



STAFF REPORT

Report To: Board of Supervisors

Meeting Date: October 20, 2022

Staff Contact: Nancy Paulson, City Manager

Agenda Title: For Possible Action: Discussion and possible action: (1) regarding a business impact statement concerning a proposed ordinance repealing various provisions relating to the Shade Tree Council; and (2) to introduce, on first reading, a proposed ordinance repealing various provisions relating to the Shade Tree Council. (Nancy Paulson, npaulson@carson.org)

Staff Summary: The Shade Tree Council was previously repealed by ordinance after the adoption of Ordinance No. 2021-6 on April 15, 2021. This item is for the first reading of a proposed ordinance which, if enacted, will repeal remaining provisions of the Carson City Municipal Code ("CCMC") which reference the Shade Tree Council and also make various other conforming and clerical changes. NRS 237.080 requires a business impact statement to be prepared whenever an ordinance by the adoption of which the governing body of a local government exercises legislative powers. The business impact statement finds that the proposed ordinance will not impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business.

Agenda Action: Ordinance - First Reading

Time Requested: 5 Minutes

Proposed Motion

I move to approve the business impact statement as presented and introduce, on first reading, Bill No. _____.

Board's Strategic Goal

Efficient Government

Previous Action

April 15, 2021 (Item 26A) - The Board of Supervisors ("Board") voted unanimously to adopt Ordinance No. 2021-6 on second reading.

March 18, 2021 (Item 17D) - The Board voted unanimously to introduce Ordinance No. 2021-6 on first reading.

January 19, 2017 (Item 12A) - The Board voted unanimously to accept the recommendation of the Shade Tree Council.

December 7, 2015 - The Shade Tree Council voted unanimously to recommend to the Board discontinuation of the Shade Tree Council.

Background/Issues & Analysis

The Shade Tree Council was created by the enactment of Ordinance No. 1993-23 in 1993 for the purpose of advising the Board on matters concerning the development, maintenance, management and promotion of a

safe, healthy and attractive urban forest in Carson City. At its December 7, 2015 meeting, the Shade Tree Council discussed the difficulty in filling seats on the advisory body due to a lack of interest from members of the community and the fact that much of the purpose of the Shade Tree Council was already being met by the Carson City Department of Parks and Recreation ("Parks Department"). As a result of this discussion, the Shade Tree Council voted unanimously to recommend to the Board discontinuation of the Shade Tree Council and to incorporate the purpose, mission and vision of the Council into the functions of the Parks Department. At its January 19, 2017 meeting, the Board voted unanimously to accept the recommendation.

Both the Parks Department and the Carson City Department of Public Works employ arborists as City staff who guide plan review, maintenance and other matters related to urban forestry in Carson City. In addition, other Parks Department staff and volunteers - park rangers, Americorps VISTA members and Open Space personnel - have assumed the community education component of urban forestry management. Furthermore, Carson City has been designated a Tree City USA which was made possible due to the City's comprehensive approach to addressing tree safety, reforestation, managing disease or decay and maintaining tree inventory. In summary, the functions of the Shade Tree Council had become obsolete with City staff assuming responsibility for proper urban forestry in Carson City.

On April 15, 2021, the Board unanimously adopted Ordinance No. 2021-6 on second reading to repeal chapter 2.18 of CCMC, which previously set forth provisions creating the Shade Tree Council.

Upon recent review of CCMC, however, it was discovered that some provisions in chapter 13.04 of CCMC which reference the Shade Tree Council and should have also been repealed or amended with Ordinance No. 2021-6 were overlooked, due in part to certain limitations in the use of cross-referencing tools in the electronic version of CCMC during the initial review process.

This ordinance proposes to repeal the remaining CCMC references to the Shade Tree Council, which no longer exists. The ordinance also proposes to make various conforming changes and clerical revisions for clarity and consistency with current ordinance drafting style and convention. Substantively, the following should be noted:

1. Section II of the ordinance revises the existing language in CCMC 13.04.070 to authorize the Board, upon its own motion or upon the recommendation of the Director of the Parks Department to designate a tree as a landmark tree instead of upon recommendation by the Shade Tree Council. With the repeal of the Shade Tree Council, the Director of the Parks Department also assumes the duty to maintain an accurate list of the landmark tree designations.
2. Section III of the ordinance revises the existing language in CCMC 13.04.090, which establishes proper pruning standards, by removing a reference to the Shade Tree Council but also providing a definition for "tree topping" for clarity.
3. Section V of the ordinance repeals in its entirety CCMC 13.04.180, which establishes provisions for appeals and hearings relating to the suspension, revocation or denial of a business license held by a person who unlawfully conducts business activities involving trees. The existing internal reference to CCMC 13.04.050 is inaccurate and CCMC 13.04.180 is more properly repealed as a redundant provision because provisions for business license appeals and hearings are already established in CCMC 4.04.175 and 4.04.210.

Applicable Statute, Code, Policy, Rule or Regulation

NRS Chapters 237 and 244; Article 2 of the Carson City Charter

Financial Information

Is there a fiscal impact? No

If yes, account name/number:

Is it currently budgeted?

Explanation of Fiscal Impact:

Alternatives

1. Do not accept the business impact statement, modify the business impact statement and/or provide alternative direction.
2. Do not introduce the ordinance on first reading, modify the ordinance and/or provide alternative direction.

Attachments:

[BIS - Remaining Shade Tree Council provisions Repeal.pdf](#)

[Ordinance_remaining Shade Tree Council provisions Repeal_First Reading.pdf](#)

Board Action Taken:

Motion: _____	1) _____	Aye/Nay
	2) _____	_____

(Vote Recorded By)



BUSINESS IMPACT STATEMENT

This Business Impact Statement was prepared in accordance with the provisions of NRS (Nevada Revised Statutes) 237.030 to 237.150, inclusive, as a statutory prerequisite to the adoption of any rule***, as that term is defined in NRS 237.060, by the Carson City Board of Supervisors.

*** A "rule" may include an ordinance, or an action taken by the Board, that imposes, increases or changes the basis for the calculation of a fee which is paid in whole or in substantial part by businesses. A "rule" **does not** include actions that impose, increase or change the basis for the calculation of: (1) special assessments imposed pursuant to NRS chapter 271; (2) impact fees imposed pursuant to NRS chapter 278B; (3) fees for remediation imposed pursuant to NRS chapter 540A; (4) taxes ad valorem; (5) sales and use taxes; or (6) a fee that has been negotiated pursuant to a contract between a business and Carson City. A "rule" also **does not** include: an action taken by the Board that approves, amends or augments the annual budget of Carson City; an ordinance adopted by the Board pursuant to a provision of NRS chapter 271, 271A, 278, 278A, 278B or 350; an ordinance adopted or action taken by the Board that authorizes or relates to the issuance of bonds or other evidence of debt of Carson City; or any rule for which Carson City does not have the authority to consider less stringent alternatives, including, for example, a rule that Carson City is required to adopt pursuant to a federal or state statute or regulation or to a contract into which Carson City has entered.

ORDINANCE OR ACTION PROPOSED FOR ADOPTION

AN ORDINANCE RELATING TO ADMINISTRATION; REPEALING VARIOUS PROVISIONS RELATING TO THE SHADE TREE COUNCIL; REVISING PROVISIONS GOVERNING THE PRUNING OF TREES IN CARSON CITY; AND PROVIDING OTHER MATTERS PROPERLY RELATED THERETO.

1. *The manner in which notice was provided to the applicable trade associations and officers of businesses likely to be affected by the proposed ordinance or action, and a summary of any data, arguments or comments received from those recipients:*

a. Notice

N/A. There are no trade associations or officers of businesses likely to be affected by the ordinance and therefore no person to whom a notice is required to be given.

b. Summary of comments

N/A

2. *The estimated economic effect of the proposed ordinance or rule on businesses,*

including both adverse and beneficial effects, and both direct and indirect effects:

a. Adverse effects:

N/A

b. Beneficial effects:

N/A

c. Direct effects:

N/A

d. Indirect effects:

N/A

3. *The methods considered by the Carson City Board of Supervisors to reduce the impact of the proposed ordinance or action on businesses and whether any of those methods were used:*

N/A

4. *Estimate of the annual cost to Carson City for enforcement of the proposed ordinance or action:*

N/A

5. *The total annual amount of money expected to be collected as a result of the new fee or increase in fee proposed by the ordinance or action, and the manner in which the money will be used:*

N/A

6. *The proposed ordinance or action [] DOES [X] DOES NOT include any provisions which duplicate or are more stringent than Federal, State or local standards regulating the same activity.*

7. *The reasons for the conclusions regarding the impact of the proposed ordinance or action:*

N/A

8. *Based on the information considered, it has been determined that this proposed ordinance or rule:*

DOES DOES NOT impose a direct and significant economic burden upon a business.

DOES DOES NOT directly restrict the formation, operation or expansion of a business.

Pursuant to NRS 237.090(3), this Business Impact Statement was prepared and made available for public inspection by the City Manager at the time the agenda notice on which the proposed ordinance or rule described in this statement is included was posted.

Pursuant to NRS 237.090(2), I, Nancy Paulson, the City Manager of Carson City, hereby certify that to the best of my knowledge and belief the information contained herein was properly prepared and is accurate.

Nancy Paulson
Signature

10/10/2022
Date

Nancy Paulson
Printed Name

SUMMARY: An ordinance repealing various provisions relating to the Shade Tree Council.

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE RELATING TO ADMINISTRATION; REPEALING VARIOUS PROVISIONS RELATING TO THE SHADE TREE COUNCIL; REVISING PROVISIONS GOVERNING THE PRUNING OF TREES IN CARSON CITY; AND PROVIDING OTHER MATTERS PROPERLY RELATED THERETO.

The Board of Supervisors of Carson City do ordain:

SECTION I:

That Title 13 (PARKS AND RECREATION), Chapter 13.04 (TREES), Section 13.04.010 (Findings) is hereby amended (**bold, underlined** text is added, [~~stricken~~] text is deleted) as follows:

13.04.010 – [~~Findings.] Findings and Declaration. (NRS 244.1945)~~

~~[Whereas the board of supervisors created the Carson City shade tree council on January 16, 1992 to advise the board on matters pertaining to the community forest, the council has developed certain findings which the board adopts as a preamble to this chapter:~~

1. ~~That trees]~~ **The Board of Supervisors hereby finds and declares that:**

1. Trees in public places provide **various** benefits to the residents of Carson City, including **without limitation,** natural beauty in developed neighborhoods, outdoor shelter from sun and wind, conservation of soil and energy, desirable [~~habitat]~~ **habitats** for wildlife and [~~natural cleaning of the air.] improvement in air quality.~~

2. [~~That costs]~~ **The cost** of maintaining tree cover [~~are]~~ **is** exceeded by [~~these]~~ **the** benefits to the community and [~~that]~~ **therefore** new developments must [~~come into being by adapting and conforming]~~ **adapt and conform** to the presence of existing trees on development sites.

3. [~~That present policies on roadway development within Carson City contain no provisions for the planting and maintenance of street trees and that the citizens of this community desire to have trees in parkway plantings and bordering streets.~~

4. ~~That the]~~ **The** adoption of certain landscape design, planting and maintenance standards will assure the long-term viability of the community forest.

SECTION II:

That Title 13 (PARKS AND RECREATION), Chapter 13.04 (TREES), Section 13.04.070 (Designation of landmark trees) is hereby amended (**bold, underlined** text is added, [~~stricken~~] text is deleted) as follows:

13.04.070 – Designation of landmark trees. (NRS 244.1945)

The ~~[shade tree council shall recommend that the board of supervisors designate qualifying trees as landmark trees. The council will]~~ **Board of Supervisors may, upon its own motion or upon the recommendation of the Director, designate any tree in Carson City as a landmark tree. The Director shall** maintain an accurate list of the ~~[trees so designated by the board.]~~ **designations made pursuant to this section.**

SECTION III:

That Title 13 (PARKS AND RECREATION), Chapter 13.04 (TREES), Section 13.04.090 (Pruning) is hereby amended (**bold, underlined** text is added, ~~[stricken]~~ text is deleted) as follows:

13.04.090 - Pruning. (NRS 244.1945)

1. ~~[No trees]~~ **A tree that is located** on land **which is** owned or maintained by ~~[the city shall be]~~ **Carson City must not be** pruned in a manner that impairs the health of the tree.

2. ~~[All]~~ **Any** pruning **that is** performed on ~~[trees]~~ **a tree that is** located on land **which is** owned or maintained by ~~[the city shall]~~ **Carson City must be done** be in accordance with **applicable** pruning standards published by the **Western Chapter of the International Society of Arboriculture.** ~~[Arboriculture, Western Chapter.]~~

3. All ~~[pruned]~~ tree material ~~[shall]~~ **that is produced as the result of pruning must** be removed and controlled to prevent damage to the **property on which the tree is located and any** surrounding plant material ~~;~~ ~~[and property.]~~

4. Except as **otherwise** provided ~~[by]~~ **in** subsection 5 ~~[of this section,]~~ ~~;~~ tree topping of any tree **that is located** on land **which is** owned or maintained by ~~[the city shall be]~~ **Carson City is** unlawful.

5. ~~[Trees]~~ **Pruning of a tree that is** severely damaged ~~[by storms or other causes or trees]~~ **or is located** under **a** utility ~~[wires]~~ **wire** or other ~~[obstructions where other]~~ **obstruction in a manner such that proper** pruning practices are ~~[impractical]~~ **impracticable or commercially unreasonable** may be ~~[exempted]~~ **exempt** from this section at the discretion of the ~~[city department responsible for maintaining the trees, after consultation with the shade tree council.]~~ **Director.**

6. As used in this section, “tree topping” means the practice of indiscriminate removal of large branches or limbs from the crown of a mature tree that tends to result in disease or decay of the tree.

SECTION IV:

That Title 13 (PARKS AND RECREATION), Chapter 13.04 (TREES), Section 13.04.100 (Tree selection) is hereby repealed.

13.04.100 –~~[Tree selection.]~~ Reserved.

(Editor’s note: Ord. No. 2022- , § IV, adopted on 2022, repealed CCMC 13.04.100 – Tree selection.)

TEXT OF REPEALED SECTIONS

13.04.100 – [~~Tree selection.~~

~~1. The shade tree council shall develop and maintain and may from time to time amend a list of desirable trees for planting along streets in three (3) size classes: small, medium and large. The purpose of the list is to promote a diverse planting of tree species in order to minimize the impact of tree diseases.~~

~~2. The shade tree council shall develop and maintain and may amend from time to time a list of undesirable trees.~~

~~3. Copies of the lists of desirable and undesirable trees shall be maintained at the department of community development and shall be made available to the public.]~~

13.04.180 – [~~Appeals and hearings.~~

~~1. In the event of any suspension, revocation or denial of a business license by the city pursuant to Section 13.04.050, the aggrieved party shall have the right to appeal such suspension or revocation to the board of supervisors. Any such appeal must be submitted in writing to the board within thirty (30) days after the date of suspension or revocation of the license and include:~~

~~a. A statement outlining the interest of each aggrieved party;~~

~~b. A statement of the action(s) being appealed together with any material facts in support of his or her position; and~~

~~c. The signatures of all parties and date.~~

~~2. The aggrieved party may request that the shade tree council review the decision of the city and make its recommendation to the board of supervisors. If so requested, a hearing by the shade tree council shall be held at its next regular meeting or a special meeting within fifteen (15) days from the date the appeal is filed with the city. The shade tree council shall recommend to either accept, overrule or otherwise modify any order of the city suspending or revoking the license.~~

~~3. For the purposes of considering such a request, the shade tree council may, by a majority vote, on its own motion, or shall, if so requested by the licensee, augment its membership by not more than two (2) certified arborists or graduate foresters who shall have voting privileges at the hearing.~~

~~4. The shade tree council shall expeditiously notify the city in writing of its recommendation, which shall include:~~

~~a. Findings of facts;~~

~~b. Recommendations to the board; and~~

~~c. The signature of the chairperson and date.]~~