



**CITY COUNCIL
WORK SESSION AGENDA
April 22, 2019, at 7:00 p.m.**

City Hall Council Chambers, 201 First Avenue East

A. CALL TO ORDER

B. DISCUSSION ITEMS

1. General Review of Downtown Plan Parking Components
2. Forestry Ordinance Discussion

C. PUBLIC COMMENT

Persons wishing to address the council are asked to do so at this time. Those addressing the council are requested to give their name and address for the record. Please limit comments to three minutes.

D. CITY MANAGER, COUNCIL, AND MAYOR REPORTS

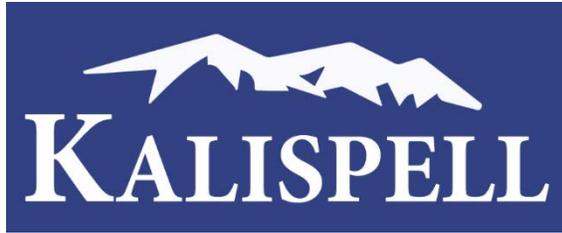
E. ADJOURNMENT

UPCOMING SCHEDULE / FOR YOUR INFORMATION

Next Regular Meeting – May 6, 2019, at 7:00 p.m. – Council Chambers

Next Work Sessions – Budget - May 13, 2019, 6:00 p.m. – Council Chambers
May 14, 2019, 7:00 p.m. – Council Chambers
May 15, 2019, 6:00 p.m. – Council Chambers

Reasonable accommodations will be made to enable individuals with disabilities to attend this meeting. Please notify the City Clerk at 758-7756.



City of Kalispell

Post Office Box 1997 - Kalispell, Montana 59903-1997
Telephone (406) 758-7700 Fax - (406) 758-7758

MEMORANDUM

To: Honorable Mayor Johnson and City Council
From: Doug Russell, City Manager
Re: General review of downtown plan parking components
Meeting Date: April 22, 2019

BACKGROUND: At the last meeting, a council member requested a work session to generally review the parking in the downtown as it relates to the Downtown Plan, etc. At the work session, staff will review components of the Downtown Plan, what has been accomplished with recent actions, and components for the future. Staff will then be available to respond to discussion and inquiry of the Council.

RECOMMENDATION: It is recommended that Council receive the report and discuss as desired.

ATTACHMENTS: Adopted City of Kalispell Downtown Plan Link



REPORT TO: Doug Russell, City Manager
FROM: Chad Fincher, Director, Parks & Recreation
SUBJECT: Tree Ordinance Update
MEETING DATE: April 22, 2019

BACKGROUND: In 1986 the city council approved Tree Ordinance No. 1086, regulating the planting, maintenance and removal of public trees within the City of Kalispell and establishing a shade tree commission. In 2007, the city council approved Ordinance No. 1610 amending the original tree ordinance regarding the composition of the Kalispell Street (Shade) Tree Commission.

Staff and Street Tree Commission members have been working together to update and clarify the ordinance to encompass necessary legal changes and make improvements regarding definitions, wording and to unify with other city ordinances and practices. Additionally the ordinance had not been codified in the past, and staff recommends codification with this amendment if council chooses to move it forward.

In November 2018, council reviewed a draft tree ordinance update and made suggestions and recommendations, which have been incorporated into the new draft.

RECOMMENDATION: It is recommended that the Kalispell City Council review the latest draft proposed ordinance with revisions and changes and direct staff accordingly.

FISCAL EFFECTS: There are not anticipated fiscal impacts at this time.

ALTERNATIVES: As recommended by council.

ATTACHMENTS: Exhibit “A”, draft ordinance.

Cc: Aimee Brunckhorst, Kalispell City Clerk

EXHIBIT "A"

CHAPTER I - Title & Purpose

§1.01. SHORT TITLE.

The Ordinance, adopted pursuant hereto shall be known as, and be cited and referred to as the "City of Kalispell Tree Ordinance."

§1.02. PURPOSE.

The purpose of this Ordinance is to provide for the planting, protection, maintenance and removal of public trees within the City of Kalispell, to rename the Shade Tree Commission as the Urban Forestry Committee, and delegate to the Director of Parks & Recreation the duty of assuring orderly development of public trees.

CHAPTER II – Definitions

§2.01. DEFINITIONS.

For purposes of this Ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the content, words used in the present tense include future, words in plural include the singular and words in the singular include plural. The word shall is mandatory and not merely directory.

- A. CITY - The City of Kalispell, Flathead County, State of Montana.
- B. DIRECTOR OF PARKS & RECREATION - hereinafter referred to as "Director"- The designated official for the City of Kalispell assigned to carry out the enforcement of this ordinance.
- C. DRIP LINE - Tree drip line, the area defined by the outermost circumference of a tree canopy where water drips from and onto the ground.
- D. HAZARD TREE - "Hazard Tree" means any tree or shrub or part thereof upon private or public property which:
 - a) By reason of location or condition constitutes a present danger to the health, safety or welfare of the general public or which obstructs the free safe passage of pedestrian or vehicular traffic, or obstructs a streetlight or sight triangle; or
 - b) Is harboring insects or diseases, which reasonably may be expected to injure or harm other trees or shrubs.
- E. PARKS & RECREATION DEPARTMENT - The designated Department for the City of Kalispell under whose jurisdiction public trees fall.

- F. PERSON - Shall include any legal entity created by law as well as a natural person.
- G. PROPERTY LINE - The outer edge of a street or highway right-of-way.
- H. PROPERTY OWNER - The person owning such property as recorded at the Clerk and Recorder's Office of Flathead County, State of Montana.
- I. PUBLIC PLACES - This shall include all real property owned by the City of Kalispell.
- J. PUBLIC RIGHT OF WAY - The linear public way established or dedicated for public purposes by a recorded plat, deed or easement intended to be occupied by a street, curb and gutter, landscaped boulevard and pedestrian ways (sidewalk or bike/ped path). In addition, the right of way may contain sub-surface utilities such as sewer, water or storm sewer lines; electrical cable and gas lines or similar utilities.
- K. PUBLIC TREES - All ~~shade~~ deciduous and ~~ornamental~~ coniferous trees growing on any public right of ways or any public places.
- L. STREET - Any public streets, roads, highways, avenues, ~~alleys~~ and lanes within the City, which includes the entire width of every public way or right-of-way for purposes of vehicular and pedestrian traffic.
- M. International Society of Arboriculture - hereinafter referred to as "ISA".

CHAPTER III – Renaming the Street Tree Committee to the
Urban Forestry Committee; Appointments and Duties

§3.01. Urban Forestry Committee

The committee previously named the “Street Tree Committee shall hereafter be named the “Urban Forestry Committee” (hereinafter referred to as the “Committee”). It shall be composed of six (6) persons residing within the City of Kalispell Growth Policy Area as defined in the Kalispell Municipal Code. The Mayor with approval of the Council shall appoint the members to the Committee. The Director shall serve as an ex officio non-voting member of the Committee.

1. Membership:

All members of the Committee shall serve without compensation. The Mayor may remove any member of the committee for cause, subject to the approval of the City Council.

2. Term:

Following the passage of this Ordinance, three members of the Committee shall

be appointed for one year and three members shall be appointed for two years. Thereafter, all appointments shall be for two years. In the event a vacancy occurs during the term of an appointment, a new appointment shall be made to fill the vacancy only to the end of the original term at which time a new two year appointment will be made §3.02. Duties of the Committee

1. To advise and make recommendations to the City Council in the task of maintaining a sustainable urban forest and, under the guidance of the Director, to engage the public in the stewardship of the urban forest. The Committee shall study and promote the best management practices related to Kalispell's urban forest management.
2. ~~The Committee shall conduct 9 monthly meetings per year as well as special meetings as deemed advisable and necessary in order to perform the duties set forth.~~ A Chairperson shall be elected from within the committee for the appointment of two years. Event chairs will be appointed by the Chairperson as needed.
3. The Committee shall be subject to the same rules and procedures of conducting meetings and such other business of the Committee as apply to the City Council.

§3.02. Duties of the Committee

1. To advise and make recommendations to the City Council in the task of maintaining a sustainable urban forest.
2. Under the guidance of the Director, to engage the public in the stewardship of the urban forest.
3. Study and promote the best management practices related to Kalispell's urban forest management.

CHAPTER IV - Species, Cultivars, or Varieties

§4.01. SPECIES, CULTIVAR, VARIETIES PERMITTED.

1. The Director shall prepare a list of trees acceptable for planting in the public places and public right-of-ways of the City.
2. The Director shall maintain the list at the Parks and Recreation Office of the acceptable species, cultivars and varieties based on site conditions. The Committee, in conjunction with the Director, shall review the species, cultivars, and varieties included on the approved list at least once every two (2) years to determine if any should be removed for any reason or if certain new species, cultivars, or varieties of proven dependability and value should be added.

§4.02. Planting.

1. SIZE

Unless otherwise specified by the Director, all small, medium and large deciduous and conifers tree species and their cultivars and varieties, shall conform to American Standard for Nursery Stock (ANSI Z60.1) and be with deciduous trees being at least 1.5” inches in diameter six (6) inches above ground level and coniferous being six (6) feet tall. The crown shall be in good balance with the trunk.

2. GRADE – QUALITY OF TREE

Unless otherwise specified by the Director, all plantings shall meet or exceed American Standard for Nursery Stock established by the American Nursery & Landscape Association. American Standard for Nursery Stock (ANSI Z60.1)

3. LOCATION AND SPACING

- a) Width of planting area shall determine appropriate tree size based on tree size at full maturity. Planting widths between 4 - 5 feet shall constitute planting of a small tree, a planting area between 5 – 7 feet, a medium tree, and larger than 7 feet planting area, a large tree. In right-of-ways where overhead lines or building setback presents a special problem, the Director shall determine the selection of the site and species to be planted.
- b) Trees shall not be planted in the Clear Vision Triangle as defined by Kalispell Municipal Code or as otherwise determined through a site specific engineering analysis approved by the City Engineer.”
- c) Tree plantings near utilities must meet ANSI A300 Standards.
- d) The Director shall determine the spacing of trees according to local conditions, the species, cultivars, or varieties used, their mature height, spread, and form. Generally, all large trees should be planted forty (40) feet on center; all medium-sized trees should be planted thirty-five (35) feet on center; and all small trees should be planted twenty-five (25) feet on center.
- e) All planting on streets without curbs, and/or sidewalks must have a permit from the special permission of the Director who shall determine the tree's location so it will not be injured or destroyed when the street is curbed and/or sidewalks installed.
- f) If an owner of a parcel adjoining the public right-of-way requests that a public tree be planted within that portion of right-of-way, and if the City has allocated funding for that purpose, the City may share the costs of such tree with the requesting landowner on a 50/50 basis with the based on current city policies. with the requesting landowner.

- g) All new commercial and residential subdivision development of property required to provide landscaping of the public right of way pursuant to the Kalispell Zoning Regulations and Kalispell Design and Construction Standards shall plant such trees as determined by the Director.

CHAPTER V - Authority of the Director and Appeal to the City Manager

§5.01. WORK ON PUBLIC TREES

All planting, protection, maintenance and removal work on public trees shall comply with this Ordinance.

§5.02. AUTHORITY

1. Administration. The Director shall have the authority to administer the terms of this ordinance regarding the planting, protection, maintenance and removal of public trees on streets and other publicly owned property to ensure the public safety and preserve the aesthetics of such public sites.
2. Supervision and Inspection. The Director shall further have the authority to supervise and inspect all work on public trees performed under the terms of this Ordinance.
3. Permits. The Director shall have the authority to affix reasonable conditions to the granting of a permit in accordance with the terms of this Ordinance.

§5.03. PERMIT REQUIRED FOR WORK ON PUBLIC TREES.

All work authorized by the Director and conducted by individuals other than city forestry employees on public trees shall be done under the supervision of a certified arborist and or certified pesticide applicator. No person shall plant, spray, perform pruning, remove or otherwise disturb any public tree without a permit issued by the Director. The person receiving the permit shall abide by ISA Standards or the standards of practice as outlined by this Ordinance, and provide evidence of public liability insurance in an amount determined to be appropriate by the City.

§5.04. REMOVAL OF PUBLIC TREES, REPLACEMENT, AND ALLOCATION OF COSTS.

1. No person shall remove a public tree from the public right-of-way for the purpose of construction, or for any other reason without first obtaining a permit from the Director.
2. Any person who removes, or causes to be removed, a public tree, with or without a permit as stated above, shall pay the ISA appraised value of the tree to the City and shall further pay the cost of tree and stump removal utilizing the Council of Tree and Landscape Appraisers (CTLA) Trunk Formula Method.

§5.05. APPEAL TO CITY MANAGER

A person dissatisfied about any determination made by the Director under this ordinance may make a written appeal to the City Manager who has the authority to make the final determination.

CHAPTER VI - Protection of Trees

§6.01. CARE OF TREES

The City shall do the work of pruning, spraying, removal and other seasonal maintenance as needed on all public trees. The property owner is responsible for watering public trees in the public right of way adjacent to their property.

§6.02. DAMAGE TO PUBLIC TREES PROHIBITED.

1. Unless specifically permitted by the Director, it is unlawful for any person to: intentionally damage, cut, carve, transplant, or remove any public tree;
2. Attach any rope, wire, nails, or other contrivance to any public tree;
3. allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with any public tree;
4. or set fire or permit any fire to burn when such fire or the heat thereof could injure any portion of any public tree.

§6.03. PROTECTION OF PUBLIC TREES.

1. All public trees in the public right-of-way near the excavation or construction of any building, structure or street work, shall **use best management practices to develop a tree protection plan for the site and excavation/construction activities. The protection plan will be submitted with a tree permit for approval.** ~~be guarded with a suitable fence, frame or box placed to drip line of the tree. All building material, dirt or other debris shall be kept outside the barrier.~~
2. It is unlawful for any person to excavate any ditches, tunnels, trenches, or lay driveway within the drip line of any public tree without first obtaining permission from the Director. Maintenance or repair work on existing underground utilities will be **allowed** after ~~written notification~~ **a tree permit is obtained. (Public Works divisions will electronically notify the Director of their in house projects)** ~~Excavation for new utilities and structure within the drip line of any public tree will not be permitted unless it is determined by the Director that it will not likely adversely affect the tree.~~

CHAPTER VII – Hazard Trees

§7.01 HAZARD TREES

If any part or the whole of any tree growing on private or public premises, shall be determined after inspection to be dangerous or unsafe or to otherwise constitute a public hazard, the City ~~may~~ **shall**, pursuant to Kalispell Municipal Code Chapter 18, declare such tree or portion thereof a public hazard and nuisance, order the owner of the tree to abate the hazard or cause such hazard to be abated.

§7.02 ABATEMENT OF HAZARD TREE

In the event that the public hazard and nuisance is not abated by the date specified in the notice or specified by the City, the City is authorized to cause the abatement of said nuisance. The reasonable cost of such abatement, if not paid upon demand, shall be filed as a lien against the property on which the public hazard was located.

CHAPTER VIII - Public Protection

§8.01 PUBLIC PROTECTION.

To protect the public from danger, suitable street and sidewalk barriers, highway cones, or signs shall be used when pruning, removing or spraying trees. **All work in the public right of way shall require a Right of Way Permit from Public Works.** All safety devices must conform to the Standards as set forth in "The Manual of Uniform Traffic Control Devices" distributed by the Federal Highway Administration, U. S. Department of Transportation.

§8.02 STUMPS.

The stumps of all removed public trees shall be cut to at least three (3) inches below the ground, and soil shall be replaced and the area leveled. If the area where the tree is removed is to be paved, the stump shall be removed to meet general construction standards. **Stumps need to be removed within 60 days of the tree being removed.**

8.03. SPRAYING.

All spraying of public trees shall conform to federal, state and local regulations and shall, after receiving a permit from the Director, be performed by a pesticide applicator properly licensed by the State of Montana, Department of Agriculture.

CHAPTER IX – Unauthorized or Improper Planting of Public Trees

Whenever any tree is planted or set out in violation of the provisions of this section, the Director may remove or cause removal of the same. The Director shall first notify the adjacent property owner(s), in writing, of the City's intention to remove the tree(s) and give the property owner(s) a reasonable period of time (not to exceed 45 days) within which to remove the tree(s). If the property owner(s) does/do not comply within the specified time, the Director shall cause the removal of the tree(s).

CHAPTER X - Civil Penalties

Any person who violates or fails to comply with any provisions of this Ordinance, shall have committed a municipal infraction and be subject to civil penalties pursuant to Kalispell Municipal Code Chapter 1, Article 2 and upon a finding of such infraction shall be liable to the City ~~to~~ for the costs of damages to the City as may be proved in court.

CHAPTER XI

This Ordinance shall be effective thirty days from and after its final passage and approval by the City Council.

DRAFT