DATE: March 26, 2019

TO: Bryan Montgomery, City Manager

FROM: Derek P. Cole City Attorney
       Kevin Rohani, Public Works Director/City Engineer

SUBJECT: Amendment to Oakley Municipal Code Section 6.13.004 Related to Tree Maintenance

Supplement to Previous Staff Report

This item previously came to the City Council on February 12, 2019. At the time the Council considered the item at that meeting, it was concerned about the language appearing in proposed subsections (e) and (f) of proposed section 6.13.008. The Council expressed that the language could more clearly and directly state what each paragraph was intending to accomplish. The language to the two paragraphs has been amended accordingly.

The remainder of this staff report is as previously presented, with minor changes to conform to the new proposed language to proposed section 6.13.008.

Background and Analysis

During 2018, the Public Works Department worked with the City Attorney’s Office to review portions of the Oakley Municipal Code (“Code”) to ensure that the Code continues to meet the current needs of the organization and the community and to be more consistent with common practice in other cities. City staff have focused the review on those portions of the Code which contain potentially outdated language, orphaned references, and inconsistent language.

The goal of the existing Code related to trees is to ensure a significant and thriving population of healthy trees in Oakley for public enjoyment and environmental sustainability while balancing property rights and implementation efficiency.

Over the past several years, City staff have been asked about unpermitted tree removals, enforcement of tree replacements, and ownership of trees. The most common topic that members of the public have questions about are the mutual
maintenance responsibilities of the City on one hand, and the adjacent land owner, on the other, related to street trees and other trees planted on public property. The purpose of these revisions is to merely make more clear these responsibilities.

Submitted with this staff report for City Council review and consideration is an ordinance amending Chapter 6.13 related to tree maintenance. The amendments will clarify existing law related to tree maintenance so that both City staff and members of the public have guidelines related to their respective responsibilities that are clear and fair, and reasonably balance the public interest in a thriving urban forest with the realities of limited government resources. These provisions are similar to what is seen in other communities.

A summary of the proposed amendments are as follows:

- **6.13.004**
  - Addition of definitions for city tree, critical root zone, and hazardous condition.

- **6.13.008**
  - (a). Requires property owners adjacent to street trees maintain and replace street trees.
  - (b). Obligates property owners to maintain street trees in such a manner that they do not create hazardous conditions to members of the public.
  - (c). Lists the maintenance requirements, root maintenance to prevent hazardous conditions, damage to structures such as sidewalks, water lines, irrigation lines, sewer lines, pools and buildings. Also requires owners maintain adequate vertical clearance for the street and sidewalk travel and clean up leaves to prevent the maintenance of a nuisance.
  - (d). Establishes liability to the public for failure to comply with maintenance standards that cause injury.
  - (e). Owners of property adjacent to a city tree, or other vegetation, on public property (not a street tree) are responsible to clean up leaves accumulating on their own property.
  - (f). Owners of property adjacent to a city park or property are responsible to maintain any city tree or vegetation that is partially on their property to prevent creation of hazardous conditions or damage to structures.
  - (g). Authorizes owners of property to engage in defined minor pruning of a city tree or other vegetation of that portion that is upon the owner’s property.
6.13.010

- (a). Amended to include “city tree” within provisions.

- (b). Amended to refer to Planning Department rather than Community Development Department. Amended to include “city tree” within provisions.

**Fiscal Impact**

None.

**Staff Recommendation**

Staff recommends the City Council waive the reading of the ordinance, introduce the ordinance for first reading, and direct staff to place the ordinance on the next regular meeting agenda of the City Council for final reading and adoption.

**Attachments**

1. Ordinance