obstructive tree or vegetation.
3. Maintenance Responsibility. The Parks & Recreation Department is responsible for the removal of the obstruction if located on the City Maintenance Responsibility List . If the obstruction is not located on the City Maintenance Responsibility List , the Public Works Department will notify the abutting property owner through the abatement process to have the obstruction removed . In the event the obstruction poses an imminent threat to public safety , the Public Works Department , at their discretion, may remove the obstruction .

C. Infected or Infested Trees

The following rules shall govern the treatment or removal of infected or infested trees :

1. On Parks & Recreation Department Maintenance Responsibility List
 - a. If any tree, plant or shrub in any planting strip or other public place is infected or infested with disease or pest detrimental to the growth health or life of such trees , the Parks & Recreation Department may remove or control such infection or infestation .
 - b. If the infection or infestation cannot be controlled or removed , then the tree, plant or shrub may be removed and destroyed if the Director finds such disposition is in the public interest .
2. On Any Right-of-Way not Included in the City Maintenance Responsibility List
 - a. It shall be the responsibility of any person having trees , plants or shrubs , grass or other vegetation growing on abutting rights -of-way to treat or remove any tree or plant so diseased or insect-infested as to be a hazard to other trees and plants .
 - b. The Parks & Recreation Director shall have the authority to require the abutting property owner to take such action as is necessary to control insects , scales, parasites, fungus, and other injurious pests or diseases that would cause serious injury to trees and other plant material within the City .
 - c. The Parks & Recreation Director shall notify the abutting property owner in writing , describing the conditions and stating the control necessary for correction , and establishing a reasonable time within which the required steps should be taken or an appeal filed before the City Council Parks Committee. If the property owner questions the necessity of such action , the Parks & Recreation Department Director may refer to a qualified plant pathologist for confirmation of his judgment and continue the appeal to a reasonable time after the owner has been provided with the report of said expert.
 - d. In the event that effective steps are not taken within the time specified , the City may enter the property in question to spray , trim, prune, treat or remove all or any part of the tree , plant or shrub determined to be infested or infected and the costs thereof shall be assessed to the owner .

D. Damaging Tree

The Parks & Recreation Department may authorize the removal or may remove trees , plants and shrubs situated in planting strips , whenever 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 . The determination of a damaging tree and the corrective action will be determined by the Parks & Recreation Department and the Public Works Department .

IV. Protection of Trees

A. Construction Protection

1. All street trees near any excavation or construction of any building , structure, or street work, shall be sufficiently guarded and protected by those responsible for such work , as to minimize potential injury to said trees and to maximize their survival . The Public Works Department is responsible for the enforcement of this provision . The Parks & Recreation Department will provide technical advise when requested .
2. Stakes or guards may be placed alongside or around any street tree , provided that such supports are placed near as practical to the tree for which support is intended , and do not restrict access to or from the street or create a hazard to the public .

B. Destroying, Defacing or Injuring any Tree

It is unlawful for any person to destroy , injure or deface , by any means, any street tree, including but not limited to the following :

1. Pouring any toxic material on any tree or on the ground near any tree ;
2. Attaching any sign, poster, notice, or other object on any tree , or fastening any guy wire , cable, rope, nails, screws or other device to any tree except as used to support a young or broken tree ; and except that the City may tie temporary "no parking" sings to trees in conjunction with street improvement work, tree maintenance work, or parades; or the City authorizing installation of holiday lighting;
3. Causing or encouraging any fire or burning near or around any tree ;
4. Harming a tree by cutting the bark or branches with a knife hatchet or other similar object .

V. Enforcement

A. Stop Work Orders

In case of a violation of the provisions of the policy , a failure to comply with the terms of a Street Tree Permit, or in the case of removal of trees in violation with this policy the Parks & Recreation Director may order the work stopped in writing served on any persons engaged in the doing or causing such work to be done , and any such persons shall forthwith stop such work until authorized by the Parks & Recreation Director or the City Council Parks & Recreation Committee to proceed with the work.

B. Injunctive Enforcement

Any violation of the provisions of this policy may be declared a public nuisance and may be abated through proceedings for injunctive or similar relief in Superior Court or other court of competent jurisdiction.

C. Violation - Civil Remedies and Penalty

1. Any person who removes a tree in violation of the terms of a Street Tree Permit or in violation of this chapter shall be required to plant replacement tree or trees .
2. The Parks & Recreation Director shall determine standards for establishing reasonable replacement trees, based upon comparable caliper of trees unlawfully removed .
3. The Parks & Recreation Director shall issue an order to the property owner requiring planting of replacement trees and setting reasonable time limits for compliance .
4. The Parks & Recreation Director shall require a maintenance bond to ensure compliance with the City's order guaranteeing replacement and survival of trees for a minimum of two years .
5. Any person aggrieved by a final order of the Parks & Recreation Director with respect to replacing

trees shall have twenty (20) days to appeal to the City Council Parks & Recreation Committee .

6. In addition to any other sanction or remedial injunctive procedure which may be available at law or equity any person failing to comply with the final order issued by the Parks & Recreation Director or the City Council Parks & Recreation committee shall be subject to a cumulative civil penalty in an amount to exceed one hundred (\$100) per day from the date set for compliance until such order is complied with. Such civil penalty shall be collected by civil action brought in the name of the City . The Parks & Recreation Director shall notify the City Attorney in writing of the name of any such person subject to such penalty and the amount thereof and appropriate action shall be taken to collect the penalty .

D. Violation - Criminal Penalties

Any person violating any provision of this policy or any terms or conditions of a Street Tree Permit issued hereunder shall be guilty of a misdemeanor and upon conviction shall be subject to a fine not to exceed \$1,500. In addition to the fine , any person found in violation shall be required to pay the replacement value of trees and shrubs as determined in accordance with the latest revision of "Valuation of Landscape Trees , Shrubs and other Plants " , as published by the International Society of Arborculture .

Related Policies

References/Sources

The City Street Tree and Other Vegetation Ordinance adopted by City Council on February 18, 1992.

Appendix/Attachments