



CITY OF BIGGS Planning Staff Report

TO: CITY OF BIGGS CITY COUNCIL

FROM: Scott Friend, AICP – City Planner

MEETING DATE: July 14, 2015; 6:30 p.m.
Biggs City Hall, 3016 Sixth Street, Biggs, CA 95917

SUBJECT: Landscape / Turf Replacement provisions of the Biggs Municipal Code.

REQUEST

Staff requests that the City Council review the staff report and attached provisions of the Biggs Municipal Code and provide direction to staff in regard to the City's policies related to the replacement of landscaping and turf within the public street right-of-way and in landscape planter-strip areas.

DISCUSSION

Over the past month(s), staff has received numerous inquiries from property owners in the City in regard to City policies related to the removal or replacement of landscaping and turf within planter-strip and street right-of-way areas. Due presumably to the on-going drought and recently imposed limitations on the use of water, property owners have approached the City asking for clarification and information related to landscape replacement and turf removal. These inquiries have generally focused on the removal of turf and landscaping within planter strip areas and areas falling within public street rights-of-way. To date, all parties who have inquired about this topic have indicated that they desire to remove turf and other water-intensive landscape elements and replace them with less water-intensive landscaping and groundcovers.

In response these inquiries, staff has informed property owners that with the exception of requirements for new residential units and for the planting of street trees in the public right-of-way, the City does not have formal policies in regard to the establishment of and replacement of landscaping on private property. However, the City does have provisions for landscaping within the public right-of-way. In particular, staff has provided copies of the Biggs Municipal Code with specific focus on the direction provided by BMC sections 6.25.020 (f) and (g).

Biggs Municipal Code sections 6.25.020 (f)(g) direct the following:

- (f) Planting strips are to be landscaped with materials acceptable to the city park superintendent; materials include decorative bark or rocks, green grass, trees, drought resistant plants and shrubs. The mow strip must be maintained. Dead vegetation, dirt and base rock are not considered acceptable maintenance.

(g) Sidewalks and mow strips are to be maintained to provide for safe passage. Placement and type of trees in mow strips are to be specified by the city parks superintendent. Property owner is to maintain and replace any trees and landscaping in mow strips.

Biggs Municipal Code sections 14.55.100 – *Design Standards, Landscaping* and 14.60.110 – *Residential structures* requires that all new construction provide landscaping in the front yard area; provide an automated underground irrigation system; plant at least one shade tree from the City’s approved tree list; and, provide for landscaping of adjacent public street right-of-ways (see attached excerpts from the Biggs Municipal Code).

This issue in being brought to the Council for discussion and direction as the removal or replacement of landscaping within the public street right-of-way (inclusive of planter strips) brings with it aesthetic concerns, maintenance concerns (public and private) and encroachment-permit related issues.

With this report, staff seeks input from the City Council relative to the need for the establishment of a consistent policy dealing with the removal or replacement of turf (primary landscaping element) within the public street right-of-way (planer strips); the use of irrigation systems in the pubic right-of-way; and, the need to issue encroachment permits for work done on City property.

ENVIRONMENTAL REVIEW

Not Applicable at this time.

PUBLIC COMMENT

While no formal comment has been provided on this matter as it relates to the formulation of a formal City policy on the removal or replacement of turf within right-of-way areas, all of those persons who have contacted the City have expressed a desire to remove existing turf and replace it with either non-living ground cover or a combination of native, drought-tolerant plantings and groundcover. A number of persons who have contacted the City have also expressed concern in regard to the retrofitting of flood irrigated planting areas and areas using overhead irrigation with drip irrigation systems.

FISCAL IMPACT

None at this time.

RECOMMENDATION

Staff recommends that the City Council consider the issue and provide direction to staff relative to the need and desire of the Council to establish of a formal policy on the replacement or removal of landscaping in public right-of-way areas in the City or the need or desire for modifications to the existing provisions of the Biggs Municipal Code on this issue.

ATTACHMENT(S):

- Biggs Municipal Code excerpts addressing landscaping requirements:
BMC Section 6.25.020 Unlawful property nuisance – Private property
BMC Section 6.25.030 Unlawful property nuisance – Public property
BMC Section 9.15 Trees (*separate attachment*)

BMC Section 6.25.020 Unlawful property nuisance – Private property

(2) Landscaping/Vegetation.

(a) Dead, decayed, diseased or hazardous trees, weeds or other vegetation constituting a danger to public safety and welfare and/or constituting unsightly appearance detrimental to neighboring property or property values.

(f) Planting strips are to be landscaped with materials acceptable to the city park superintendent; materials include decorative bark or rocks, green grass, trees, drought resistant plants and shrubs. The mow strip must be maintained. Dead vegetation, dirt and base rock are not considered acceptable maintenance.

(g) Sidewalks and mow strips are to be maintained to provide for safe passage. Placement and type of trees in mow strips are to be specified by the city parks superintendent. Property owner is to maintain and replace any trees and landscaping in mow strips.

(7)(b) Parked on any front lawn or landscaped area, or upon any other area with a ground surface that is not either paved or graveled; provided, however, that the total surfaced area (gravel or pavement) within the front and street side yards of an individual lot shall not exceed 700 square feet.

BMC Section 6.25.030 Unlawful property nuisance – Public property

It shall be unlawful for any person owning, leasing, renting, occupying or having charge or possession of any private property in the city to use, maintain or allow to be maintained for any purposes that would create any of the following conditions on adjacent or contiguous public property, except as may be allowed by this code:

(1) Outdoor Storage, Operations or Encroachment.

(a) The tracking of mud, dirt, sand, gravel, and concrete onto the street or public right-of-way.

(b) The spilling of debris, including trash, paper, wood, plant cuttings and other vegetation, onto the street or other public right-of-way.

BMC Section 14.55.100 Design review - Landscape

14.55.100 Design standards – Landscaping.

Landscaping should be included in any project design to create a pleasing appearance from both within and off the site. Site landscaping should be utilized to promote the character of the city, particularly as demonstrated by large shade trees.

(1) Retain and integrate mature trees and vegetation.

(2) Landscaping should be planned as an integral part of the project, and not simply located in leftover space after parking and building siting.

(3) Landscape planting shall include all of adjacent public right-of-way, including planter strips between sidewalks and public streets.

(4) Street trees, as specified by the city of Biggs approved tree list, shall be installed.

(9) Landscape plantings should be those which grow well in Biggs' climate without extensive irrigation.

(11) Ground cover should be of live plant material. Gravel, colored rock, bark and similar materials are generally not desirable. Bark, when used, should be used as mulch. Brick, cobblestone, textured concrete and similar hard materials are acceptable when they relate positively to the architectural components and materials used on the building.

(13) All landscape plantings shall be of sufficient size and intensity so that a mature appearance can be attained in a reasonable time period.

(14) Provide a permanent irrigation system for all landscaped areas which front public roads, are accessible to the public or serve as internal open space within commercial or multifamily development projects. [Ord. 320 § 1, 1999]

BMC Section 14.60.110 Residential structures

Independent of any standards or improvements required by this title, all new residential development shall be subject to the following provisions of this section. The requirements of this section apply to construction of new single-family homes or the new installation of a manufactured home, regardless of the existence of a previous or existing structure on the subject property.

(3) Front yard landscaping, consistent with the following provisions, shall be installed prior to final inspection or occupancy of a new dwelling unit:

(a) Entire front yard shall be landscaped.

(b) At least one shade tree from the city of Biggs approved tree list and at least a five-gallon container size shall be planted within the front yard.

(c) Underground irrigation system with an automatic sprinkler control shall provide coverage for all planted areas of the front yard.

(d) Nonliving groundcovers shall not exceed 35 percent of total front yard area. Bark areas with adequate plant materials may, at the discretion of the planning commission, be considered living landscape.

9.10.030

shal shall take charge of and remove the same to some proper place, and shall sell the same at public auction after two weeks' notice thereof in some newspaper published in the city; provided the same be not previously claimed by the owner or his agent and the cost of the removal and publication of notice paid to the marshal, and the proceeds of said sale, or as much thereof as may be required, shall be appropriated to pay all expenses of the care, removal and sale of such property, the balance, if any, to be deposited in the city treasury for the benefit of the party in interest, if properly claimed within 60 days from the time of sale. If not claimed within said period of time said amount shall be turned into and become a part of the general fund of the city. [Ord. 19 § 2, 1906]

9.10.030 Public travel ways

It shall be the special duty of the marshal to cause to be removed any obstruction, railway car, engine, truck, wagon, or other vehicle which may be an obstruction upon any street, alley or place used for public travel in the city and said marshal is hereby empowered to enforce the provisions of this section upon an immediate verbal notice to the person or persons causing such obstructions. [Ord. 19 § 3, 1906]

9.10.040 Violations.

Violation of this chapter shall be deemed an infraction and shall be punishable as such. [Ord. 208 § 2, 1978; Ord. 19 § 4, 1906]

Chapter 9.15

TREES

Sections:

- 9.15.010 Purpose.
- 9.15.020 Definitions.
- 9.15.030 Number.
- 9.15.040 Enforcing authority.
- 9.15.050 Master tree list.
- 9.15.060 Jurisdiction and control.
- 9.15.070 Prohibited trees.
- 9.15.080 Tree care, planting, removing, and replacement – Permit required.
- 9.15.090 Persons authorized.
- 9.15.100 Damaging trees.
- 9.15.110 Hazards.
- 9.15.120 Appeals.
- 9.15.130 Penalties for violation – Enumerated.

9.15.010 Purpose.

It is for the best interests of the city of Biggs and of the citizens and public thereof that a comprehensive plan for the planting and maintenance of trees in or which may overhang public streets within said city should be developed and established and that this chapter is adopted, therefore, for the purpose of developing and providing for such a plan and program and for the purpose of establishing rules and regulations relating to the planting, care and maintenance of such trees. [Ord. 135 § 1, 1961]

9.15.020 Definitions.

(1) "Person," as used in this chapter, includes an individual, a firm, an association, a corporation, a copartnership, and the lessees, trustees, receivers, agents, servants, and employees of any such person.

(2) "City" means the city of Biggs situated in the county of Butte, California.

(3) "Park superintendent" or "superintendent" means the superintendent of the city of Biggs.

(4) "Public streets" or "streets" include all roads, streets, avenues, boulevards, alleys, parkways, and public rights-of-way, or any portion thereof, of the city.

(5) "Owner" includes the legal owner of real property fronting on any street of the city, and any lessee of such owner. [Ord. 135 § 2, 1961]

9.15.030 Number.

Wherever used in this chapter, the singular number includes the plural and the plural includes the singular. [Ord. 135 § 3, 1961]

9.15.040 Enforcing authority.

The superintendent, or his duly authorized representative, shall be charged with the enforcement of this chapter. [Ord. 135 § 4, 1961]

9.15.050 Master tree list.

(1) The park superintendent is hereby charged with the duty of promptly determining the types and species of trees suitable and desirable for planting and the areas in which and conditions under which such trees shall be planted in or which may overhang the public streets within the city. Such determination shall be made by the superintendent who may consult with those familiar with the subject of such plantings, such as landscape architects, arborists, nurserymen and park executives. When such determination has been made the superintendent shall report his findings in writing to the city council. When approved by the city council said report shall be known as the master tree list, shall be placed on file in the office of the city clerk, and shall thereafter be the official determination of the superintendent. Revisions or changes in said master tree list may be made from time to time by the superintendent, in the manner described hereinabove for the development, approval and filing of the original master tree list.

(2) All trees hereafter planted in or which may overhang the public streets of the city must be on the master tree list, unless a written permit from the superintendent shall have first been obtained to plant a tree not on said list. Such permit may be granted by the superintendent only upon his obtaining approval therefor from the city council. [Ord. 135 § 5, 1961]

9.15.060 Jurisdiction and control.

The superintendent shall have jurisdiction and control of the planting, setting out, location and placement of all trees in the public streets of the city, and shall likewise have supervision, direction, and control of the care, trimming, removal, relocation and replacement thereof. [Ord. 135 § 6, 1961]

9.15.070 Prohibited trees.

Some types of trees, upon maturing, instead of becoming assets to the community become liabilities due to structural weaknesses, disease or insect susceptibility, short life, destructive root systems, and rank growing branches requiring excessive maintenance. Due to one or more of these characteristics, it shall be unlawful to plant the following trees in or where they may overhang any public street:

- (1) Ash;
- (2) Acacia;
- (3) Black walnut;
- (4) Eucalyptus;
- (5) Willow;
- (6) Palm;
- (7) Poplar – Cottonwood;
- (8) Tree of Heaven;
- (9) Conifers;
- (10) Elm, American or European. [Ord. 135 § 7, 1961]

9.15.080 Tree care, planting, removing, and replacement – Permit required.

It shall be unlawful and it is hereby prohibited for any person other than the superintendent or his duly authorized agent or deputy to cut, trim, prune, spray, brace, plant, move, remove, or replace any tree in any public street within the city, or to cause the same to be done, unless and until a written permit so to do shall have first been obtained from the superintendent. Any such permit may be declared void by the superintendent if its terms are violated. [Ord. 135 § 8, 1961]

9.15.090 Persons authorized.

No person other than an owner or a public utility may do any act for which a permit is required under BMC 9.15.080 except a person whose principal business is tree surgery, trimming or maintenance and who, in the opinion of the superintendent, is qualified for such business, and who has obtained a permit to carry on such business in the city from the city superintendent. Permits issued pursuant to this section may be granted for a period of one year from the date of issuance. [Ord. 135 § 9, 1961]

9.15.100 Damaging trees.

It shall be unlawful for any person to break, injure, deface, mutilate, kill, or destroy any tree or set fire or permit any fire to burn where such fire or

9.15.110

the heat thereof will injure any portion of any tree in any public street in the city, nor shall any person place, apply, attach, or keep attached to any such tree or to the guard or stake intended for the protection thereof any wire, rope (other than one used to support a young or broken tree), sign, paint, or any other substance, structure, thing or device of any kind or nature whatsoever, without having first obtained a written permit from the superintendent so to do. [Ord. 135 § 10, 1961]

9.15.110 Hazards.

(1) The superintendent may inspect any tree adjacent to or overhanging any public street in the city to determine whether the same or any portion thereof is in such a condition as to constitute a hazard or impediment to the progress or vision of anyone traveling on such public street. Any tree or part thereof growing upon private property but overhanging or interfering with the use of any street that in the opinion of the superintendent endangers the life, health, safety, or property of the public shall be declared a public nuisance. If the owner of such private property does not correct or remove such nuisance within 10 days after receipt of written notice thereof from the superintendent, the superintendent shall cause the nuisance to be corrected or removed and the cost shall be assessed to such owner.

(2) Nothing contained herein shall be deemed to impose any liability upon the city, its officers, or employees, nor to relieve the owner of any private property from the duty to keep any tree upon his property or under his control in such a condition as to prevent it from constituting a public nuisance as hereinabove defined. [Ord. 135 § 11, 1961]

9.15.120 Appeals.

Any person aggrieved by any act or determination of the superintendent in the exercise of the authority herein granted shall have the right of appeal to the city council of the city, whose decision, after public hearing of said matter, shall be final and conclusive. [Ord. 135 § 12, 1961]

9.15.130 Penalties for violation – Enumerated.

(1) Civil Liability. Any person who violates any provision of this chapter is liable in a civil action brought by the city attorney on behalf of the city in the amount of the appraised value of the tree

(as determined by professional appraisal), but with a minimum amount of \$500.00 for each such violation.

(2) Joint and Several Liability – Multiple Responsible Parties. If two or more persons are responsible for any violation of the provisions of this chapter, they shall be jointly and severally liable for the civil penalty set forth in subsection (1) of this section.

(3) Disposition of Amounts Recovered. Amounts recovered under this section shall be deposited into a fund carried upon the financial records of the city which shall be used exclusively for the planting of trees in public places in the city and for tree-related educational projects or programs.

(4) Violation Punishable as Misdemeanor. Any person violating any of the provisions of this chapter or failing to comply with them shall be deemed guilty of a misdemeanor and shall be punishable as such. [Ord. 345 § 2, 2003]