ORDINANCE NO. 1455

CITY OF LACEY

AN ORDINANCE OF THE CITY OF LACEY RELATING TO STREET TREES, ADDING NEW CHAPTER 12.20 TO THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION.

WHEREAS, regulations relating to street trees are located in both the City's Development Guidelines and Public Works Standards and the tree protection regulations contained in Lacey Municipal Code Chapter 14.32, and

WHEREAS, this split in regulations has caused confusion in the application and enforcement of the regulations; and

WHEREAS, to address the confusion regarding the regulations, City staff members including both the Community Development and Public Works Departments have collaborated to develop draft street tree regulations; and

WHEREAS, as part of the review of the draft regulations the Planning Commission held a public hearing on April 1, 2014 and received public comment specific to maintenance responsibilities but not the other provisions in the draft regulations; and

WHEREAS, after considering public testimony and staff's recommendation, the Planning Commission ultimately voted 7 to 2 to recommend the proposed street tree regulations to the City Council; and

WHEREAS, at a January 15, 2015 City Council work session, the City Council discussed the various options identified by the Planning Commission and deferred further discussion on the maintenance responsibilities to a future City Council retreat; and

WHEREAS, the City Council finds the remaining regulations to be in the best interest of the citizens of Lacey.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, AS FOLLOWS:

Section 1. There is hereby adopted a new Chapter 12.20 of the Lacey Municipal Code to read as follows:

**12.20.010 INTENT**

This chapter establishes regulations and standards necessary to ensure that the City continues to realize the benefits provided by maintaining safe travel ways and a healthy urban

forest. This chapter is intended to:

A. Maintain trees located in the public rights-of-way in a healthy, non-hazardous condition through the application of tree care standards contained in ANSI A300 standards.

B. Provide guidance for the planting, maintenance and protection of trees located within the city right-of-ways.

C. Remove diseased, hazardous and or nuisance trees located either within the public right-of-way or on adjacent private property that poses a risk to the general public health, safety and welfare.

## 12.20.020 PERMIT REQUIRED

A. A right-of-way access permit shall be obtained from the City Public Works Department prior to the planting, major pruning (more than 30% of the canopy), or removal of any street tree within the City. A separate permit is required for each work location. No permit is required for normal and minor pruning (less than 30% of the canopy) of street trees.

B. A land clearing permit or exemption shall be obtained from the City Community Development Department in accordance with LMC 14.32 prior to the removal of any tree from private property.

## 12.20.030 STANDARDS FOR TREES LOCATED IN THE RIGHT-OF-WAY

A. Maintenance: **RESERVED.**

B. Street tree varieties to be planted: All trees within the right-of-way shall be planted in accordance with Section 4G.100 of the City of Lacey Development Guidelines and Public Works Standards including species, size, location, etc. Any alternate species shall not be used unless approved by the City Forester.

C. Tree topping: It is unlawful for any person or city department to top any street tree, park tree or other tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this chapter at the determination of the City Forester.

D. Property owner responsibilities: Property owners and or community associations shall have the following responsibilities regarding street trees within the property owner's portion of right-of-way fronting their property:

1. Dead and severely-damaged street trees: Dead or severely-damaged street trees shall be removed and replaced.

2. Hazard trees: Hazardous street trees shall be removed or pruned. In the event of removal, the street tree shall be replaced.

3. Right-of-way obstructions: Street trees shall be maintained so that they do not obstruct the free use of the right of way, Including, but not limited to, clearance for sight visibility, traffic signage and signals, as well as pedestrian and vehicular use of streets and sidewalks.

4. Protection of utilities, streets, and sidewalks: Street trees shall be planted and maintained so that they do not damage utilities, streets or sidewalks.

5. Improperly pruned street trees: No person may engage in improper pruning of street trees. The City Forester may require a property owner to remove and replace improperly pruned street trees, if the improperly pruned street tree will not be able to achieve its mature size or full environmental function.

6. Clean right-of-way: The right-of-way shall be kept reasonably clean from street tree debris, including, but not limited to, branches, leaves, flowers, and fruit.

7. Disease or insect infestations: Street trees shall be maintained free of disease or insect infestation. Street trees that are infected with disease or insects shall be replaced, if deemed necessary by the City Forester.

## 12.20.040 STANDARDS FOR TREES ON PRIVATE PROPERTY

A. Responsibilities of Adjacent Property Owners:

Any person, persons, community association or corporation in possession of private property adjacent to public rights-of-way shall maintain any trees upon private property which may affect public right-of-way, in a safe, healthy condition in compliance with the provisions of this Chapter. Adjacent property owners have the following routine tree maintenance responsibilities:

1. Removal or pruning of trees located on the owner's private real property that is considered a public nuisance as defined in 12.20.050.A.;

2. Pruning of trees located on the owner's private real property that are considered a public nuisance as defined in 12.20.050.A. Branches that overhang sidewalks or streets shall be pruned to provide sufficient vertical clearance over the sidewalk and street so as not to interfere with public travel; sidewalk clearance shall be 10 feet high and road clearance shall be 14 feet high. Control of pests on trees located on the owner's private real property which may, upon determination by the City Forester, pose a threat to public trees;

3. Removal of all debris (wood, branches & leaves) from public property by sunset of the day on which any tree work is done.

B. Tree topping.

It is unlawful for any person or city department to top any tree on private property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this chapter at the determination of the City Forester.

## 12.20.050 NUISANCES

A. Public Nuisances.

The following are hereby declared public nuisances under this Chapter:

1. Any tree or part thereof (public or private) which, by reason of location or condition, constitutes a hazard to public safety as determined by the City Forester or authorized City representative,

2. Any tree or part thereof (on public or private property) which obstructs the free

passage of pedestrian or vehicular traffic or which obstructs public street lighting;

3. Any tree or alternate host plant or part thereof (on public or private property) which harbors pests which reasonably may be expected to injure or harm public trees.

B. Abatement of Public Nuisances.

The following are the prescribed means of abating public nuisances under this Chapter:

1. Any tree or alternate host plant or part thereof (public or private) declared to be a public nuisance by the city shall be pruned, removed or otherwise treated as directed by the city. All costs for nuisance abatement are the responsibility of the property owner or adjacent property owner;

2. The City may cause a written notice to be personally served or sent by mail to the owner of the particular property;

3. In the event the nuisance is not abated by the date specified in the notice, the City is authorized to cause the abatement of said nuisance. The reasonable cost of such abatement may be charged to the subject property owner. Monies which have not been recovered through the City bill-collection procedures may result in a lien against the property or assessed on taxes. In addition, the owner of the property upon which the nuisance is located may be subject to prosecution by the city. Nothing in this provision shall be construed to exempt any person from the requirement of obtaining permits.

4. The City is empowered to cause the immediate abatement of any nuisance if it is determined by the City to be an emergency or immediate hazard to public safety;

5. If the City Forester determines that disposal of the wood, branches and soil from removal or pruning of a nuisance tree is required to complete abatement, such disposal shall be done as required by the City. All costs associated with the disposal of material from private trees shall be the responsibility of the property owner.

C. Appeals of Nuisances: Any appeals of a nuisance determination by the City shall be processed by the city's hearings examiner pursuant to the provisions of LMC 2.30 and Section 1D "Appeals" of the Development Guidelines and Public Works Standards. Any appeals shall be filed within 14 days of the nuisance determination. Nuisance determinations in cases of immediate abatement related to an emergency or immediate hazard to public safety are not appealable.

## 12.20.060 PUBLIC TREE CARE

The city shall have the right, but not the obligation, to plant, prune, maintain and remove such trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

## 12.20.070 ENFORCEMENT

The City Public Works Department shall have the authority to enforce the provisions of this chapter as it relates to trees located within the public right-of-way or any tree located

on private property that poses a risk, hazard or nuisance to the public right-of-way.

Section 2. SEVERABILITY. If any section, sentence, clause or phrase of this ordinance should be held to be invalid by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. CORRECTIONS. The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 4. The Summary attached hereto is hereby approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, at a regularly-called meeting thereof, held this 12th day of February, 2015.

CITY COUNCIL

By: _____
Mayor

Approved as to form:

_____
City Attorney

Attest:

_____
City Clerk

SUMMARY FOR PUBLICATION

ORDINANCE NO 1455

CITY OF LACEY

The City Council of the City of Lacey, Washington, passed on February 12, 2015, Ordinance No. 1455, entitled "AN ORDINANCE OF THE CITY OF LACEY RELATING TO STREET TREES, ADDING NEW CHAPTER 12.20 TO THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION."

The main points of the Ordinance are described as follows:

1. The Ordinance adds a new chapter to the Lacey Municipal Code relating to Street trees.

3. The Ordinance approves this Summary for Publication.

A copy of the full text of this Ordinance will be mailed without charge to any person requesting the same from the City of Lacey.

Published: February 16, 2015.