

## STAFF REPORT

**DATE:** October 3, 2023

**TO:** City Council

**FROM:** Stan Gryczko, Director - Public Works Utilities and Operations

**SUBJECT:** Downtown Decorative Lighting: Introduce an Ordinance Amending Section 37.02.040 of the Davis Municipal Code prohibited acts related to Street Trees and City Trees

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### **Recommendation**

1. Introduce an Ordinance (Attachment 1) amending section 37.02.040 of the Davis Municipal Code regarding prohibited acts related to Street Trees and City Trees and find the ordinance amendment exempt from environmental review pursuant to CEQA Sections 15061(B)(3) and 15304(E); and
2. Approve the Resolution (Attachment 3) authorizing the installation of temporary decorative lighting by City staff in the trees within the downtown; and
3. Direct City staff to prepare documentation for an administrative exemption from City Municipal Code 8.17.030 - Outdoor Lighting Control General Requirements for the purposes of installing temporary decorative lighting in the Downtown.

### **Fiscal Impact**

No fiscal impact to the City. This is not intended to create revenue and the use of temporary lighting will be on a limited term. It is anticipated that staff will return to Council should a long-term decorative lighting strategy include the placement of decorative lighting on City trees, including the costs associated with proper maintenance for the decorative lighting program.

### **City Council Goals**

This item is consistent with City Council's goal to Pursue Fiscal and Economic Stability and the goal to Pursue Environmental Sustainability. It is not tied to a specific task.

### **Commission Input**

At their meeting on September 6, 2023, the Tree Commission received a memo from staff regarding the removal of existing decorative lighting and subsequent temporary installation of new decorative lighting within the City's downtown core area. The Commission also reviewed materials provided by a member of the Commission reviewing the impacts of the previously installed lights on City trees, and a prepared motion for City Council.

At the conclusion of the discussion, the Commission voted to forward the motion (as revised in the meeting, provided as Attachment 4) for Council review and consideration. The motion passed as follows:

Ayes: Reuter, Walsh, Daniel, Gamage

Noes:

Absent: Cramer, Rodman, Schawel

### **Background**

The City of Davis performs proactive block tree pruning on City trees on a seven-year cycle. Proactive maintenance removes dead, damaged, and diseased branches, provides structural pruning, and reduces branch end weights. Proactive pruning also helps to maintain trees in a healthy condition and reduces the likelihood of branch or tree failures. The cycle is completed by dividing the City into seven sections, with each section associated with a fiscal year. For Fiscal Year 23/24, Section 2, which includes the downtown area, was scheduled for proactive pruning.

To complete the pruning within the high-traffic downtown, staff worked to target to the summer months when there is typically less congestion, and to coincide with the construction projects where streets were already closed. This allowed for the forestry contractor's equipment to be utilized prior to the resurfacing of the streets, and perform work with limited interruptions.

The work being performed on City trees required the removal of long-existing decorative lights previously affixed to the trees. Assessments undertaken prior to the pruning activities identified multiple tree health and electrical issues related to the existing decorative lighting, also necessitating removal of the existing lighting, and a clear indication that a longer-term policy would need to be developed to ensure such issues do not reoccur.

#### *Temporary Solution to Removal of Existing Lighting*

The previously existing decorative lighting had been up for more than ten years, and had become an integral part of the ambiance in the downtown area that has benefitted the businesses and community at large. However, the existing "wrap around" style of lighting, as well as the utilization of ad-hoc electrical connections could no longer continue. The removal of the ambient lighting, however, could have unintended negative impacts and potential harm to the business climate. With this in mind, staff approached a temporary solution to install less problematic decorative downtown lighting within the tree canopy until a more substantive conversation can take place with key collaborators (including the Tree Commission, Tree Davis, Davis Downtown Business Association, Chamber of Commerce) as well as the public and ultimately Council. The temporary lights are also meant to provide examples on methods and appearance of lighting to aid

in the conversation to develop recommendations on long term policies for decorative lighting, while observing tree health and safety.

The temporary solution as originally approached was meant to function as a bridge between the removal of the existing lights and the establishment of a longer-term decorative lighting solution (which may or may not include lights affixed to trees), based on the timeframe of the immediate tree work needing to be accomplished.

A website was developed by City staff with more detail on the process and planning <https://www.cityofdavis.org/city-hall/improvement-projects/downtown-davis-lights-and-trees> and letters describing the project and detailing the removal of the existing lighting were sent to addresses in the downtown in July this year.

### **Community Discussion**

With the notification of the removal of the decorative lights, and placement of temporary lighting, the City received emails regarding concerns around the continued hanging of decorative lights within City trees, specifically related to ensuring the health of trees and the existing prohibition in the City's Municipal Code (Chapter 37, Article 02, Section 040: Prohibited Acts) to:

- (b) Knowingly causing or permitting any wire charge with electricity to come into contact with any street tree or city tree;
- (c) Placing, applying, attaching or keeping attached any wire, rope, sign, nail, paint or other substance or structure to any street tree or city tree or to any guard or stake intended to protect such tree;

The continued placement of decorative lighting within the trees (even if the lighting would not be wrapped, as previously placed), without a clear idea as to the standards to be utilized for the lighting, or the timeframe of the removal of the temporary lighting, and without changes to the City's code or discussions with key collaborators was highlighted as a chief concern by these comments.

Additionally, concerns were raised regarding the City's municipal code related to outdoor lighting control (Article 8.17 in Chapter 8: Buildings), and required modifications to outdoor lighting to minimize light pollution, glare and trespass.

While it was not the intent for the City to undertake the long-term planning process related to decorative lighting without key collaborator input, the timeline for tree work did necessitate the removal of lights without a long-term plan in place, thus the temporary efforts. This timing did not facilitate a check-in with the Tree Commission other than a verbal update at a meeting when the tree work started. Additional meetings with the Commission and key collaborators will be scheduled as the process for the long-term planning moves forward.

### **Modification to the Ordinance to Support the Temporary Lighting**

In the review of Chapter 37 of the City's Municipal Code, Tree Planting, Preservation and Protection, the revision of one section, 37.02.040(b) is necessary to allow for the City to provide temporary and test lighting in the downtown (adjacent to, or within City trees) until the permanent plan can be approved by Council. This modification is included below in the underlined section. Additionally, in reviewing the Code a revision was also suggested for 37.02.040(c), to ensure that activities performed by urban forestry staff and forestry contractors (like Tree Davis, or West Coast Arborists), including young tree staking, painting, or other notification methods (such as posting trees under review by the Tree Commission), remain authorized. The modifications suggested are also included below in the underlined section.

#### **37.02.040 Prohibited acts.**

It shall be unlawful for any person other than the director to cut, prune, spray, brace, plant, move, remove, replace or damage any street tree or city tree or to cause the same to be done, except as authorized pursuant to this chapter. Acts prohibited by this chapter include, but are not limited to, the following:

- a) Pruning a street tree or a city tree even if done to make room for a private tree or to clear branches overhanging private property;
- b) Knowingly causing or permitting any wire charge with electricity to come into contact with any street tree or city tree, except for:
  - a. Decorative or seasonal lighting as approved by resolution of City Council.
- c) Placing, applying, attaching or keeping attached any wire, rope, sign, nail, paint or other substance or structure to any street tree or city tree or to any guard or stake intended to protect such tree, except for:
  - a. Activities performed by the City's urban forestry program staff or City contractors for the purposes of tree care and maintenance, including (but not limited to:
    - i. Supports for young or broken trees
    - ii. Paint utilized for marking trees for removal or inspection purposes
    - iii. Adhering notice of work, permits and/or removal requests (in a way that will not damage the tree)

#### *Environmental Review*

This activity modifies the City's Municipal Code to allow for both temporary placement of decorative lighting in City trees and ongoing tree care and maintenance. There is no possibility that the modification of this ordinance will have a significant effect on the environment. Therefore, the project is exempt from CEQA pursuant to CEQA Guidelines § 15061(b)(3) and § 15304(e).

### **Limited Focus of Revisions**

During the development of the City's Urban Forest Management Plan, it was highlighted that significant changes to Chapter 37 of the municipal code will be necessary to ensure best urban forestry practices are being followed, and to clarify enforcement tools related to City trees, among other key areas. Although there have been multiple efforts over the years to complete the update, guidance from the Urban Forest Management Plan process are anticipated to aid City staff and the Tree Commission to undertake revision efforts and have substantive changes for City Council to consider. Currently there is not a timeline for the completion of these efforts as City staff have been working to address backlogs in the urban forestry program as a result of a number of years of extremely limited program resources. Discussions around the ordinance will begin with the Commission soon.

### **Temporary Lighting and Tree Health/Safety**

The temporary light installation will focus on minimizing impacts to trees. City trees will not be wrapped in lights as has been the practice previously, and lights will not be affixed via staples, tightly wrapped ribbon or tape, nor will lighting power sources be permitted via extension cords. Current test lighting has been installed in some areas in the downtown, with more test areas planned to determine lighting options for consideration in the permanent planning process. While the current test lighting does include one point of contact with City trees, alternatives with no contact could also be tested.

### **City Municipal Code 8.17 - Outdoor Lighting Control**

As City staff assessed the existing decorative lighting affixed to City trees in the downtown, it was clear that a number of factors (including available electrical outlets and necessary tree removals) would potentially limit the ability for decorative lighting to be placed in the same location. Best practices for tree care also prohibited the lighting from being placed in the same fashion as previously strung, a change that would by necessity impact the aesthetics of the decorative lighting no matter the temporary replacement lighting type. Additional research, including suitability for the placement of lighting, will be conducted in the downtown as part of the long-term planning process, as well as a careful review of lighting types. With this testing, utilizing multiple placement suggestions and types of lighting will be key to a thorough review. City staff will work to request a temporary administrative exemption from City Municipal Code 8.17 - Outdoor Lighting Control, to facilitate this testing phase of the long-term plan process. Staff will ensure that the long-term planning approach and any permanent lighting choice/s adheres to the requirements of the City's code on outdoor lighting.

## **Next Steps**

In addition to the modification of the City's Tree Ordinance and the request for an administrative exemption to the Outdoor Lighting Control as described above, the timeline for next steps in the establishment of permanent processes and procedures for decorative lights in downtown includes:

- **September:** Temporary lights placed that meet current safety codes and electrical connections, and are weather proof and reflect general downtown ambiance
- **September:** Introduce Ordinance Revision to Section 37.02.040 of the Municipal Code
- **October:** Ordinance Second Reading
- **Fall 2023:** City staff examine and research options for permanent processes and procedures for decorative lights in downtown
- **Early 2024:** Draft lighting installation options and potential decorative tree lighting process and procedure, with funding and a maintenance plan to be discussed with Tree Commission, and ultimately City Council.

## **Attachments**

1. Draft Ordinance Amending Section 37.02.040 of the Davis Municipal Code prohibited acts related to Street Trees and City Trees - Clean
2. Draft Ordinance Amending Section 37.02.040 of the Davis Municipal Code prohibited acts related to Street Trees and City Trees - Redline
3. Resolution
4. Tree Commission Action from September 6, 2023 Meeting (as amended)

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAVIS AMENDING SECTION 37.02.040 OF CHAPTER 37 OF THE CITY OF DAVIS MUNICIPAL CODE RELATING TO PROHIBITED ACTS RELATED TO STREET AND CITY TREES AND FINDING PROJECT EXEMPT FROM CEQA PURSUANT TO SECTIONS 15061(B)(3) AND 15304(E)**

WHEREAS, the City of Davis has established (since 1963) an ordinance prescribing regulations relating to the planting, care and removal of trees, which included a list of unlawful actions against City trees (37.02.040 - Prohibited Acts); and

WHEREAS, the list of prohibited acts includes knowingly causing or permitting any wire charged with electricity to come into contact with any street tree or city tree; and placing, applying, attaching or keeping attached any wire, rope, sign, nail, paint or other substance or structure to any street tree or city tree or to any guard or stake intended to protect such tree; and

WHEREAS, for many years, the City has allowed for exceptions to the prohibited acts for the purposes of affixing decorative lighting to City trees in the downtown area to promote and support a thriving downtown, as well as to further enhance downtown ambiance; and

WHEREAS, recent tree work in the downtown necessitated the removal of existing decorative lighting, and it was determined that the lighting as previously affixed did harm the trees, and could not be replaced in-kind; and

WHEREAS, the tree work and community discussions regarding the protections around City trees prompted renewed examination of the goals of providing decorative lighting for ambiance within the downtown, and where that lighting is best placed; and

WHEREAS, the City determined that a temporary solution for decorative lighting to replace the previously installed lighting to assist in maintaining the ambiance and positive atmosphere of the downtown area, while minimizing negative impacts to trees, would be necessary; and

WHEREAS, until the full discussion and a permanent decorative lighting plan can be established for the downtown, the City would like to support temporary decorative lighting placement within the tree canopy for testing lighting types and styles, and lessen the impact of the removal of the previous decorative lighting from the downtown, with tree health as a key focus; and

WHEREAS, the current Ordinance does not allow for exceptions to the prohibited acts; and

WHEREAS, the modification of the Ordinance allows for the City to enforce existing code while providing the flexibility to allow for decorative lighting within the tree canopy.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF DAVIS DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 37.02.040 (“Prohibited Acts”) of Article 37.02 (“Street Trees and City Trees”) of Chapter 37 (“Tree Planting, Preservation and Protection”), of the City of Davis Municipal Code is hereby amended to read as follows:

### **Article 30.08 STREET TREES AND CITY TREES**

#### **37.02.040 Prohibited acts.**

It shall be unlawful for any person other than the director to cut, prune, spray, brace, plant, move, remove, replace or damage any street tree or city tree or to cause the same to be done, except as authorized pursuant to this chapter. Acts prohibited by this chapter include, but are not limited to, the following:

- a) Pruning a street tree or a city tree even if done to make room for a private tree or to clear branches overhanging private property;
- b) Knowingly causing or permitting any wire charge with electricity to come into contact with any street tree or city tree, except for;
  - a. Decorative or seasonal lighting as approved by resolution of City Council.
- c) Placing, applying, attaching or keeping attached any wire, rope, sign, nail, paint or other substance or structure to any street tree or city tree or to any guard or stake intended to protect such tree, except for;
  - a. Activities performed by the City’s urban forestry program staff or City contractors for the purposes of tree care and maintenance, including (but not limited to:
    - i. Supports for young or broken trees
    - ii. Paint utilized for marking trees for removal or inspection purposes
    - iii. Adhering notice of work, permits and/or removal requests (in a way that will not damage the tree)

SECTION 5. CEQA. The City Council finds that this Ordinance is exempt from the California Environmental Quality Act (“CEQA”) pursuant to State CEQA Guidelines Sections 15061(b)(3) and 15304(e) on the grounds that it can be seen with certainty that the modifications as provided for in this Ordinance will not have a significant effect on the environment and that the temporary actions to affix lighting to City trees will further take into account tree health and safety.

SECTION 6. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.



SECTION 7. Effective Date. This Ordinance shall be in full force and effect thirty (30) days from and after the date of its final passage and adoption.

SECTION 8. Certification. The City Clerk shall certify to the adoption of this Ordinance and shall post or publish this Ordinance as required by law.

INTRODUCED on the 3rd day of October, 2023 and PASSED AND ADOPTED this day of \_\_\_\_\_ 2023 by the following vote:

AYES:

NOES:

Will Arnold  
Mayor

ATTEST:

Zoe S. Mirabile, CMC  
City Clerk

## Article 30.08 STREET TREES AND CITY TREES

### 37.02.040 Prohibited acts.

It shall be unlawful for any person other than the director to cut, prune, spray, brace, plant, move, remove, replace or damage any street tree or city tree or to cause the same to be done, except as authorized pursuant to this chapter. Acts prohibited by this chapter include, but are not limited to, the following:

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  - a. Decorative or seasonal lighting as approved by resolution of City Council.
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  - a. Activities performed by the City's urban forestry program staff or City contractors for the purposes of tree care and maintenance, including (but not limited to:
    - i. Supports for young or broken trees
    - ii. Paint utilized for marking trees for removal or inspection purposes
    - iii. Adhering notice of work, permits and/or removal requests (in a way that will not damage the tree)

**RESOLUTION NO. 23-XXX, SERIES 2023**

**RESOLUTION AUTHORIZING THE INSTALLATION OF TEMPORARY DECORATIVE LIGHTING BY CITY STAFF IN THE TREES WITHIN IN THE DOWNTOWN**

WHEREAS, the City of Davis has established (since 1963) an ordinance prescribing regulations relating to the planting, care and removal of trees, which included a list of unlawful actions against City trees (37.02.040 - Prohibited Acts); and

WHEREAS, the list of prohibited acts includes knowingly causing or permitting any wire charged with electricity to come into contact with any street tree or city tree; and placing, applying, attaching or keeping attached any wire, rope, sign, nail, paint or other substance or structure to any street tree or city tree or to any guard or stake intended to protect such tree; and

WHEREAS, on October 3, 2023 the City Council introduced a revision to Section 37.02.040 - Prohibited Acts to allow decorative or seasonal lighting to be affixed to City trees by City staff or city contractors by approval of Council resolution; and

WHEREAS, recent tree work in the downtown necessitated the removal of existing decorative lighting, and it was determined that the lighting as previously affixed did harm the trees, and could not be replaced in-kind; and

WHEREAS, the City determined that a temporary solution for decorative lighting to replace the previously installed lighting to assist in maintaining the ambiance and positive atmosphere of the downtown area, while minimizing negative impacts to trees, would be necessary.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Davis does hereby authorize the Public Works Utilities and Operations Department to install temporary decorative lighting within the tree canopy for testing lighting types and styles, and lessen the impact of the removal of the previous decorative lighting from the downtown area, with tree health as a key focus.

PASSED AND ADOPTED by the City Council of the City of Davis on this 3rd day of October, 2023 by the following vote:

AYES:

NOES:

Will Arnold  
Mayor

ATTEST:

Zoe S. Mirabile, CMC  
City Clerk

## Downtown Tree Preservation and Lighting Resolution

Whereas the trees in downtown Davis enhance the town's ambiance and create a better atmosphere for businesses.

Whereas, Tree shade reduces heat island effect of paved area like downtown, and are important part of city's CAAP plan so Downtown Davis remains vibrant shopping recreating and gathering place.

Whereas trees provide important habitat for birds even in the urban core of downtown Davis.

Whereas the City of Davis Municipal Code 37.02.040 Prohibited acts was adopted by the Davis City Council to protect Davis Trees.

Whereas 37.02.040 states "Acts prohibited by this chapter include, but are not limited to, the following... (b) Knowingly causing or permitting any wire charge with electricity to come into contact with any street tree or city tree"

Whereas 37.02.040 further states "Acts prohibited by this chapter include, but are not limited to, the following... (c) Placing, applying, attaching or keeping attached any wire, rope, sign, nail, paint or other substance or structure to any street tree or city tree or to any guard or stake intended to protect such tree;"

Whereas sections (b) and (c) of 37.02.040 prohibit any wires with electrical current, or other wires generally from being used in City Trees, these sections specifically prohibit putting holiday lights in City Trees.

Whereas wrapping trees with holiday lights can be very damaging to the trees.

Whereas the city council on 3-1-22 set aside \$1.2 million of American recovery plan fund for downtown landscaping and beautification and this has been represented by many council to fix the lack of Tree component in the Downtown Specific Plan, but there is no plan to plant trees downtown.

Whereas a letter from Stan Gryczko Director, Public Works Utilities & Operations for the City of Davis dated June 21, 2023 announcing plans to replace the decorative lights in downtown City trees, and makes no mention of planting additional trees.

Whereas the lights in currently in city trees are causing harm to some trees,

And whereas the lights in city trees are prohibited under Davis Municipal Code as are any replacement lights,

Therefore let it be resolved that the Tree Commission urges the City of Davis to prohibit lights in the downtown trees until a pilot project is approved by City Council. In order to determine what specific practices can be put in place to put up lights which won't harm the tree and can serve for updating City code.