

# ORIGINAL

## ORDINANCE NO. 627

### **AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON CLARIFYING THE PROCESS FOR OBTAINING RIGHT-OF-WAY USE PERMITS FOR THE PLANTING, PRUNING OR REMOVING OF STREET TREES IN THE CITY OF SHORELINE**

WHEREAS, it is currently required to obtain a right-of-way site permit for the planting, pruning or removing of streets trees; and

WHEREAS, there is no additional criteria for processing a right-of-way permit relating to planting, pruning or removing of street trees; and

WHEREAS, a right-of-way use permit is the more appropriate permitting tool for the planting, pruning or removing of street trees, given that use permits are typically issued for short term private use of the right-of-way; and

WHEREAS, clear criteria will provide predictability and fair administration of the permit request, will avoid futile permit applications, and will avoid legal disputes over permit decisions; and

WHEREAS, the responsibility for issuing right-of-way site permits for planting, pruning or removing streets trees has heretofore been under the direction of Director of Public Works but will now transfer to the Director of the Parks, Recreation and Cultural Services Department, given the Council's intent to consolidate management of all public trees under a single department with an advisory tree board.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE,  
WASHINGTON DO ORDAIN AS FOLLOWS:**

**Section 1. New Section.** A new section, Section 12.30.040, *Right-of-way street trees*, is hereby added to Chapter 12.30, *Public Tree Management*:

**12.30.040 Right-of-way street trees.**

A. A right-of-way use permit shall be required and issued by the Director of the Parks, Recreation and Cultural Services Department (hereafter "director") for planting street trees in rights-of-way adjacent to the applicant's property according to the variety and spacing approved in the Engineering Development Guide if such activity does not physically disturb the existing or planned public use of the right-of-way. Planted street trees shall be maintained by the applicant in accordance with the issued right-of-way use permit.

B. A right-of-way use permit shall be required and shall only be issued by the director for the non-exempt pruning or removal of trees in rights-of-way adjacent to the applicant's property in compliance with the following:

- 1) Limits on removal under critical area regulations.
- 2) No permit shall be issued for removal of trees on rights-of-way that have not been opened with public improvements, including, but not limited to, streets, sidewalks, pathways, and underground or overhead utilities.

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3) No trees listed in the Engineering Development Guide as approved street tree varieties shall be removed regardless of size unless the tree is removed by the City as hazardous or causing damage to public or private infrastructure.

4) All existing trees, six inches in diameter at breast height or greater allowed to be removed under clearing and grading regulations shall be replaced with an approved variety of street tree in the area of removal according to the replacement formula in SMC 20.50.360C(1-3). Replacement trees shall be maintained by the applicant in accordance with the issued right-of-way use permit. If the director determines there is no suitable space for replanting street trees in the vicinity of removal, the applicant shall replant at public sites approved by the director or pay a fee in lieu of replacement according to the current City fee schedule to be used exclusively for planting public trees in rights-of-way, parks or other public places.

5) All removed trees or pruned material shall be removed from the right-of-way and the right-of-way shall be restored in accordance with the issued right-of-way use permit.

**Section 2. Amendment.** SMC 12.15.030(C) is hereby amended as follows:

## **SMC 12.15.030 Right-of-way permit issuance.**

*(A and B unchanged)*

C. Right-of-Way Site Permit. Right-of-way site permit is a specific class of right-of-way permit that may be available for utilities or other parties who do not hold a valid city franchise in accordance with Chapter 12.25 SMC for activities of extended duration which will not further physically disturb the existing or planned public use of the right-of-way once in place. This may include structures, facilities, and uses that involve capital expenditures.

1. Right-of-way site permits, if allowed in the nearest classified land use zone may be issued for:
  - a. Accessory uses permitted to the adjacent property such as parking, displays, and signage, provided the proposed use is not required to meet city development standards for any private property development;
  - b. Air rights;
  - c. Bus shelters/stops;
  - d. Construction site/haul roads;
  - e. Fences, retaining walls, terracing, and similar structures;
  - f. Litter and recycle receptacles placed by private parties;
  - g. Special and unique structures such as benches, fountains, clocks, flagpoles, kiosks, banners, street furniture, decorations, bicycle racks, private planters, or any other obstruction to be placed in the right-of-way by an entity other than the city;
  - h. Sales structures, including sidewalk cafes, telephone booths or the usage of the right-of-way for the sale of flowers, food, or beverages, newspapers, or other items
  - i. Underground rights
  - j. Utility facilities;
  - k. ~~Planting pruning or removing of street trees.~~

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*(remainder of section unchanged)*

**Section 3. Amendment.** SMC 12.15.060 (D) is hereby amended as follows:

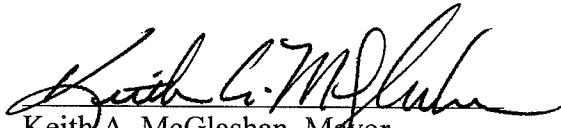
SMC 12.15.060 (D) Permit Exceptions

D. Permits are not required for the ordinary maintenance of landscaping in the right-of-way including pruning of trees which is consistent with SMC 20.50.350 (E). Blockage of the right-of-way associated with ordinary maintenance of landscaping requires a use permit.

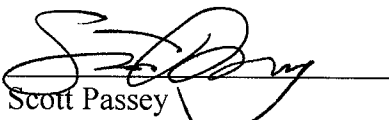
**Section 4. Fee Schedule Amendment.** SMC 3.01.030, Parks, recreation and cultural services, is amended to add a Fee in lieu of street tree replacement - \$285.

**Section 5. Effective Date and Publication.** A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. The ordinance shall take effect and be in full force five days after passage and publication.

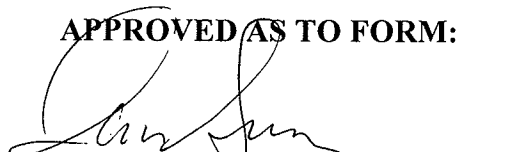
**ADOPTED BY THE CITY COUNCIL ON FEBRUARY 13, 2012.**

  
Keith A. McGlashan, Mayor

**ATTEST:**

  
Scott Passey  
City Clerk

**APPROVED AS TO FORM:**

  
Ian Sievers  
City Attorney

Publication Date: February 16, 2012  
Effective Date: February 21, 2012