

Division 10: Tree Preservation

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Section 9110.01 Tree Preservation

Subsections:

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9110.01.010 Purpose and Intent

This Tree Preservation Chapter is established to recognize oaks, sycamores and mature trees as significant aesthetic and ecological resources as well as valuable environmental assets, and to create favorable conditions for the preservation and propagation of irreplaceable plant heritage for the benefit of the current and future residents of the City. It is the intent of this Chapter to maintain and enhance the public health, safety and welfare through the mitigation of soil erosion and air pollution. It is also the intent of this Chapter to preserve and enhance property values through conserving and enhancing the distinctive and unique aesthetic character of many areas in the City.

9110.01.020 Applicability

1. The provisions of this Chapter shall apply to all protected trees on all public and private property whether vacant, undeveloped, in the process of development or developed.
2. No protected trees as herein defined shall be removed, topped, trimmed, damaged or have its protected zone encroached upon except in conformance with the provisions of this section, except as allowed under Exemptions.
3. Tree valuations shall be established by the City's chosen methodology as set forth in the most current edition of the Guide for Plant Appraisal, published by the International Society of Arboriculture. This shall be applied to those trees damaged, topped, trimmed or removed without a permit as well as those removed with a permit when an alternative replacement fee is required.
4. Any person, property owner, and contractor who violates or permits the violation of any provisions of this Ordinance shall be subject to the enforcement remedies set forth in the subsection 9110.01.100 Violations and Enforcement.

9110.01.030 Protected Trees

Protected Trees are recognized as valued environmental assets and significant aesthetic and ecological resources. Any proposed removal or encroachment upon the canopy or protected zone of a protected tree shall be subject to the provisions set forth in subsection 9110.01.070 Tree Permit Requirements. Protected trees shall include the following:

1. Engelmann Oak (*Quercus Engelmannii*) or Coast Live Oak (*Quercus Agrifolia*) with a trunk diameter larger than four (4) inches measured at a point four and one-half (4½) feet above the root crown, or two (2) or more trunks measuring three (3) inches each or greater in diameter, measured at a point four and one-half (4½) feet above the root crown.

2. Any other living California native or non-California native Oak tree with a trunk diameter larger than twelve (12) inches measured at a point four and one-half (4½) feet above the root crown, or two (2) or more trunks measuring ten (10) inches each or greater in diameter, measured at a point four and one-half (4½) feet above the root crown.
3. California, or western, Sycamore (*Platanus Racemose*) with a trunk diameter larger than six (6) inches measured at a point four and one-half (4½) feet above the root crown, or two (2) or more trunks measuring four (4) inches each or greater in diameter, measured at a point four and one-half (4½) feet above the root crown.
4. Mature Tree. Any tree, with the exception of the trees listed as Unprotected Trees, that have a trunk diameter larger than twelve (12) inches measured at a point four and one-half (4½) feet above the root crown, or two (2) or more trunks measuring ten (10) inches each or greater in diameter, measured at a point of four and one-half (4½) feet above the root crown and the tree is located within a required front, side, street-side, or rear yard setback.

9110.01.040 Unprotected Trees

Unprotected trees are not subject to the regulations stated in this chapter. Unprotected trees shall include any non-oak and non-sycamore trees located outside a required front, side, street-side, or rear yard setback and any of the following trees located anywhere on a property:

1. Fruit and Nut trees
2. Shamel Ash (*Fraxinus uhdei*)
3. Ficuses, except Moreton Bay fig (*Ficus macrophylla*)
4. Eucalyptus
5. Tree of Heaven (*Ailanthus altissima*)
6. Palm Tree
7. Brazilian Pepper (*Schinus terebinthifolius*)
8. Carob (*Ceratonia siliqua*)
9. European White birch (*Betula pedula*)
10. Silk Oak (*Grevillea robusta*)
11. Mulberry (*Morus*)
12. Silver Maple (*Acer saccharinum*)
13. Italina Cypress (*Cupressus sempervirens*)
14. Western Cottonwood (*Populous fremontii*)
15. White Alder (*Alnus rhombifolia*)
16. Black Cottonwood (*Populus trichocarpa*)
17. All other varieties and/or hybrids of cottonwood (*Populus sp.*)
18. Arroyo willow (*Salix lasiolepis*)
19. Sweet Gum (*Liquidambar*)

9110.01.050 Tree Maintenance

1. Any portion of a tree that encroaches into the City's public right-of-way shall be maintained to prevent any visibility issue or pose any imminent danger to a person or property.
2. Any pruning or trimming of a protected tree shall not require a tree permit but shall be completed in accordance with the industry standards as set forth by the International Society of Arboriculture or the American National Standards Institute (ANSI), and in consultation with a Certified Arborist. All property owners shall be required to obtain a written recommendation from a Certified Arborist for any pruning and trimming work to a protected tree.
3. The removal of a tree limb from a protected tree shall not require a tree permit, but must be done in consultation with a Certified Arborist. The Certified Arborist shall be required to be on-site while the work is being performed and if necessary, the property owner shall provide proof to the City that this work was completed with a tree report detailing the need for removal.

9110.01.060 Exemptions

The following are exempt from the provisions of this Chapter:

1. **Emergency Situation.** A permit is not required where a protected tree is damaged by a storm, fire, or other natural disaster, the Development Services Director or the Director of Public Works Services or their designees, or any member of a law enforcement agency or Fire Department, in the performance of his or her duties, determines that protected tree poses an imminent threat to the public safety, or general welfare.
2. **Visual Barriers.** Removal or relocation of protected trees necessary to obtain adequate line-of-sight distances as required by the Development Services Director or the Director of Public Works Services or their designees.
3. **Public Utility.** Actions taken for the maintenance, and/or protection of existing electrical power or communication lines or other property of a public utility.
4. **City Property.** Removal, cutting, or pruning of protected trees on City owned property, which in the opinion of the Director of Public Works Services or designee, will cause damage to existing public improvements, pose danger to persons or property, or which are in a location that does not permit the development of the site for public purposes.
5. **Public Property.** Actions taken by local agencies for the maintenance of protected and unprotected trees located on property under their jurisdiction.
6. **Mature trees,** as defined herein, shall not be subject to encroachment permit requirements if they are not located on the property where development is proposed

9110.01.070 Tree Permit Requirements

A tree permit is required for all protected trees, as defined by this Chapter.

A. Tree Permits [Combined with portions of 9702.01.030 – Application and Fees and 9702.01.040 – Action on Application]

1. **Removal of Dead, Diseased and/or Hazardous Protected Trees.**
 - a) If the Director or designee determines that the tree is dead or hazardous, a tree report is not required and removal may be authorized.
 - b) In all other cases, a tree report is required from a Certified Arborist. The report must include an evaluation of the health of the protected tree and a recommendation.
 - c) Upon the receipt of a complete application, the Director or designee shall have seven (7) days to take action on the application, unless it is being acted upon with another discretionary permit

2. Removal of A Healthy Protected Tree

- a) A tree report shall be required from a Certified Arborist. The tree report must include an evaluation of the health of the protected tree, and the following information, at a minimum, the following:
 - (1) An explanation as to why the tree's removal is necessary.
 - (2) An explanation as to why tree removal is more desirable than alternative project designs.
 - (3) An explanation of any mitigation measures.
- b) Upon the receipt of a complete application to remove a healthy protected tree, the Director or designee shall have thirty (30) days to take action on the application, unless it is being acted upon with another discretionary permit.
- c) A Notice of Pending Decision shall be required for the Removal of a Healthy Tree application and shall be provided in compliance with Development Code Section 9108.13 (Public Notices and Hearings). The notice shall be mailed to all owners of real property as shown on the latest assessment rolls of the City or of the County, located within a radius of 300 feet of the exterior boundaries of the subject property. Surrounding residents shall have up to 14 days to submit any comments before the date of the Director's consideration and final decision as stated in the notice.

3. Encroachment into a Protected Zone of Protected Trees.

- a) A tree report is required from a Certified Arborist. The tree report shall specify the location and condition of the trees, include potential impacts of the development, recommended actions and mitigation measures in order to preserve the long-term health of the trees. The tree report shall include, at a minimum, the following:
 - (1) An explanation why is it necessary to encroach upon the tree(s);
 - (2) An explanation why is the encroachment upon the tree(s) more desirable than an alternative project design; and
 - (3) An explanation of any mitigation measures.
- b) Upon the receipt of the application, the Director or designee shall have thirty days (30) days to take action on the application, unless it is being acted upon with another discretionary permit.

B. Application Requirements [*Portions from 9702.01.030 – Application and Fees*]

All applications shall be completed using a form provided by the City and shall contain all required information, including:

- 1. A complete evaluation of the tree and a tree report;
- 2. Required fees per City's Fee Resolution; and
- 3. The City may require additional information based on each individual situation and application related to the health of the tree(s).

C. City's Designated Homeowners' Associations [*Originally under 9702.01.040 – Action on Application*]

If the subject property is within a Homeowners Association area established pursuant to the Arcadia Municipal Code, and a project is being submitted to the Architectural Review Board, the property owner shall submit their tree removal request and project plans along with their architectural plans, to the Architectural Review Board of said Homeowners Association for review and approval, conditional approval or denial, prior to filing an application with the City for tree encroachment and/or healthy tree removal permit.

D. Expirations of Permit or Approval

Unless otherwise stated in the approval, the privileges granted under these applications shall become null and void if not utilized within twelve (12) months from the date of the final approval, unless otherwise specified in the permit or approval, or an extension is approved by the applicable Review Authority, in compliance with Development Code Section 9108.11.080 Expirations and Subsection 9108.11.090 (Time Extensions).

E. Appeals

The Review Authority's decision may be appealed, in compliance with Development Code Section 9108.07 (Appeals). The appeal shall be filed with the Department or City Clerk, within 10 days following the actual date the decision was rendered and accompanied with the filing fee identified in the City's Fee Schedule.

9110.01.080 Tree Replacement

1. Tree Replacement. For every protected tree that was approved to be removed, it shall be replaced with a minimum of two (2) new 24-inch box trees. When it is appropriate, the Director may modify, waive, increase, or reduce the tree replacement requirement.
2. Follow-up Report. The Certified Arborist, at the expense of the property owner, shall submit a follow-up report to the City that the work was completed, and to the satisfaction of the Director.

9110.01.090 Protective Measures

The following protective measures are hereby established for protected trees during development or construction activity to minimize any damage to the root system:

1. No building, structure, wall or impervious paving shall be located within the protected zone of any protected tree.
2. No construction related activities shall occur within the protected zone of any protected tree, including but not limited to, building construction, storage of materials, grade changes, or attachment of wires to or around tree trunks, stems, or limbs.
3. Each and every protected tree shall be shielded from damage during construction by a six (6) foot high chain link fence surrounding the entire dripline. The fence shall be supported by two-inch galvanized poles driven into the ground at appropriate distances. Fencing shall be installed prior to the commencement of any development on the site and remain in place throughout the construction and landscape period.
4. Branches that may be injured by vehicles or that interfere with construction shall be pruned carefully.
5. The root protection zone should be irrigated with clean potable water to keep the tree in good health and vigor before, during, and after construction.
6. All work conducted in the ground within the root protection zone of any protected tree should be completed with hand tools.
7. Any required trenching should occur outside of the dripline or protected zone of a protected tree.
8. Cutting of roots should be avoided.
9. "Natural" or pre-construction grade should be maintained in the root protection zone.

9110.01.100 Violations and Enforcement

- A. The Development Services Department, through its Code Services Officers, shall enforce the provisions of this Chapter. Additionally, Police Officers, planners, inspectors from Building Services and the Public Works Services Department, in the course of their duties, will monitor construction activities for compliance with the provisions of this Chapter. Any irregularities or suspected violations will be reported immediately to the Community Development Division for follow-up action.
- B. Whenever any construction or work is being performed contrary to the provisions of this Chapter, any tree permit, or any conditions of the appropriate development permit, a City inspector may issue a notice to the responsible party to "stop work" on the project on which the violation has occurred or upon which the danger exists. The notice shall state the nature of the violation or danger and no work shall be allowed until the violation has been rectified and approved by the Director of Development Services or designee.

C. Criminal and Civil Remedies.

1. Criminal.

Any person who violates any provisions of this Chapter including violations of inspector's orders shall be subject to the following remedies in addition to misdemeanor penalties for violation of the Municipal Code.

2. Restitution-Civil Penalties.

- a) It has been determined that the protected trees within the City are valuable environmental assets to the citizens of this community and as a result of the loss of any of these protected trees, the public should be recompensed, and penalties applied to assure the primary goal of conservation, protection, and preservation of protected trees as set forth in this Chapter.
- (b) Accordingly, any person violating the provisions of this Chapter shall be responsible for proper restitution including but not limited to the following or any combination thereof: (1) payment of a fine of up to \$1,000.00 or the amount set forth in a schedule of fines, in accordance with Chapter 4A of the Arcadia, (2) an order to pay to the City an amount equal to the replacement value or the actual replacement cost of the tree (3) replacement the protected tree, which has been removed, and/or (4) planting new protected trees or other trees which may be more appropriate to the site. Replacement shall be made based on the value or the actual replacement cost, whichever is higher, plus the cost of planting the replacement trees. The type, number, size and location of said equivalent replacement trees shall be determined by the Director or designee.
- (c) Tree values shall be established by the City's chosen methodology as set forth in the most current edition of the Guide for Plant Appraisal, published by the International Society of Arboriculture.
- (d) The City Attorney is authorized to take whatever legal steps are necessary for recovery of civil penalties.

D. Administrative Remedies.

- 1. A suspension of any building permits until all mitigation measures specified by the City are satisfactorily completed.
- 2. Completion of all mitigation measures as established by the City.

9110.01.110 Liability

Nothing in this chapter shall be deemed to impose any liability upon the City, its officers, or employees. No duty of care or maintenance is imposed upon the City, its officers or employees with reference to private property, and no private property owner or other person in possession of private property is relieved from the duties to keep protected trees in a safe condition on their property. This Ordinance does not relieve the owner or possessor of private property from the duty to keep protected trees subject to this chapter in such a condition as to prevent the protected tree from constituting a hazard or dangerous condition to persons or property.

9110.01.120 Definitions

This Section provides definitions of the technical and other terms and phrases used in this Chapter as a means of providing consistency in its interpretation. Where any definition in this Section may conflict with definitions in other titles of the Arcadia Municipal Code, these definitions shall prevail for the purposes of this Code. If a word is not defined in this Section or in other provisions of the Municipal Code, the most common dictionary definition is presumed to be correct.

Branch/Limb. A secondary outward growing stem that grows from the main trunk of a tree.

Canopy/Crown. Upper part of the tree consisting of branches, leaves, and foliage.

Certified Arborist. An individual who has demonstrated knowledge and competency through obtainment of the current International Society of Arboriculture arborist certification, or who is a member of the American Society of Consulting Arborists.

Damage. Damage shall mean any action undertaken that goes beyond industry pruning standards that is done without consultation of Certified Arborist which causes injury, death, or disfigurement to a protected tree. This includes, but is not limited

to, severe pruning, cutting, poisoning, overwatering, topping, trimming, relocating or transplanting a protected tree, or trenching, excavating or paving within the protected zone of a protected tree.

Dead tree. A tree that exhibits no signs of life whatsoever (e.g. green leaves or live limbs) during a period of the year when they should be present.

Diameter-at-breast-height (DBH). The standard measurement of the size of a tree. The diameter shall be measure at four and one-half (4½) feet above the root crown.

Director. In a matter involving private property, "Director" shall mean the Director of Development Services of the City of Arcadia or appointed designee. In the matter involving public property, "Director" shall mean the Director of Public Works Services of the City of Arcadia or appointed designee.

Dripline. Dripline shall mean a series of points formed by the vertical dripping of water, on any property, from the outward branches and leaves of a protected tree.

Encroachment. Encroachment shall mean any intrusion into the protected zone of a protected tree including, but not limited to, grading, fencing, landscaping, hardscape, excavation, trenching, parking of vehicles, storage of materials or equipment, or the construction of structures or other improvements.

Multi-Trunk. Multi-trunk means any tree with multiple trunks attributed to a single tree. For purposes of determining the diameter of a multi-trunk tree, the diameter of each trunk shall be measured at a point four and one-half (4½) feet above the root crown.

Over Excavation. Over excavation refers to soil excavation that goes beyond the depth required for the formation of a structure.

Private Property. Private property shall mean land owned by individuals, partnerships, corporations, firms, churches, and the like to which land access by the public is generally restricted.

Protected Trees. Protected Trees are those trees that are recognized as valued environmental assets and significant aesthetic and ecological resources herein this Chapter. Any proposed removal or encroachment upon the canopy or protected zone of a protected tree shall be subject to the provisions set forth in subsection 9701.01.070 Tree Permit Requirements. See Subsection 9701.01.030 for a list of the protected trees.

Protected Tree Report. A Protected Tree Report is prepared and completed by a Certified Arborist. The report shall specify the location and condition of the trees, include potential impacts of the development, recommended actions and mitigation measure in order to preserve the long-term health of the trees.

Protected Zone. Protected zone shall mean a specifically defined area totally encompassing a protected tree within which work activities are strictly controlled. When depicted on a map, the outermost edge of the protected zone will appear as an irregular shaped circle that follows the contour of the dripline of the protected tree. In no case shall the protected zone be less than fifteen (15) feet from the trunk of a protected tree, or exclude the known root structure in the case of irregularly shaped trees.

Pruning. Pruning is the removal of selected branches that are dead, a hazard to public or property, or are otherwise selected for removal while preserving the overall form of the tree. Pruning can be done as a standard maintenance of the tree canopy and to give a tree a more balanced appearance, to reduce the weight on one side of a tree in order to prevent the tree from toppling, or to remove branches that are at risk of breaking and injuring people or damaging property.

Public Property. Public property shall mean land owned by a public or governmental entity and generally accessible to the public.

Removal. Removal shall mean the uprooting, cutting, or severing of the main trunk, of a protected tree.

Root Crown. Root crown shall mean that portion of a protected tree trunk from which roots extend laterally into the ground. Area where the main roots join the plant stem, usually at or near ground level. Also known as the root collar.

Root Flare. The root flare is the area at the base of a tree where the trunk transitions from trunk and bark tissues into root system tissues. Roots should be growing outward from the base of a tree at the same level as the surrounding soil or slightly above it. This creates a "flare" of roots that should always be exposed and never covered with soil or other materials.

Root Protection Zone. A circular ground radius corresponding to the distanced from the trunk to the edge of the tree dripline. The area indicates the tree's root system which contains sufficient roots and volume to maintain the tree's viability.

Stem. A woody structure that gives rise to other branches. A tree trunk is often referred to as a stem.

Topping. The removal of the uppermost branches of a tree, or cutting the trunk, in order to reduce its height without regard to overall form, structural integrity and the long-term tree health. Typically results in a horizontal cut across the trunk and leaving lateral branches. Topping is not an approved arboricultural industry standard and should be avoided. Topping results in injuries and may result in the early failure and death of trees.

Tree. A woody perennial plant with a single or multiple trunks, which typically develop a mature size of over several inches in trunk diameter.

Tree Protection Plan. A Tree Protection Plan is plan which outlines specific required measures and standards to protect trees during the pre-construction, demolition, construction, and post-construction development phases in order to safeguard the health and long-term welfare of protected tree(s) on a development site.

Thinning. Thinning is a selective removal of live branches to reduce the overall density of a canopy. Routine thinning does not necessarily improve the health of a tree; in fact, removal of foliage through pruning can reduce growth and energy reserves.

Trimming. Trimming means the alteration of the outward shape of a tree without regard to which branches are to be trimmed. Typically results in a geometric rather than natural shape.

Undeveloped Property. Undeveloped property shall mean land which is in its natural, original, or pristine state.

Unprotected Trees. Unprotected trees shall mean trees that are not subject to the regulations stated in the Chapter. Unprotected trees shall include any non-oak and non-sycamore tree located outside a required front, side, street-side, or rear yard setback and any of the following trees located anywhere on a property. See 9701.01.040 Unprotected Trees the list of unprotected trees.

Vacant Property. Vacant property shall mean land on which no buildings or improvements have been erected or orchards planted but which may have been graded for drainage or other purposes.