



## Tree Preservation

### Chapter 7 - TREE PRESERVATION

#### Division 1: Purpose, Scope, and General Terms

##### 9701.01 PURPOSE AND SCOPE

**9701.01.010 – Intent and Purpose.** This Chapter is established to recognize oaks, sycamores and mature trees as significant aesthetic and ecological resources 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.

##### 9701.01.020 – Scope.

- A. No protected trees as herein defined shall be removed, damaged or have its protected zone encroached upon except in conformance with the provisions of this Chapter. 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. Protected trees shall not be topped or trimmed except as allowed in the Exceptions. Pruning shall not be subject to a tree permit unless, in the opinion of the Development Services Director or designee, the work is so extensive as to constitute trimming, topping, or otherwise damage the tree, or a Protected Tree Report or Certified Arborist opinion determines that a tree is of a sensitive species or condition such that pruning under the supervision of an Arborist is required to prevent damage.
- B. Exceptions. The following are exempt from the provisions of this Chapter:
  - 1. Combined Permit. A Tree Permit is not required where tree removal and/or encroachment has been specifically approved as part of a development permit.
  - 2. Emergency Situation. Cases of emergency where 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.
  - 3. 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.
  - 4. Public Utility Damage. Actions taken for the protection of existing electrical power or communication lines or other property of a public utility.

5. City Property. Removal 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, or which are in a location that does not permit the development of the site for public purposes.
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.

## **9701.02 DEFINITIONS.**

### **9701.02.010 – General.**

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.

### **9701.02.020 – Definition.**

- A. Damage. Damage shall mean any action undertaken which causes injury, death, or disfigurement to a protected tree. This includes, but is not limited to, cutting, poisoning, overwatering, topping, trimming, relocating or transplanting a protected tree, or trenching, excavating or paving within the protected zone of a protected tree. A Protected Tree Report or Certified Arborist opinion determines that a tree is of sensitive species or condition such that pruning under the supervision of an Arborist is required to prevent damage.
- B. 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.
- C. Drip Line. Drip line 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.
- D. Encroachment. Encroachment shall mean any intrusion into the protected zone of a protected tree including, but not limited to, grading, landscaping, hardscape, excavation, trenching, parking of vehicles, storage of materials or equipment, or the construction of structures or other improvements.
- F. Lacing. See Pruning.
- G. 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, and the sum of the diameters shall be the diameter of the tree.
- H. 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.

- I. Protected Trees. Protected trees shall include the following:
  - 1. *Quercus Engelmannii* (Engelmann oak), or *quercus agrifolia* (coast live oak, California live oak) 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 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. *Plantanus racemosa* (Sycamore) 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. 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 (4 1/2) feet above the root crown, or two (2) or more trunks measuring ten (1) inches each or greater in diameter, measured at a point of four and one-half (4 1/2) feet above the root crown and the tree is located within a required front, side, street-side, or rear yard setback.
- J. 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.
- K. 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.
- L. Pruning. Pruning, also known as lacing, means 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 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. Utilities may use pruning to selectively remove branches that interfere with overhead lines. Pruning is distinct from topping or trimming a tree.
- M. Public Property. Public property shall mean land owned by a public or governmental entity and generally accessible to the public.
- N. Removal. Removal shall mean the uprooting, cutting, or severing of the main trunk, of a protected tree.
- O. Root Crown. Root crown shall mean that portion of a protected tree trunk from which roots extend laterally into the ground.
- P. Topping. The removal of the uppermost branches of a tree, or cutting the trunk, in order to reduce its height without regard to the overall form of the tree. Typically results in a horizontal cut across the trunk or a roughly spherical cut centered on the trunk.

- Q. 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. Hedges are trimmed to preserve a particular, frequently rectangular, shape. Topping a tree would be an extreme example of trimming.
- R. Undeveloped Property. Undeveloped property shall mean land which is in its natural, original, or pristine state.
- S. 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:
1. Fruit and Nut trees
  2. Fraxinus uhdei (Shamel Ash)
  3. Ficuses - Exception: Ficus Macrophylla (Moreton Bay Fig)
  4. Eucalyptus
  5. Ailanthus altissima (Tree of Heaven)
  6. Arecaceae (Palm tree)
  7. Schinus terebinthifolius (Brazilian Pepper)
  8. Ceratonia siliqua (Carob)
  9. Betula pendula (European White Birch)
  10. Grevillea robusta (Silk Oak)
  11. Morus (Mulberry)
  12. Acer saccharinum (Silver Maple)
  13. Cupressus sempervirens (Italian Cypress)
  14. Populus Fremontii (Western Cottonwood)
  15. Alnus rhombifolia (White Alder)
  16. Populus trichocarpa (Black Cottonwood)
  17. Populus 'Highland' hybrid
  18. Salix lasiolepis (Arroyo Willow)
  19. Liquidambers (Sweet Gum)
- T. 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.

## Division 2: Tree Regulations and Permitting

### 9702.01 PERMITS AND REQUIRED PROTECTIVE MEASURES.

#### 9702.01.010 – Tree Permit Required.

- A. A tree permit shall be obtained prior to the removal of any protected tree.

- B. A tree permit shall be obtained prior to any encroachment into the protected zone of any protected tree.

9702.01.020 – Required Protective Measures.

The following protective measures are hereby established for protected trees during development or construction activity:

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 four (4) foot high barrier composed of wooden stakes, chicken wire, or chain link fencing material, which shall enclose the entire dripline area on the construction site. Such barriers shall be installed prior to the commencement of any development on the site and shall remain in place throughout the construction period.
4. Branches that may be injured by vehicles or that interfere with construction shall be pruned carefully.

9702.01.030 – Application and Fees.

A. Tree Permit for the Removal of Diseased and/or Hazardous Protected Trees.

1. An application for a tree permit for the removal of a diseased or hazardous protected tree shall be made to the Community Development Division.
2. There is no fee for a tree permit for the removal of a diseased or hazardous protected tree; however, the applicant shall pay a fee to the Community Development Division, as deemed necessary by the Director, for the City to hire a Certified Arborist to evaluate the tree.

B. Tree Permit for the Removal of Healthy Protected Trees.

1. An application for a tree permit for the removal of a healthy protected tree shall be made to the Community Development Division. The content, form, instructions, procedures, and requirements of the application package deemed necessary and appropriate for the proper enforcement of this Chapter shall be established by the Community Development Division. The application shall include, but not be limited to the following:
  - (a) An explanation as to why the tree's removal is necessary.
  - (b) An explanation as to why tree removal is more desirable than alternative project designs.
  - (c) An explanation of any mitigation measures.
  - (d) A fee per the City's fee schedule.
  - (e) A fee, as deemed necessary by the Director, for the City to hire a Certified Arborist to evaluate the tree and potential locations for replacement trees, accompanied by appropriate photographs showing the existing tree to be removed and locations for replacement trees.

- C. Tree Permit for Encroachment Into a Protected Zone of Protected Trees.
  - 1. An application for a tree permit for encroachment into a protected zone of a protected tree shall be made to the Community Development Division.
  - 2. A fee per the City's fee schedule.
  - 3. A fee, as deemed necessary by the Director, for the City to hire a Certified Arborist to evaluate the condition of the protected tree and the effect of the encroachment upon the protected tree accompanied by the appropriate photographs showing the area(s) of encroachment.

**9702.01.040 – Action on Application.**

- A. Tree Permit for the Removal of Diseased and Hazardous Protected Trees.
  - 1. Upon the receipt of an application to remove a diseased or hazardous protected tree, the Director or his/her designee shall have ten (10) working days to approve, conditionally approve, or deny the application.
  - 2. If the Director or his/her designee denies such application, the decision may be appealed to the Planning Commission. Such appeal shall be processed pursuant to the appeal regulations. The fee for an appeal shall be the same as for an appeal of an Architectural Design Review decision.
  - 3. The privileges granted an applicant in this Section shall become null and void if not utilized within six (6) months from the date of the approval.
- B. Tree Permit for the Removal of Healthy Protected Trees.
  - 1. The application for a tree permit for the removal of a healthy protected tree or trees shall be subject to the approval, conditional approval, or denial of the Director or his/her designee or the Planning Commission (on appeal) or City Council (on appeal).
  - 2. Notice shall be provided in compliance with Arcadia Municipal Code Section 9108.13 (Public Notices and Hearings) and 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 parcel that is the subject of the hearing; and any other person whose property may, in the judgment of the Director, be affected by the proposed project at least 14 days before the date of the Director's consideration and final decision as stated in the notice.

The mailed notice shall state that the Director will consider and decide whether to approve, conditionally approve, or deny the Removal of A Healthy Protected Tree application on a dated specified in the notice.

The Director may defer action and refer the request to the Commission for consideration and final decision.
  - 3. If the subject property is within a Homeowners Association area established pursuant to the Arcadia Municipal Code, the applicant shall submit their tree removal 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.
  - 4. The Architectural Review Board's review and comment are not required if the Homeowners Association has filed a letter with the Community Development Division stating that their Association does not wish to perform such review.
  - 5. The privileges granted an applicant in this Section shall become null and void if not utilized within

one (1) year from the date of the approval or conditional approval.

C. Tree Permit for Encroachment into a Protected Zone of Protected Trees.

1. Upon the receipt of an application to encroach into the protected zone of a protected tree, the Director shall have ten (10) working days to approve, conditionally approve, or deny the application, unless it is being acted upon with another application.
2. If the Director denies such application or approves said application with conditions, the applicant may appeal the denial or the conditions of approval to the Planning Commission. Such appeal shall be processed pursuant to the appeal regulations. The fee for an appeal shall be the same as for an appeal of an Architectural Design Review decision.
3. The privileges granted an applicant in this Section shall become null and void if not utilized within one (1) year from the date of the approval.

**9702.01.050 – Conditions**

Conditions may be imposed on the issuance of a Tree Permit including, but not limited to, the following:

- a. Relocating of protected trees on-site, or the planting of new protected trees.
- b. Planting of additional trees, other than protected trees, which may be more appropriate to the site.

**Division 3: Enforcement and Liability**

**9703.01 – ENFORCEMENT AND LIABILITY**

**9703.01.010 – 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, (2) replacement the protected tree, which has been removed, and/or (3) 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 of Development Services or designee.
- (c) Tree values shall be established as provided in the tree evaluation formula, as prepared by the International Society of Arboriculture "Guide to Establishing Value for Trees and Shrubs."
- (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.

**9703.01.020 – 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.