



# Natural Resources & Environmental Commission Agenda Report

ITEM NO. \_\_\_\_\_

**DATE:** September 22, 2020

**FROM:** Garrett Crawford, Public Works Operations Manager  
Julian Lee, Deputy Public Works Director

**SUBJECT:** **Second Reading of an Ordinance, Amending Chapter 34 (Trees and Shrubs) of the South Pasadena Municipal Code**

---

## **Recommendation**

It is recommended that the Commission review and provide input on the amendments to Chapter 34 of the South Pasadena Municipal Code (Trees and Shrubs).

## **Discussion/Analysis**

Per the 2019 adopted Green Action Plan, the Natural Resources and Environmental Commission is reviewing and recommending amendments to Chapter 34 (Trees and Shrubs) of the South Pasadena Municipal Code. These amendments aim to strengthen the Code to reflect the City's goal of protecting and maintaining a healthy tree canopy. During the first reading, the Commission recommended the following changes:

1. Implement harsher penalties for developers
2. Update the definition for "protected shrubs"
3. Provide leniency in permit fees for residents experiencing financial hardships
4. Include a classification of trees to more clearly define a scale of fines/fees depending on the type of tree that was illegally/legally removed

City staff have updated the Tree Code with the suggested amendments where feasible (see attachment).

## **Background**

The City has been designated a Tree City USA for over 20 years. One of the requirements in achieving that status is that the City must have a Tree Care Ordinance. Adopted on February 20, 1991, Ordinance No. 1991 enacted SPMC Chapter 34 (Sections 34.1 through 34.10), referred to as the Tree Ordinance. The Tree Ordinance aims to protect all trees within the City. The Tree Ordinance has been modified several times, most recently on February 6, 2019, under Ordinance No. 2328.

## **Legal Review**

The City Attorney has reviewed this item.

Second Reading of an Ordinance, Amending Chapter 34 (Trees and Shrubs) of the South Pasadena Municipal Code  
September 22, 2020  
Page 2 of 2

**Fiscal Impact**

The proposed SPMC amendments to Chapter 34 are expected to have no fiscal impact.

**Public Notification of Agenda Item**

The public was made aware that this item was to be considered this evening by virtue of its inclusion on the legally publicly noticed agenda, posting of the same agenda and reports on the City's website and/or notice in the *South Pasadena Review* and/or the *Pasadena Star-News*.

Attachment: City of South Pasadena Municipal Code, Chapter 34 (Trees and Shrubs)

**ATTACHMENT**

City of South Pasadena Municipal Code, Chapter 34 (Trees and Shrubs)

# CITY OF SOUTH PASADENA MUNICIPAL CODE

## CHAPTER 34 TREES AND SHRUBS\*

### Sections:

- 34.1 Definitions.
- 34.2 Maintenance of trees on private property.
- 34.3 Maintenance of trees on public property.
- 34.4 Tree protection required in connection with development activity.
- 34.5 Tree trimming permit applications.
- 34.6 Procedure for consideration of tree trimming/removal applications.
- 34.7 Criteria for approving tree trimming permit applications.
- 34.8 Appeals of tree trimming permit decisions.
- 34.9 Tree removal permit applications.
- 34.10 Procedure for consideration of tree trimming/removal applications.
- 34.11 Criteria for approving tree removal permit applications.
- 34.12 Tree removal and replacement plans.
- 34.12-5 Replacement tree requirements.
- 34.13 Appeals of tree removal permit decisions.
- 34.14 Exemptions.
- 34.15 Obstruction.
- 34.16 Violations.
- 34.17 Penalties.

\* Prior legislation: Ords. 1991, 2051, 2126, 2188, 2191 and 2237.

\* For state law as to "Tree Planting Act of 1931," see Sts. & H.C.A., §§ [22000](#) to [22202](#). As to "Park and Playground Act of 1909," see Gov. C.A., §§ [38000](#) to [38213](#).

As to hitching animals to trees, see § [5.12](#) of this Code. As to collection of brush, tree, etc., trimmings and stumps, see § 16.14. As to removal of trees from parks, see § 21.7.

### 34.1 Definitions.

As used in this chapter:

- (a) "Caliper" means the diameter of the trunk of a tree measured at four feet above natural grade. In the case of multi-trunked trees, "caliper" is the sum of each trunk measured at four feet above the grade.
- (b) "Certified arborist" means a professional in tree care industry who has received their arborist certification through the International Society of Arboriculture.
- (c) "City arborist" means a certified arborist designated by the director.
- (d) "Commission" means the natural resources and environmental commission (NREC).
- (e) "Damage" means any action taken which causes injury, disfigurement or death of a tree.
- (f) "Deadwood" means limbs, branches or a portion of a tree void of green leaves during a season of the year when green leaves should be present.
- (g) "Development" shall be defined per the city zoning code, SPMC [36.700.020](#).
- (h) "Director" means public works director.
- (i) "Drip line" means a series of points formed by the vertical dripping of water from the outermost branches and leaves of a tree.
- (j) "Financial Hardship" means for residents who are currently in the Rubbish and Water Low-Income Program.
- ~~(k)~~ "Front yard" means that portion of private property as designated in the city zoning code.
- ~~(l)~~ "Heritage tree" means a tree of historical value because it is a South Pasadena historical landmark. A heritage tree may be located on private or public property.
- ~~(m)~~ "Intentional violation" means a violation of this chapter (Trees and Shrubs) that is committed by any person or entity who has actual or presumed knowledge of, or who has previously violated, its provisions. A commercial certified arborist/tree trimmer, a real estate developer, a general contractor, or anyone who has previously filed an application for a tree trimming or tree removal permit in the city shall be presumed to know the provisions of this chapter.
- ~~(n)~~ "ISA" means the International Society of Arboriculture.

~~(of)~~ “Mature tree” means any variety of tree that has a caliper of at least four inches or more.

~~(pe)~~ “Native species tree” means any species of tree native to Southern California as defined by ordinance or resolution adopted by the city council.

~~(qp)~~ “Oak tree” means species of tree of the genus Quercus.

~~(rq)~~ “Planning review authority” means the individual or official city body (director of planning and building, design review board, cultural heritage commission, planning commission or city council) identified by the city zoning code as having responsibility and authority to review and approve or disapprove the development permit applications described in Article 6 of the city zoning code (Zoning Code Administration).

~~(sf)~~ “Protected shrub” means a woody plant that is over 16 feet in height, which has one or more trunk(s) equal to or greater than a four-inch diameter and is “tree like.”

~~(ts)~~ “Protected tree” means a heritage tree, mature oak tree, mature native species tree, significant tree, or protected shrub.

~~(ut)~~ “Protection” means the safeguarding of trees through proper treatment.

~~(vz)~~ “Real estate developer” means a person or entity that is engaged in the business of constructing or rehabilitating commercial or residential structures within the city for sale or lease to third parties.

~~(wy)~~ “Removal” means uprooting, cutting or severing of the main trunk of a tree.

~~(xw)~~ “Shrub” means a woody plant that is less than 16 feet in height and may be multi-stemmed.

~~(yx)~~ “Significant tree” means any variety of tree that has a caliper of one foot or more.

~~(zy)~~ “Standard of care” means compliance with ANSI standards for tree care, irrigation, and maintenance, including trimming of foliage for tree or shrub.

~~(aaz)~~ “Tree” means a woody perennial usually having one dominant trunk and a mature height greater than 16 feet.

~~(bba)~~ “Trimming” means cutting into the live wood of a tree or shrub to remove limbs and/or branches.

~~(cbb)~~ “ANSI” means American National Standards Institute. (Ord. No. 2328, § 1 (part), 2019.)

### **34.2 Maintenance of trees on private property.**

Private property owners shall be responsible for the maintenance of trees on their property in accordance with the standard of care described in SPMC [34.1\(y\)](#).

Pruning of oak trees and other trees should be limited to the removal of deadwood and the correction of potentially hazardous conditions as evaluated by a qualified certified arborist and approved by the director through the city's tree trimming permitting process. All pruning should be done in accordance with ISA pruning standards. (Ord. No. 2328, § 1 (part), 2019.)

### **34.3 Maintenance of trees on public property.**

The public works department shall be responsible for the maintenance of trees on public property including but not limited to public rights-of-way and public parks. The public works department shall prepare and implement the annual work plan for the maintenance of trees on public property. The adjacent property owner or tenant is responsible for irrigation of parkway trees in accordance with Chapter [31](#) SPMC. (Ord. No. 2328, § 1 (part), 2019.)

### **34.4 Tree protection required in connection with development activity.**

- (a) Development must not interfere with tree standard of care. Irrigation should be administered to replace any soil moisture lost due to site excavation and a tree should continue to receive the amount of irrigation needed to thrive.
- (b) Development shall not cause any physical damage to the limbs, bark, crown, or where the roots join the stem.
- (c) No grading shall occur within the drip line of a protected tree. All work conducted within the protected drip line area should be accomplished only with hand tools and all activity within this area should be kept to a minimum to minimize soil compaction. This area should not be subjected to incidental construction work or to disposal of construction debris, including but not limited to paint, plaster or chemical solutions.
- (d) Natural or preconstruction grade should be maintained per the recommendations of the city arborist in accordance with ANSI standards. At no time during or after construction should soil be in contact with the trunk of any tree above natural grade.
- (e) No structure shall be located nor shall any construction requiring a permit occur within six feet of the trunk of a protected tree. No building, structure, wall or impervious paving shall be constructed within the drip line of any mature oak tree. Limited exceptions may be allowed by the director and documented on the permit.

(f) Any required trenching should be routed to minimize root damage and cutting of roots should be avoided by placing pipes and cables above or below uncut roots. (Ord. No. 2328, § 1 (part), 2019.)

### **34.5 Tree trimming permit applications.**

(a) A tree trimming permit shall be required if:

(1) More than 10 percent of the live foliage or limbs of a mature oak tree or mature native species tree will be removed within a 12-month period; or

(2) More than 20 percent of the live foliage or limbs of any heritage tree will be removed within a 12-month period.

(b) Any person applying for a tree trimming permit shall file with the director an application in writing on a form furnished by the director. The application shall contain the following information:

(1) The name and residence or business address of the applicant;

(2) The location and description of the property on which the trees are located;

(3) A description of the proposed work including the reason for tree trimming. Photographs may be provided as exhibits, if desired;

(4) The name and state contractor's license number of the person who will perform the work. Permits shall only be issued to persons possessing a C-27 or C-61 (D-49) state contracting license;

(5) Additional information as the director may require.

(c) The application shall be accompanied by a nonrefundable fee in an amount established by resolution of the city council. (Ord. No. 2328, § 1 (part), 2019.)

(d) Where a financial hardship is determined, the City at its discretion may give an applicant a discount of up to 40% on:

(1) Permit/application fees

(2) Inspection fees



### **34.6 Procedure for consideration of tree trimming/removal applications.**

(a) For tree trimming permit applications associated with development:

(1) Upon receipt of the completed application, the director shall cause notice to be sent by first-class mail to property owners and tenants of property located within a 100-foot radius of the property to be developed. Such property owners shall be given 15 calendar days from the date of mailing within which to comment on the application. All comments shall be made in writing and submitted to the director. The notification process may be waived if noticing associated with the development is being sent as required by the planning review authority and such notice specifically identifies the proposed trimming of trees.

(2) The director, after considering the application pursuant to the criteria set forth in SPMC [34.7](#), and any comments received from interested residents, shall provide the planning review authority with recommendations and conditions of approval associated with the proposed tree trimming application. The director's recommendations and conditions of approval shall be considered advisory to the planning review authority's decision associated with the development.

(3) When tree trimming permits associated with development are referred to the commission, the commission shall provide the planning review authority with recommendations and conditions of approval associated with the proposed tree trimming application. The commission's recommendations and conditions of approval shall be advisory to the planning review authority decision associated with the development.

(4) Tree trimming associated with development shall only be conditionally approved subject to the applicant receiving their development building permit and paying all fees associated with the tree trimming as established by resolution of the city council. Upon the planning review authority's approval of the development application and applicable conditions of approval, and payment of all required fees, the applicant shall be issued a tree trimming permit.

(b) For tree trimming permit applications not associated with development:

(1) Upon receipt of the completed application, the director shall cause notice to be sent by first-class mail to property owners and tenants of property located within a 100-foot radius of the subject property. Such property owners shall be given 15 calendar days from the date of mailing within which to comment on the application. All comments shall be made in writing and submitted to the director.

(2) Upon expiration of the 15-day period, the application shall be reviewed by the director, who shall, after considering the application pursuant to the criteria set forth in SPMC [34.7](#), and any comments received from interested residents, approve, conditionally approve, or deny the application. The decision of the director shall be made in writing and provided to the applicant and to any interested persons who commented on the application.

(3) The decision of the director shall take effect 15 calendar days after the date of mailing of the decision to the applicant and any interested persons to allow for the filing of any appeals. Unless the director's decision is appealed to the commission, upon payment of all fees associated with the tree trimming as established by resolution of the city council, the applicant shall be issued a tree trimming permit.

(c) The director may refer any application for a tree trimming permit to the commission for any of the following reasons:

- (1) The city receives reasonable objections during the notification period; or
- (2) An appeal of the director's decision has been filed in accordance with this chapter; or
- (3) At the discretion of the director.

Should the application be referred to the commission, the commission shall make its recommendation (if the permit application is associated with development) or decision (if the permit application is not associated with development) during a noticed public meeting. A decision of the commission shall not take effect until 15 calendar days after the date of the public meeting have elapsed to allow for the filing of an appeal. (Ord. No. 2328, § 1 (part), 2019.)

### **34.7 Criteria for approving tree trimming permit applications.**

(a) A tree trimming permit may be issued in either of the following instances:

- (1) Where a written determination has been made by a certified arborist that the excess foliage or limbs of the tree pose a reasonable risk of injury or harm to persons or property or are substantially interfering with the structural integrity or the use of an existing structure (including, but not limited to, a fence or wall) and there is no feasible and reasonable alternative to mitigate the interference; or
- (2) Where a written determination has been made by a certified arborist, after a visual inspection or scientific evaluation, that the limbs proposed to be trimmed are diseased or damaged. The director or commission may waive the requirement for a certified arborist's written statement when

the proposed limbs to be trimmed can reasonably be determined to be dead by a layperson's visual inspection, or when, after conducting an inspection of the tree, the director determines that the tree poses an obvious and imminent threat to life or property. (Ord. No. 2328, § 1 (part), 2019.)

### **34.8 Appeals of tree trimming permit decisions.**

(a) **Appealing Tree Trimming Permit Decisions Associated with Development.**

(1) Tree trimming decisions associated with development are advisory to the planning review authority as a condition of approval of development. The applicant may appeal any development decision and conditions of approval pursuant to the appeal process set forth in the zoning code.

(b) **Appealing Tree Removal Permit Applications Not Associated with Development.**

(1) The applicant or any interested party may appeal the decision of the director to the commission by filing an appeal in writing submitted to the commission staff liaison within 15 calendar days after the date of decision of the director.

(2) Decisions of the commission may be appealed to the city council by filing such appeal in writing submitted to the city clerk within 15 calendar days after the date of decision of the commission. The appeal shall specifically identify the grounds upon which the appeal will be taken and summarize the facts and points of law in support of the appeal.

(c) The appellant shall be responsible for all actual costs, including staff time, associated with any appeals. (Ord. No. 2328, § 1 (part), 2019.)

### **34.9 Tree removal permit applications.**

(a) Any person applying for a tree removal permit shall file with the director an application in writing on a form furnished by the director. The application shall contain the following information:

(1) The name and residence or business address of the applicant;

(2) The location or description of the property on which the proposed trees are to be removed;

(3) A description of the proposed work including the reason for tree removal. Photographs may be included as exhibits, if desired;

(4) A tree removal and replacement plan in accordance with this chapter;

(5) The name and state contractor's license number of the person who will perform the work.

Permits shall only be issued to persons possessing a C-27 or C-61 (D-49) state contracting license;

(6) Additional information as the director may require. This information may include, but is not limited to, a list obtained from the county assessor of the names of the owners of all parcels within a 100-foot radius of the property upon which the trees are to be removed or trimmed.

(b) In addition to the application requirements of subsection (a) of this section, tree removal applications associated with development shall include all of the following:

- (1) An arborist report prepared by a certified arborist;
- (2) Project narrative;
- (3) The proposed development plan depicting the actual and proposed location of structures, topography and existing trees, whether to be retained or proposed for removal;
- (4) Site plan with elevations showing before and after sight lines of the properties landscaping and trees;
- (5) Any other information the director or commission deems necessary for reviewing the tree removal application.

(c) The application shall be accompanied by a nonrefundable fee in an amount established by resolution of the city council. (Ord. No. 2328, § 1 (part), 2019.)

#### **34.10 Procedure for consideration of tree trimming/removal applications.**

(a) For tree removal permit applications associated with development:

- (1) The applicant shall be responsible for all fees associated with the tree removal application review and processing in accordance with the fees established by resolution of the city council.
- (2) Upon receipt of the completed application, the director shall cause notice to be sent by first-class mail to property owners and tenants of property located within a 100-foot radius of the subject property. Such property owners shall be given 15 calendar days from the date of mailing within which to comment on the application. All comments shall be made in writing and submitted to the director. The notification process may be waived if noticing associated with the development is being sent as required by the planning review authority and such notice specifically identifies the proposed removal of trees.
- (3) The director, after considering the application pursuant to the criteria set forth in SPMC [34.11](#) and any comments received from interested residents, shall provide the planning

review authority with recommendations and conditions of approval associated with the proposed tree removal application. The director's recommendations and conditions of approval shall be considered advisory to the planning review authority's decision associated with the development.

(4) When tree removal permits associated with development are referred to the commission, the commission shall provide the planning review authority with recommendations and conditions of approval associated with the proposed tree removal application. The commission's recommendations and conditions of approval shall be advisory to the planning review authority decision associated with the development.

(5) Tree removals associated with development shall only be conditionally approved subject to the applicant receiving their development building permit, paying all fees associated with the tree removal as established by resolution of the city council, and paying a deposit for the required replacement trees, in an amount sufficient to cover the cost of all required replacement trees, as determined by the city's arborist. Upon the planning review authority's approval of the development application and satisfaction of all conditions of approval, and payment of all required fees, the applicant shall be issued a tree removal permit. Upon the applicant's proof to city's satisfaction that the applicant has complied with the approved tree replacement plan, the city shall reimburse applicant's replacement tree deposit. Should applicant fail to plant any replacement tree in accordance with the approved replacement tree plan, the city shall retain the amount of the replacement tree deposit necessary to cover the cost to plant any required replacement trees in alternative locations within the city (public right-of-way, park, etc.), as permitted by this chapter.

(b) For tree removal permit applications not associated with development:

(1) Upon receipt of the completed application, the director shall cause notice to be sent by first-class mail to property owners and tenants of property located within a 100-foot radius of the subject property. Such property owners shall be given 15 calendar days from the date of mailing within which to comment on the application. All comments shall be made in writing and submitted to the director.

(2) Upon expiration of the 15-day period, the application shall be reviewed by the director, who shall, after considering the application pursuant to the criteria set forth in SPMC [34.11](#), and any comments received from interested residents, approve, conditionally approve, or deny the application. The decision of the director shall be made in writing and provided to the applicant and to any interested persons who commented on the application.

(3) The decision of the director shall take effect 15 calendar days after the date of mailing of the decision to the applicant and any interested persons to allow for the filing of any appeals. The applicant shall be issued a tree removal permit following its payment of all fees associated with the tree removal as established by resolution of the city council and payment of a deposit sufficient to cover the cost of all required replacement trees as determined by the city's arborist, unless the director's decision is appealed to the commission. Upon the applicant's proof to the city's satisfaction that the applicant has complied with the approved tree replacement plan, the city shall reimburse applicant's replacement tree deposit. Should the applicant fail to plant any replacement tree in accordance with the approved replacement tree plan, the city shall retain the amount of the replacement tree deposit necessary to cover the cost to plant any required replacement trees in alternative locations within the city (public right-of-way, park, etc.), as permitted by this chapter.

(c) The director may refer any tree removal permit to the commission for decision for any of the following reasons:

- (1) The applicant is proposing to remove three or more healthy nonnative significant trees; or
- (2) The applicant is proposing to remove any healthy significant oak trees or significant native species trees; or
- (3) The applicant is proposing to remove any heritage tree; or
- (4) The city receives reasonable objections during the notification period; or
- (5) An appeal of the director's decision has been filed in accordance with this chapter; or
- (6) At the discretion of the director.

Should the application be referred to the commission, the commission shall make its recommendation (if the application is associated with development) or decision (if the application is not associated with development) during a noticed public meeting. A decision of the commission shall take effect 15 calendar days after the date of public meeting to allow for the filing of any appeals. (Ord. No. 2328, § 1 (part), 2019.)

### 34.11 Criteria for approving tree removal permit applications.

(a) Subject to the imposition of conditions pursuant to subsection (b) of this section, a tree removal permit may be issued in any one of the following instances:

(1) Where the tree poses a reasonable risk of injury or harm to persons or property or is substantially interfering with the structural integrity or the use of an existing structure (including, but not limited to, a fence or wall), swimming pool, or building and there is no feasible and reasonable alternative to mitigate the interference.

(2) Where, upon taking into account the size, shape, topography and existing trees upon the lot, the denial of the permit would create an unreasonable hardship on the property owner. Redesign of any proposed development as an alternative to removal of an existing protected tree does not create an unreasonable hardship.

(3) Where a financial hardship is determined, the City at its discretion, may give an applicant a discount of up to 40% on:

i. Permit/application fees

ii. Inspection fees

iii. Tree replacement fees

~~(43)~~ Where a written determination has been made by a certified arborist, after a visual inspection or scientific evaluation, that the tree is so diseased or damaged that it is no longer viable or is a threat to persons or property, including to other trees. The director or commission may waive the requirement for a certified arborist's written statement when the tree can reasonably be determined to be dead by a layperson's visual inspection or when, after conducting an inspection of the tree, the director determines that the tree poses an obvious and imminent threat to life or property.

~~(54)~~ For the removal of a significant or mature tree, where the proposed replacement tree(s) are of greater value or provide greater benefits than the tree proposed for removal.

(b) A tree removal permit may be conditioned upon the replacement or transplanting of the tree either on or off site. Such replacement or transplanting shall be subject to the following provisions:

(1) Designation by the director or the commission of the number, size, species, and location of replacement tree(s) proposed for removal, the significance of the tree(s) on the lot as viewed from a public right-of-way, the size of the lot, and the number of existing trees on the lot.

(2) Because of its size and/or significance, a single tree proposed to be removed may be required to be replaced with multiple trees. If the subject property cannot accommodate multiple trees, alternative locations within the city (public right-of-way, park, etc.) may be designated.

(3) If a replacement tree is required, the property owner must agree to accept the conditions of replacement by his or her signature on the permit application and make the replacement tree deposit (per SPMC [34.10\(a\)\(5\)](#) or [\(b\)\(3\)](#)) before issuance of the permit.

(4) When the work designated in the permit is completed, the applicant shall contact the public works department for an inspection of the work. Any tree removal will require complete removal and grinding of the stump and backfilling of the hole.

(5) Should a designated replacement or transplanted tree not survive for a period of two years, the applicant shall be required to replace it with another tree or pay to the city the full cost of replacing the tree at a location to be determined by the city.

(6) Where the permit allows or requires the replacement or transplanting of tree(s), the director or commission may, in their discretion, as an alternative to subsection (b)(5) of this section, require the applicant to post a bond or surety for a five-year period against the survival of the tree(s). The amount of the bond or surety shall be in accordance with the "Guide for Plant Appraisal" (ISA publication, most recent edition).

(7) Unless otherwise stated in the conditions of approval, the tree removal permit shall be valid for a period of one year with the planting of any new trees on the applicant's property to occur during the next planting season as determined by ANSI standards and local climate conditions. (Ord. No. 2328, § 1 (part), 2019.)

### **34.12 Tree removal and replacement plans.**

Tree removal and replacement plans shall contain the following information:

(a) A drawing of the property which shows the location and species of all existing protected trees;

(b) A site plan showing the proposed development, including all existing and proposed structures, including the topography of the site, in accordance with SPMC [34.9\(b\)](#);

(c) The tree species and trunk caliper of all trees to be removed;

(d) The reason for removal. Any trees proposed for removal due to poor health or condition shall have the condition of the tree documented in a written report prepared and signed by a certified arborist;



- (e) A second drawing of the property after the proposed tree removal which shows remaining trees and all proposed replacement trees. The replacement tree sizes and species must be clearly identified; and
- (f) A certified arborist review of the tree plan, if required by the director. The certified arborist shall be contracted and managed by the city and all fees incurred shall be the responsibility of the property owner. (Ord. No. 2328, § 1 (part), 2019.)

**34.12-5 Replacement tree requirements.**

The number of replacement trees is determined by the size of the existing tree(s) approved for removal, unless otherwise determined by the director in accordance with this chapter.

- (a) Listed below are the replacement tree requirements for permitted tree removal not associated with development:

- (1) For replacement of significant trees, one 24-inch box replacement tree shall be required for each 10-inch increment of the caliper of the existing tree proposed for removal, or portion thereof.

For example:

- i. One 24-inch box replacement tree shall be required for each tree removed with a caliper of less than 10 inches.
    - ii. Two 24-inch box replacement trees shall be required for each tree removed with a caliper of between 10 and 20 inches.
    - iii. Three 24-inch box replacement trees shall be required for each tree removed with a caliper of between 20 and 30 inches.
    - iv. Four 24-inch box replacement trees shall be required for each tree removed with a caliper of between 30 and 40 inches; and so forth.

- (2) For replacement of mature oak trees, mature native species trees, and heritage trees, two 24-inch box native species replacement trees shall be required for each 10-inch increment of the caliper of the existing tree proposed for removal, or portion thereof. For example:

- i. Two 24-inch box native species replacement trees shall be required for each tree removed with a caliper of less than 10 inches.
    - ii. Four 24-inch box native species replacement trees shall be required for each tree removed with a caliper of between 10 and 20 inches.

iii. Six 24-inch box native species replacement trees shall be required for each tree removed with a caliper of between 20 and 30 inches.

iv. Eight 24-inch box native species replacement trees shall be required for each tree removed with a caliper of between 30 and 40 inches; and so forth.

(b) Listed below are the replacement tree requirements for permitted tree removals associated with development:

(1) For replacement of significant trees, one 24-inch box replacement tree shall be required for each six-inch increment of the caliper of the existing tree proposed for removal, or portion thereof. For example:

i. One 24-inch box replacement tree shall be required for each tree removed with a caliper of less than six inches.

ii. Two 24-inch box replacement trees shall be required for each tree removed with a caliper of between six and 12 inches.

iii. Three 24-inch box replacement trees shall be required for each tree removed with a caliper of between 12 and 18 inches.

iv. Four 24-inch box replacement trees shall be required for each tree removed with a caliper of between 18 and 24 inches; and so forth.

(2) For replacement of mature oak trees, mature native species trees, and heritage trees, two 24-inch box native species replacement trees shall be required for each six-inch increment of the diameter of the existing tree proposed for removal, or portion thereof. For example:

i. Two 24-inch box native species replacement trees shall be required for each tree removed with a caliper of less than six inches.

ii. Four 24-inch box native species replacement trees shall be required for each tree removed with a caliper of between six and 12 inches.

iii. Six 24-inch box native species replacement trees shall be required for each tree removed with a caliper of between 12 and 18 inches.

iv. Eight 24-inch box native species replacement trees shall be required for each tree removed with a caliper of between 18 and 24 inches; and so forth. (Ord. No. 2328, § 1 (part), 2019.)

#### **34.13 Appeals of tree removal permit decisions.**

(a) **Appealing Tree Removal Permit Applications Associated with Development.** Tree removal decisions associated with development are advisory to the planning review authority as a condition of approval of development. An applicant may appeal any development decision and its conditions of approval pursuant to the appeal process set forth in the zoning code.

(b) **Appealing Tree Removal Permit Applications Not Associated with Development.** The applicant or any interested party may appeal the decision of the director to the commission by filing an appeal in writing submitted to the commission staff liaison within 15 calendar days after the date of decision of the director. Decisions of the commission may be appealed to the city council by filing such appeal in writing submitted to the city clerk within 15 calendar days after the date of decision of the commission. The appeal shall specifically identify the grounds upon which the appeal will be taken and summarize the facts and points of law in support of the appeal.

(c) If a tree removal is granted for a tree on the basis of imminent threat to life or property, the decision will be considered final and is not appealable.

(d) The applicant shall be responsible for all actual costs, including staff time, associated with any appeals. (Ord. No. 2328, § 1 (part), 2019.)

#### **34.14 Exemptions.**

(a) No permit is required for the removal or trimming of a tree damaged by storm, fire, or other natural disaster which has been determined by the director, police chief, fire chief, or code enforcement officer to be dangerous to life or property.

(b) No permit is required when the fire department has deemed the trimming or removal of the tree(s) is critical to providing an effective firebreak.

(c) Public utility companies required to trim or remove trees, upon submittal of a letter to the director or their designee outlining the specific trees along with reasons for removal or trimming, shall be exempt from the provisions of this chapter.

(d) The city and its contractors will not be required to obtain permits, but shall otherwise comply with this chapter.

- (e) No permit is required for the removal of shrubs, other than protected shrubs.
- (f) No permit is required for trimming of any tree other than those species and sizes specified in SPMC [34.5\(a\)](#). (Ord. No. 2328, § 1 (part), 2019.)

#### **34.15 Obstruction.**

- (a) It is unlawful for any person, firm or corporation owning, leasing, occupying, having charge or control of any lot or premises in the city to keep or maintain thereon any tree, shrub or plant, or portion thereof, that interferes with or obstructs the free passage of pedestrians along or upon adjacent public sidewalks or of vehicles along or upon adjacent public rights-of-way.
- (b) Every fence, sign, wall, hedge, tree, shrub or planting located within 75 feet of the point of intersection of the centerlines of streets or within 75 feet of the point of intersection of the centerline of a street and a railroad right-of-way that is more than 36 inches in height measured from the nearest adjacent public street level and that, in the opinion of the director, constitutes an obstruction to the clear view of motorists on the streets is declared to be a public nuisance; provided, however, that nothing in this section shall be deemed to apply to a wall, building or structure that has been or that may be constructed under a permit issued by the building department of the city.
- (c) A violation of this section does not exempt a property owner from having to otherwise comply with the permit requirements of this chapter. (Ord. No. 2328, § 1 (part), 2019.)

#### **34.16 Violations.**

- (a) It is unlawful for any person to harm by any means, damage or cause to be damaged any tree located within the city, or fail to comply with the standards of care described in SPMC [34.1\(y\)](#) for any tree located on their property or in an adjacent parkway.
- (b) It is unlawful for any person to remove or transplant any protected tree from any property within the city unless a tree removal permit is first obtained from the city.
- (c) It is unlawful for any person to trim more than 20 percent of the live foliage or limbs of any heritage tree located within the city within any 12-month period, or cause the same to be done, without first obtaining a tree trimming permit from the city.
- (d) It is unlawful for any person to trim more than 10 percent of the live foliage or limbs of any mature oak tree or a mature native species tree located within the city within any 12-month period, or cause the same to be done, without first obtaining a tree trimming permit from the city.

(e) It is unlawful for any person to remove any tree from the parkway area between a sidewalk or private property line and street curb without first obtaining a tree removal permit from the city. (Ord. No. 2328, § 1 (part), 2019.)

### **34.17 Penalties.**

Any person violating any of the provisions of this chapter is guilty of a misdemeanor, except, at the discretion of the city prosecutor, the violation may be reduced to an infraction. Persons violating any of the provisions of this chapter shall be subject to the following:

(a) Penalties for any person who unintentionally violates the provisions of this chapter shall be as follows:

- (1) The standard inspection fee; and
- (2) Double the required tree removal or trimming permit fee; and
- (3) Planting double the number of replacement trees required pursuant to SPMC [34.12-5](#).

(b) Penalties for any developer who unintentionally violates the provisions of this chapter shall be as follows:

- (1) The standard inspection fee; and
- (2) Triple the required tree removal or trimming permit fee; and
- (3) Planting triple the number of replacement trees required pursuant to SPMC 34.12-5.

~~(c)~~ Penalties for an intentional violation of this chapter not associated with development shall be as follows:

- (1) The penalties described in subsection (a) of this section; and
- (2) The payment of a tree replacement fee in an amount up to, but not to exceed double, the value of the destroyed, removed, or damaged tree. The city arborist shall determine the value of the destroyed, removed, or damaged tree by using the most recent edition of the ISA Guide for Plant Appraisal.

~~(d)~~ Penalties for an intentional violation in connection with development or anticipated future development on the property shall be the penalties described in subsections (a) and (b) of this section and, in addition, the city manager may, in his or her discretion, refer the violation to the city prosecutor for

criminal charges or to the planning commission for public hearing. The burden of proof shall be on the city to demonstrate that there is clear and convincing evidence to a reasonable certainty that there is an intentional violation. The planning commission, after considering all of the evidence, may impose the additional penalty of prohibiting the issuance of building or construction-related permits for a period up to five years from the date of the violation for the property upon which the violation occurred.

In determining whether a building permit may be issued with regard to the aforementioned prohibition, the planning commission shall consider whether the tree violation appears to be in furtherance of a development, as evidenced in the extent of tree damage, removal, damage to the root system, and/or excessive trimming of trees within the buildable area of a property; oral or written admissions; actions taken despite prior warnings; notices of violations; and the number and size of the damaged and/or removed trees.

Intentional violations in the context of development or anticipated development of property shall require the planning commission to determine whether restitution trees are to be planted on the property on which the violation occurred or on public land with costs paid to the city for tree selection, planting and maintenance, or a combination of both. The restitution trees shall be subject to either of the survival guarantees described in SPMC [34.11](#)(b)(5) or (6).

For purposes of this section, the violation shall be presumed to have occurred on the date the city has actual knowledge of the violation, and the violator shall have the burden of proving an earlier commencement date, if entitlement to an earlier date is claimed.

Notwithstanding the aforementioned prohibition, building or construction-related permits may be issued if, in the opinion of the director of planning and building, they are necessary for the preservation of public health, safety or welfare.

(~~ee~~) Payment of any penalty and planting of replacement trees shall occur within 60 calendar days of the date the violator was directed to take such action by the director. If the violator does not complete planting of replacement trees within the allotted time, the director may procure and plant the requisite replacement trees, and the violator shall be responsible for reimbursing the city for such additional costs. Reimbursement is due and payable within 30 calendar days of the city's issuance of a billing statement.

If payment of the penalty or reimbursement costs is not received by the city in 60 calendar days, the city manager can instruct that the outstanding obligation be collected in any of the following manners:

- (1) A civil action in the name of the city, in any court of competent jurisdiction; or

(2) Use of a debt collection agency; or

(3) A lien on the subject property.

(f) All penalties and additional costs related to a tree violation must be paid to the city prior to its issuance of building or construction-related permits unless, in the opinion of the director of planning and building, such permits are necessary for the preservation of public health, safety or welfare. (Ord. No. 2328, § 1 (part), 2019.)

FOR CONSIDERATION/DISCUSSION:

1. Fines for Tree Removal and/or Damage: The following fines shall be charged to anyone who causes a tree to be severely pruned, topped damaged or removed that is an Established Tree, Heritage Tree, or Oak Tree on his/her property in violation of the terms of this Section. Tree diameter for these purposes shall be measured at the widest point (in inches) at four and one-half feet (4.5') above natural grade.

**Mature Trees**

<u>Violation</u>	<u>Diameter</u>	<u>Fine (per tree)</u>
<u>Class I</u>	<u>4-14</u>	<u>\$5,000</u>
<u>Class II</u>	<u>15-24</u>	<u>\$10,000</u>
<u>Class III</u>	<u>25 or more</u>	<u>\$25,000</u>

**Heritage Trees**

<u>Violation</u>	<u>Diameter</u>	<u>Fine (per tree)</u>
<u>Class I</u>	<u>4-8</u>	<u>\$5,000</u>
<u>Class II</u>	<u>9-12</u>	<u>\$10,000</u>
<u>Class III</u>	<u>13-18</u>	<u>\$25,000</u>
<u>Class IV</u>	<u>19 or more</u>	<u>\$35,000</u>

**Oak Trees**

<u>Violation</u>	<u>Diameter</u>	<u>Fine (per tree)</u>
<u>Class I</u>	<u>4-8</u>	<u>\$5,000</u>
<u>Class II</u>	<u>9-12</u>	<u>\$10,000</u>
<u>Class III</u>	<u>13-18</u>	<u>\$25,000</u>
<u>Class IV</u>	<u>19 or more</u>	<u>\$35,000</u>