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<i>CITY RECORDER USE ONLY:</i>	
AGENDA ITEM #:	<u>6.</u>
MEETING DATE:	<u>07/13/2020</u>
FINAL ACTION:	<u>ORD 2020-04</u> <u>First Reading</u>

CITY COUNCIL STAFF REPORT

TO: City Council

FROM: Jesse VanderZanden, City Manager

PROJECT TEAM: Dan Riordan, Senior Planner
Bryan Pohl, Community Development Director

MEETING DATE: July 13, 2020

SUBJECT TITLE: Public Hearing and First Reading of an Ordinance to Amend the Forest Grove Code to Adopt New Bylaws for Community Forestry Commission

ACTION REQUESTED:

<input checked="" type="checkbox"/>	Ordinance	<input type="checkbox"/>	Order	<input type="checkbox"/>	Resolution	<input checked="" type="checkbox"/>	Motion	<input type="checkbox"/>	Informational
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X all that apply

ISSUE STATEMENT: The City Council has implemented a plan to standardize the bylaws of the City’s Boards and Commissions. The Community Forestry Commission (CFC) bylaws are incorporated in the City Code §35.090 through §35.099. An ordinance updating the CFC bylaws is attached for Council consideration.

BACKGROUND: The City Council created the CFC to advise on matters related to the urban forest. The CFC bylaws are in the City Code because the CFC conducts public hearings on matters affecting the City’s Significant Tree Register.

The attached ordinance follows the Council-approved bylaws template and current City Code format. In general, the ordinance updates the bylaws to clarify language and formally recognize the CFC’s function as the City’s tree board for Tree City USA® qualification, role conducting the City’s annual Arbor Day celebration, and responsibility for overseeing the City’s Urban Forest Management Plan. In addition, language is being updated so it is consistent with the criteria and procedures found in the adopted Development Code §17.5.140 Register Tree Designation.

The CFC reviewed the attached ordinance and unanimously approved proposed revisions to the Code at their June 17, 2020 meeting.

FISCAL IMPACT: Adoption of the ordinance will have no fiscal impact on the City.

STAFF RECOMMENDATION: Staff recommends adoption of the ordinance to amend the Forest Grove Code as described above.

ATTACHMENT: Ordinance amending Community Forestry Commission bylaws



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NOTICE OF PUBLIC HEARING FOREST GROVE CITY COUNCIL

NOTICE IS HEREBY GIVEN that the Forest Grove City Council will hold a Public Hearing **Monday, July 13, 2020, at 7:00 p.m.** or thereafter, in the Community Auditorium, 1915 Main Street, Forest Grove, to review the following:

PROPOSAL: Amendments to Forest Grove Code Chapter 35, City Organizations, § 35.090 through § 35.099. The proposed amendments are amending the Community Forestry Commission Bylaws.

The hearing is open to the public and interested parties are encouraged to attend. A copy of the staff report and proposed ordinance is available before the hearing at the City Recorder's Office or by visiting the City's website at www.forestgrove-or.gov. Written comments or testimony may be submitted at the hearing, emailed to aruggles@forestgrove-or.gov, or sent to the attention of the City Recorder's Office, P. O. Box 326, 1924 Council Street, Forest Grove, OR 97116. For further information, please contact the City Recorder's Office, 503.992.3235.

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Anna D. Ruggles, CMC, City Recorder
City of Forest Grove



ORDINANCE NO. 2020-04

**ORDINANCE AMENDING FOREST GROVE CODE OF ORDINANCES
TITLE III (ADMINISTRATION), CHAPTER 35 (CITY ORGANIZATIONS),
§35.090 THROUGH §35.099, RELATING TO AMENDING
COMMUNITY FORESTRY COMMISSION BYLAWS**

WHEREAS, Statewide Planning Goal 5 requires the City to adopt a program to conserve open space and protect natural and scenic resources; and

WHEREAS, City Council appointed a Tree Task Force to develop a program of tree management; and

WHEREAS, the Community Forestry Commission (Commission) was established by Resolution No. 1992-23, which was adopted by the City Council on May 26, 1992, to continue the work of the Tree Task force and to implement and enforce the City's Tree Management Ordinance; and

WHEREAS, Resolution No. 1992-23 was amended by Resolution Nos. 1998-16, 1998-56 and 2002-56 pertaining to Commission membership and terms; and

WHEREAS, on March 9, 2009, City Council adopted Ordinance 2009-04, repealing and reenacting Chapter 9 of the Forest Grove Code, entitled Boards and Commissions and Miscellaneous Planning Provisions; and

WHEREAS, Chapter 9 of the Forest Grove Code §9.205 through §9.230 established the membership, terms of office, officers, meetings and rules, and powers and duties of the Community Forestry Commission; and

WHEREAS, on June 26, 2017, City Council adopted Ordinance 2017-02 approving the Forest Grove Code of Ordinances, including Title III, §35.090 through §35.098 titled Community Forestry Commission, and carried forward §9.205 through §9.230 of the Forest Grove Code; and

WHEREAS, pursuant to Resolution No. 2019-20, the Council amended its Council Rules of Procedure, §14, relating to the Advisory Boards, Commissions and Committees; and

WHEREAS, as set forth in §14.15, each Board and Commission is required to adopt by Council Resolution new Bylaws or rules of procedures following a standard template provided by the City; and

WHEREAS, the Community Forestry Commission reviewed and combined its existing Bylaws to form to the new template and unanimously approved the newly-revised CFC Bylaws (Exhibit A) at its meeting held on June 17, 2020; and

WHEREAS, Exhibit A prescribes the CFC's duties and responsibilities and re-establishes its existing membership.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE AS FOLLOWS:

Section 1. The City Council hereby amends Forest Grove Code of Ordinances Title III (Administration) §35.090 through §35.099, titled Community Forestry Commission, as set forth in Exhibit A.

Section 2. Resolution No. 1992-23, as subsequently amended, is hereby repealed in its entirety and portions of Ordinance No. 2009-04 thereof are hereby repealed to the extent of such inconsistency or conflict.

Section 3. This ordinance is effective 30 days following its enactment by the City Council.

PRESENTED AND PASSED this 13th day of July, 2020.

PASSED the second reading this 27th day of July, 2020.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 27th day of July, 2020.

Peter B. Truax, Mayor

ORDINANCE NO. 2020-04
EXHIBIT A

(New text underlined and deleted text is ~~struck through~~)

COMMUNITY FORESTRY COMMISSION

§ 35.090 PURPOSE.

(A) The purpose of the Community Forestry Commission (CFC) is to encourage broad-based community representation and to advise City Council on public policy issues affecting Forest Grove and Council adopted Goals and Objectives related to the urban forest. The CFC is directly responsible to the Council.

(B) The CFC shall also serve as the City's Tree Board for Tree City USA® qualification.

§ 35.0901 MEMBERSHIP.

(A) Members of the Community Forestry Commission (CFC) CFC shall be composed of seven members and one (1) student member who shall be appointed by the City Council.

(B) Three members may reside outside the corporate limits of the city.

(C) Members shall be selected from a variety of organizations, interest groups, people with expertise in the growing, planting, and maintenance of trees, and the public at large.

(D) Members are required to attend training courses as assigned and approved by City Council.

(E) An individual member may not act in official capacity.

(F) The City Council may in its discretion at any time remove a member for any reason, including inefficiency, neglect of duty, or malfeasances in office.

(G) Commission members serve without compensation.

§ 35.0912 TERMS OF OFFICE.

~~The term of each CFC member shall be three years with the terms staggered. A member may be removed by the City Council, after hearing, for misconduct or nonperformance of duty. Vacancies shall be filled by the Council for the unexpired term of the predecessor in office.~~

(A) CFC members shall be voting members and shall serve four (4) year terms.

(B) Student members shall be voting members and shall serve two (2) year terms. Student appointees must be high school grade level and residing or attending school, including home-schooled, in Forest Grove.

(C) Terms shall be staggered evenly amongst the membership, beginning January 1 and ending December 31.

(D) Once the assigned term of office is completed, the member is excused from the appointment unless City Council reappoints the member for another term of service.

(E) CFC Members must apply during open recruitment and be interviewed by City Council after each term to continue service. CFC members who fail to attend a scheduled interview may forfeit the opportunity for appointment or reappointment.

(F) Members may not serve on more than two (2) Boards or Commissions at the same time.

(G) Appointments to vacant positions shall be filled by City Council for the unexpired term.

§ 35.0923 OFFICERS.

~~At the first meeting in January of each year, the members shall elect a Chair, Vice Chair and Secretary who shall be voting members and hold office at the pleasure of the CFC.~~

(A) The Chair and Vice Chair shall be elected by the voting members at the first regularly scheduled CFC meeting each year.

(B) The Chair may not serve more than 48-consecutive months.

(C) In the absence of the Chair and Vice Chair, at a meeting where a quorum is present, the member with the longest continuous service shall serve as Presiding Officer pro tem until such time the meeting is adjourned.

(D) The Chair shall:

(1) Preside over and facilitate all meetings, preserve order, enforce rules and determine the order of business.

(2) Compose the meeting agenda in consultation with the staff liaison, specifying the time, place and purpose of the meeting and listing the subjects anticipated to be considered.

(3) A CFC member may propose placing an item on the agenda at a regularly scheduled meeting. If approved by a majority of voting members present, the agenda item will be placed on the next regularly scheduled meeting agenda or an agreed upon future meeting agenda.

(4) The agenda shall follow a standard template provided by the City.

(5) Ensure that all actions are properly taken and recorded and, if required, sign findings and decisions.

(6) Present recommendations to the City Council and other bodies as designated by the Mayor, Council, or Council Liaison.

(7) The Chair shall submit and present an Annual Report to the City Council listing the CFC's major activities for the past year and objectives for the coming year.

(E) The Vice Chair shall preside in the absence of the Chair and acts as Chair when the Chair is unable to perform duties.

§ 35.0934 EXPENSES.

~~CFC Commission members shall not receive compensation or shall not incur expenses of any kind unless such expenses or expenditures have first been approved by the City Council be reimbursed for duly authorized expenses.~~

§ 35.0945 MEETINGS AND RULES PROCEDURES AND QUORUM.

~~A majority of the members serving on the CFC at any time shall constitute a quorum. The CFC shall conduct at least one meeting every three months or as needed. The CFC shall have the right to adopt such rules of order and procedure as it deems necessary, provided that it is consistent with the laws of this state and with the City Charter and city ordinances.~~

(A) Meetings:

(1) Unless otherwise required by state law or city code, the CFC shall hold meetings no less than four (4) times a year unless more frequently as established by the CFC.

(2) At the first regularly scheduled CFC meeting each year, the CFC shall adopt a schedule of its meetings and schedule its Annual Report presentation to City Council for the upcoming year, including meeting dates for holidays and canceled meetings.

(3) The CFC meeting agenda and packet shall be distributed to the CFC at least five (5) days prior to the meeting.

(4) All meetings are open to the public. Anyone wishing to speak to the CFC may do so under *Citizen Communications*. In the interest of time, comments may be limited to three (3) minutes unless additional time is granted by the presiding officer.

(5) The student member may provide a report at every meeting.

(6) A public meeting is defined as two (2) or more members meeting who have been delegated authority by the CFC to advise or make recommendations to the CFC.

(7) Special meetings may be called by a vote of the CFC at any regularly scheduled meeting, by the request of the Chair, Council Liaison, or written petition by three (3) or more CFC members.

(8) All meetings and hearings shall be held at a designated date, place and time in compliance with Public Meetings Law (ORS Chapter 192) and subject to Public Records Law (ORS Chapter 192).

(B) Minutes:

(1) The CFC may appoint a secretary at the first regularly scheduled CFC meeting of each year to take the CFC meeting minutes.

(2) Written minutes are required for all meetings.

(3) The minutes shall follow a standard template provided by the City.

(4) The meeting minutes shall briefly summarize what took place and must include: 1) any action items, 2) attendance, and 3) vote of each member. Verbatim minutes are not required.

(5) Staff may take minutes if the CFC requests the City to do so.

(6) Staff shall review the minutes to assure compliance with state law.

(7) Staff shall post the approved minutes to the website as soon as possible.

(C) Attendance:

- (1) Members are expected to attend every meeting.
- (2) Members shall notify the staff liaison prior to the regular meeting to report an absence.
- (3) The Chair, with the consent of the CFC, may submit a recommendation to City Council to deem a member's position vacant for three (3) or more absences in a 12-month period.
- (4) The City Recorder's Office shall notify any member who has three (3) or more absences in a 12-month period that their position may be subject to vacancy.

(D) Quorum:

- (1) Unless otherwise required by state law, a majority of the total number of voting CFC members constitutes a quorum.

(E) Voting and Decision Making:

- (1) Roberts Rules of Order Newly Revised shall govern all proceedings unless they conflict with these rules.
- (2) The Chair has the right to vote whenever a vote is cast. In the case of a tie vote with the Chair voting, the motion fails.
- (3) The CFC shall operate in the general public interest serving the community as a whole. The CFC shall serve no special interest(s) or endorse any commercial product or enterprise.

(F) Conflicts of Interest and Ethics Law:

- (1) CFC members are considered public officials subject to the Oregon Government Ethics Law (ORS 244), which seeks to prevent a public official from receiving financial gain or avoiding a financial detriment because of their status as a public official.
- (2) CFC members are subject to the Restrictions on Political Campaigning when acting in official capacity (ORS 260.432).
- (3) A civil penalty may be imposed by the State for each violation of any provision of the ORS.

(G) Role of Council Liaison:

- (1) The Council liaison shall be appointed by the Mayor, with the consent of the City Council, and shall be a non-voting member.
- (2) Council Liaison's role is to collaborate between the City Council and the CFC to assure each group's collective interest is accurately and effectively represented to the other, including actively attending and reporting to each entity at their regular scheduled meetings.
- (3) The Council Liaison shall have the freedom of the floor at all times to present Council's views and to comment or suggest actions to the CFC.

(H) Role of Staff Liaison:

(1) The staff liaison shall be appointed by the City Manager and shall be non-voting. The staff liaison shall assist the CFC by utilizing their expertise regarding city policy and process.

(2) The staff liaison shall:

(a) Orient newly-appointed members prior to the first meeting on the duties and responsibilities of being a CFC.

(b) Review the agenda in consultation with the CFC Chair. The agenda shall follow a standard template provided by the City.

(c) Prepare, post and distribute the CFC packet at least five (5) days prior to the meeting. Post the final agenda on the bulletin board at the meeting location.

(d) Prepare CFC meeting minutes, briefly summarizing what took place and must include any action items, attendance and vote of each member.

(e) Report any member who has three (3) or more absences in a 12-month period to the City Recorder's Office.

(f) Additional staff liaison duties and responsibilities may be found in the Council Rules, Section 14.

(I) Registry:

The City Recorder's Office shall maintain a current roster of all members, including appointment date, length of unexpired term, and contact information. The roster may be subject to Public Records Law (ORS Chapter 192). A copy of the roster shall be provided to Council and staff liaison at least once per year or upon any substantial change in membership.

(J) Amending Bylaws:

(1) A majority of all members must vote affirmatively to modify the CFC bylaws on at least two separate readings at two separate meetings.

(2) A final decision on a bylaw change shall not be made until at least the next regular meeting following the introduction and second of the motion.

(3) All bylaws or rules, including changes, must be approved by the City Council.

(4) Bylaws shall follow a standard template provided by the City.

§ 35.0956 POWER AND DUTIES.

The CFC is authorized to:

(A) Maintain the city's Significant Tree Register (Tree Register) by:

(1) Holding public hearings for designation of register trees and making recommendations recommending to the City Council consistent with this subchapter designation of properties trees with significant trees that meet the criteria for Tree Register designation. All such designated landmarks shall be included in the Significant Tree Register.

~~(2) Holding public hearings for the removal of register tree designation and making recommendations recommending to the City Council consistent with this subchapter the removal of a trees that meet the criteria for removal from the Tree Register from the Significant Tree Register pursuant to this section.~~

~~(B) Ensure that significant trees are~~ Promote protected protection and care ~~pruned appropriately through the review and approval or disapproval of major pruning of register trees~~ in accordance with best arboriculture practices ~~the criteria in the Development Code;~~

~~(C) Review proposed activities by the City and other public agencies that may seriously affect register protected trees and advise the Director, the Planning Commission, and City Council regarding such matters;~~

~~(D) Consider appeals of administrative decisions and Director referrals related to permits for removal or pruning protected trees. Appeals of CFC decisions shall be considered by City Council following the procedures set forth in the Development Code for Type I (Administrative Decisions).~~

~~(DE) Perform other activities relating to community trees~~ urban forest including, but not limited to:

~~(1) Providing public education on the history and importance of the registered trees~~ Tree Register;

~~(2) Providing advice to the City Council and other City boards on protection of trees in the community~~ tree care and best management practices;

~~(3) Recommending to City Council or Planning Commission revisions to the Forest Grove Tree Protection ordinance contained in the Development Code;~~

~~(34) Providing technical information of related to community tree issues;~~

~~(5) Making recommendations to the City Council for community forestry related programs and policies;~~

~~(6) Maintaining criteria for inventory and evaluation to implement the purposes of this section~~ Assist with the preparation and implementation of an urban forestry plan;

~~(7) Periodically reviewing and making recommendations for updating the Significant Tree Register and urban forestry plan;~~

~~(8) Coordinating the City's annual Arbor Day celebration; and~~

~~(9) Recommending to the City Council the acceptance of grant funds and donations toward the protection and planting of trees in the community.~~

~~(EF) Adopt rules and procedures for the operation of the CFC.~~

§ 35.0967 CRITERIA AND PROCEDURE FOR DESIGNATION OF REGISTER TREES.

~~(A) *Inventory.* An inventory shall be conducted of significant trees (including groves) which could qualify for being placed in the Register. The criteria for designation of register trees are as follows:~~

~~(1) *Register Tree criteria.* An individual tree shall be considered significant if the Community Forestry Commission finds A tree may be recommended for Tree Register designation if the CFC finds:~~

- ~~(a) The tree has a distinctive size, shape, or location which warrants a significant status;~~
- ~~(b) The tree has a special botanical significance as a specimen in the City area;~~
- ~~(c) The tree possess exceptional beauty which warrants a significant status;~~
- ~~(d) The tree is significant due to functional or aesthetic relationship to a natural resource;~~
- ~~(e) Along with one of the above, the tree is significant based upon its association with historic figures, properties, or general growth and development of the City.~~

~~(2) *Grove criteria.* A tree grove shall be considered significant of the CFC finds A grove may be recommended for Tree Register designation if the CFC finds:~~

- ~~(a) The tree grove is relatively mature and evenly aged;~~
- ~~(b) The grove has a purity of species composition, is of a rare or unusual nature, or is an exceptional example of a type of forest such as riparian or woodland;~~
- ~~(c) The grove is in a healthy growing condition;~~
- ~~(d) The grove has a crucial functional and/or aesthetic relationship to a natural resource; or~~
- ~~(e) The grove has a historic significance based upon its association with historic figures, properties, or the general growth and development of the City.~~

~~(B) *Update of ~~tree inventory~~ Tree Register.* Provisions shall be made for periodic updates of the Tree inventory and possible Register as required by changes in the number and condition of significant trees.~~

~~(C) *Preparation of potential register tree list.* The CFC shall review the inventory and other pertinent information and draw up a proposed list of significant trees and groves of trees that the CFC believes meets the criteria to be placed on the Register.~~

~~(D) *Notification.* Prior to the public hearings specified in Subsection D below, each property owner of the tree(s) or trees grove under consideration for Register Tree status shall be notified by mail. The notice shall inform tree or grove owners that can request in writing that the tree(s) on their property not be considered for Register status. Attached to the recommendation to Council shall be a list of current property owners who have requested their tree(s) not be placed on the Register. The notice shall also include, at a minimum, the following:~~

(1) A brief explanation of the existence and function of the City's ~~Register of Significant Trees~~ Tree Register;

(2) A statement that particular actions affecting the tree or grove will require prior review and action by the CFC or City staff, as provided in the Development Code;

(3) A statement that the CFC is available and willing to review on an informal basis any plans that may be prepared for work which might affect the tree grove; and

(4) A statement that the City can provide resource materials and guidance in developing plans for work which may affect the tree or grove.

(~~ED~~) *Public hearings.* The designation and updating of the ~~register~~ Tree Register list is classified as a Type IV procedure and is subject to all the procedures and timelines outlined in ~~§40~~ 17.1.710 of the Development Code. Designation requires public hearing before the following review bodies:

(1) Community Forestry Commission; and

(2) City Council

§ 35.0978 CRITERIA AND PROCEDURE FOR REMOVAL OF REGISTER TREE DESIGNATION.

(A) Removal of a designated tree from the Tree Register may be proposed by a property owner or his or her authorized agent, by the CFC, by the Director, or by the City Council. In proposing removal, an application shall be prepared and filed with the City using prescribed forms. Notice of the public hearing shall be given as prescribed in ~~§§40~~ 17.1.610 and ~~40~~ 17.1.620 of the Development Code for a Type III review.

(B) The CFC shall ~~consider and act on the request~~ hold a public hearing, adopt findings addressing the criteria and make a recommendation to the City Council. ~~The CFC shall act to recommend approval of the request as submitted, approve the request with modifications, or delay the request.~~

(1) The CFC shall make its decision on the basis of the criteria contained in ~~§35.096~~ 17.5.140(C) of the Development Code and shall make specific findings of fact as to whether the tree has lost its significant value based on these criteria.

(2) ~~The CFC has one of two options as follows:~~

(a) ~~The CFC can stay the request for removal from the Register by making specific findings of fact as to why the tree should be retained on the Register, and request review by the City Council.~~

(b) ~~The CFC can require a delay of up to one year to explore methods and options of retaining the tree on the Register in its present location, or having the tree moved at a cost to the applicant of \$300. If at the end of one year the tree has not been moved or protective arrangements completed, the owner may remove the tree from Register. Under an appeal of the delay requirement, the City Council has the option of denying a request for removal from the Register.~~

§ 35.0989 ANNUAL NOTIFICATION OF REGISTER TREE OWNERS.

(A) Once each year, between January 1 and April 1, the City shall mail a notice to the owners and occupants of the property on which each register tree is located.

(B) The list of owners shall be drawn from the most recent tax roll of the County Assessor. The list of occupants shall be drawn from the most recent listings posted in the unified billing accounts of the City.

(C) The purpose of the notice shall be inform or to remind the owners and occupants of the property that such tree or grove has been found by the City to be a significant tree or grove, and that the listing on the Tree Register subjects the tree or grove to certain review requirements and may require permit and City approval.

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