

SAN MARINO

CHAPTER 23 ZONING

ZONING AND DEVELOPMENT, ADVERTISING AND SIGNS, FENCES AND WALLS

23.06.15: PRESERVATION OF TREES:

This Section applies to trees and shrubs in the R-1 and C-1 Zones. This Section does not apply to trees in the Historical and Cultural Zone (H&C) and the Parks and Recreational Zone (P&R) or in the public parkways adjacent to the R-1 and C-1 Zones.

A. Definitions:

DAMAGE: Any action taken which causes injury, disfigurement or death to an established tree.

This includes, but is not limited to, cutting, poisoning, drilling, under watering or transplanting.

DEADWOOD: Limbs, branches or a portion of a tree or shrub void of green leaves during a season of the year when green leaves should be present.

ESTABLISHED TREE: Any variety of tree or shrub that is at least fifteen feet (15') in height and is twenty four inches (24") or more in circumference when measured at a point four feet six inches (4'6") above the natural grade, or if the tree or shrub has multiple trunks, the total circumference of each individual trunk at a point four feet six inches (4'6") above the natural grade is thirty six inches (36") or more.

FRONT, REAR AND SIDE YARDS: Shall be as defined in Section 23.01.01 of this Chapter.

IRRIGATION: To supply a tree or shrub with water by sprinklers or by manual watering which, depending on the species of the tree or shrub, may benefit or harm the tree or shrub.

PRUNE: The removal of foliage or branches from an established tree.

REMOVAL OR REMOVE: The removal of an established tree.

SEVERELY PRUNE: The removal of foliage or branches from an established tree in a manner that harms the shape, health or natural growth of the tree. The standard for determining whether removal of foliage or branches is harmful shall depend on the species and shall be based on the recommendations in the "Sunset Pruning Handbook, 1983 Edition".

TRANSPLANT: To relocate a tree or shrub and its root system from its original location and replant the tree or shrub in a proper manner at another location that does not harm the health or vigor of the tree or shrub.

B. Tree Removal Permit Required:

1. Exemptions: No permit is required for the removal of an established tree damaged by a storm, fire or other natural disaster and determined to be dangerous by the City Manager, any police

officer, any firefighter, the Parks Director, the Planning and Building Director or his/her designee. No person shall remove a damaged tree until such determination has been made.

2. Prohibition:

a. Except as provided in subsection B1 of this Section, it shall be unlawful for any person to remove any established tree located in the R-1 or C-1 Zones without first obtaining a tree removal permit from the City.

b. It shall be unlawful for any person to remove any established dead, diseased or dying tree located in R-1 or C-1 Zones without first obtaining a tree removal permit from the City.

3. Procedure:

a. Except as provided in subsection B1 of this Section, all persons desiring to remove an established tree in the R-1 and C-1 Zones shall first complete a tree removal permit application form supplied by the City. The permit application shall contain all information necessary for the Planning and Building Director, or his/her designee, to determine whether the requirements for issuance of a tree removal permit have been satisfied.

b. The Planning and Building Director, or his/her designee may issue a tree removal permit, only if he/she determines that the following requirements have been met: (Ord. 096-1093, 7-10-1996)

(1) That a completed and signed application has been submitted to the City. Such application shall be signed by the property owner or a licensed State contractor possessing a C61 and D49 or C27 classified license, under penalty of perjury. A description of the work to be performed, and the number, type and location of the established tree(s) to be worked on shall be stated on the application. (Ord. 097-1116, 12-10-1997)

(2) That the established tree adversely impacts the growth of adjacent trees or constitutes a nuisance or a hazard to persons or property because of its condition, location, species, proximity to existing structures, closeness to walkways or interference with utilities.

c. In granting a tree removal permit, the Planning and Building Director or his/her designee may require replacement of the established tree at the applicant's expense. The number, size, location and species of the replacement tree(s) shall be determined by the Planning and Building Director or his/her designee based upon consideration of the size and species of the established tree proposed for removal, the significance the tree proposed to be removed has on the landscaping as seen from public view, the size of the lot, and the number of existing trees on the lot. If replacement trees are required, the property owner must agree to accept the condition of replacement by his/her signature on the application prior to issuance of the permit. Nothing in this Section shall preclude the Planning and Building Director or his/her designee from waiving conditions for tree replacement or from requiring that tree replacement exceed a one-for-one basis. The Planning and Building Director or his/her designee may waive the requirement for tree replacement if he/she determines that there is not enough space on the lot to plant a tree and shall base the size and number of replacement trees on the significance of the amount of visible

foliage within the front yard of any lot or side yard of a corner lot where the tree removal will cause a significant loss of visible foliage.

d. All work for which a tree removal permit is issued shall be fully completed within ninety (90) days of the date the permit is issued unless the City grants a written extension for a period not to exceed thirty (30) days. The permittee shall, within three (3) business days of the completion of the original or corrective work referred to in this Section, contact the City and schedule a compliance inspection. The work to be completed includes:

- (1) Work which is required by any condition to the tree removal permit (including, without limitation, the removal of any stumps, branches and the planting of replacement trees); and
- (2) Work found to be incomplete as a result of the inspection, which work shall be completed within thirty (30) days following the inspection.

4. Stump Removal Required: All the stumps of all established trees visible from public view shall be removed with a stump grinder or shall be dug out. The Planning and Building Director or his/her designee may permit the stump to be retained if he/she finds that access to the stump cannot be reasonably obtained or the stump is located on a significant slope.

C. Pruning Permit:

1. Exemption:

a. No pruning permit is required to prune an established tree damaged by a storm, fire or other natural disaster and determined to be dangerous by the City Manager, any police officer, any firefighter, the Parks Director, the Planning and Building Director, or his/her designee. No person shall prune a damaged tree until such finding is made or unless such removal is otherwise exempt from the requirement to obtain a tree pruning permit.

b. Any public agency or utility company having jurisdiction shall be exempt as long as they notify the City, the property owner and occupant in writing, seventy two (72) hours prior to any pruning of any established tree. (Ord. 096-1093, 7-10-1996)

c. A person possessing a State contractor's license (C61 and a D49 or C27 classification) may prune an established tree without obtaining a pruning permit. Proof that a person possesses the appropriate State contractor's license shall be filed with the City prior to pruning any tree. (Ord. 097-1116, 12-10-1997)

d. Gardeners and other persons not possessing an appropriate State contractor's license may prune an established tree without obtaining a pruning permit after attending City-approved tree pruning classes, proving their knowledge of pruning by passing a written or verbal examination and following a probationary period established by the Planning and Building Director or his/her designee. If the Planning and Building Director or his/her designee is satisfied with the performance of the work, the individual shall be added to the list of individuals exempt from requiring a pruning permit to remove foliage or branches from an established tree.

e. A property owner is not required to obtain a permit for removing any foliage or branches from any established tree where the work is actually and solely performed by the property owner.

2. Restrictions On Tree Pruning:

a. It shall be unlawful for any person to remove any foliage or branch from an established tree located within the side yard of a corner lot, the front yard, or which exceeds thirty feet (30') in height located anywhere on a lot, within the R-1 or C-1 Zones without first obtaining a permit from the City, unless exempt under subsection C1 of this Section.

b. It shall be unlawful for any person to severely prune or damage an established tree in any yard of any lot in the R-1 or C-1 Zones.

3. Permit Process For Tree Pruning:

a. All persons required to obtain a pruning permit shall complete an application form supplied by the City. The permit application form shall contain all information necessary for the Planning and Building Director, or his/her designee, to determine whether the requirements for issuance of a pruning permit have been satisfied.

b. The Planning and Building Director or his/her designee shall grant a pruning permit, only if he/she determines that the following requirements have been met:

(1) That a completed and signed permit application has been submitted to the City. Such application shall be signed by the property owner and person proposed to perform the work under penalty of perjury. A description of the work to be performed, and the number, type and location of the tree(s) to be pruned shall be stated on the application; and

(2) That the pruning is necessary to maintain or promote the health or appearance of the tree; or

(3) The pruning is necessary to eliminate a hazard to persons or property by virtue of the tree's condition, location, proximity to existing structures, interference with utilities, or to promote the growth of adjacent trees.

c. In granting a pruning permit the Planning and Building Director or his/her designee may require specific conditions. If conditions are imposed, the applicant must agree to accept the conditions by signing the application. It shall be unlawful for any person to violate any condition of a tree pruning permit.

d. All work for which a tree pruning permit is issued shall be fully completed within ninety (90) days of the date the permit is issued unless the City grants a written extension for a period not to exceed thirty (30) days. The permittee shall, within three (3) business days of the completion of the original or corrective work referred to in this Section, contact the City and schedule a compliance inspection. The work to be completed includes:

(1) Work which is required by any condition to the tree pruning permit (including, without limitation, the removal of any branches and the planting of replacement trees); and

(2) Work found to be incomplete as a result of the inspection, which work shall be completed within thirty (30) days following the inspection.

D. Penalties And Restoration:

1. Any person who violates or permits the violation of any provision of this Section or any condition of a tree removal or pruning permit shall be prosecuted as specified in Section 01.06.06 of this Code. Each branch of a tree with a circumference of three inches (3") in diameter or greater removed pursuant to unlawful damage or severe pruning of a tree shall constitute a separate violation of this Section.

2. In addition to the penalties provided for by subsection 01.06.08C of this Code, any property owner who damages, severely prunes or removes an established tree, or permits the damage, severe pruning or removal of any established tree, on their property in violation of the terms of this Section, shall restore the environment by planting one or more trees in such quantity that the Planning and Building Director or his/her designee establishes in a restoration plan. The restoration plan shall be based on planting sufficient trees as are necessary to provide an amount of foliage reasonably equal to that unlawfully removed. In the case of unlawful removal of a tree, the restoration plan shall require the planting of not less than one 36-inch box size tree and the total of the circumference of the trees to be planted shall be equal to the circumference of the tree unlawfully removed. In the event that the circumference of the tree unlawfully removed cannot be determined, the restoration plan shall be based on the likely circumference of the unlawfully removed tree determined by using the best evidence available. The restoration plan shall require the trees to be planted in those locations that will best restore the visual environment to that existing before the unlawful tree damage, severe pruning or removal. If the Planning and Building Director or his/her designee determines that the property cannot accommodate the number of trees required to be planted, the restoration plan shall require the trees to be planted on publicly owned property at locations determined by the Parks Director. The property owner can select the species of trees to be planted from a list of trees the Director or his/her designee determines will reach a size equal to the tree unlawfully damaged, severely pruned or removed. The Director of Planning and Building shall reconsider a tree restoration plan established in connection with a tree that was unlawfully severely pruned or damaged if the tree dies within one year from the date of the severe pruning or damage and may impose additional requirements equal to those that would have been established if the tree had been originally unlawfully removed. Any property owner who unlawfully damages, severely prunes or removes an established tree or permits the damage, severe pruning or removal of an established tree on their property shall be required to obtain permits for all future removal or pruning of established trees for a period of one year. The City's determination of such violation and establishment of a restoration plan under this subsection D2 may be appealed as described in subsection G of this Section. Failure to comply with a restoration plan within thirty (30) days such plan becomes final shall constitute a separate violation of this Section.

3. In addition to the penalties provided for by subsection 01.06.08C of this Code, any person who is exempt from the tree pruning requirements under subsection 23.06.15C1c, who removes a tree without a tree removal permit or who severely prunes an established tree, will be required to obtain a permit for all future pruning for a six (6) month period and shall be required to attend a City approved class on tree pruning during such six (6) month period. The City's determination that the person severely pruned an established tree may be appealed as described in subsection G of this Section.

E. Expiration Time Of A Tree Permit: A tree removal or pruning permit which is not used within ninety (90) days after such permit is issued is null and void and of no effect, except that the Planning and Building Director or his/her designee may, in their discretion, extend the expiration date of any tree permit. The conditions of an approved permit, which include stump removal and replacement, shall not be subject to expiration.

F. Appeal From Denial Or Conditions To A Tree Permit Or A Tree Restoration Plan:

1. Any person (the appealing party) may appeal a denial of a tree removal or pruning permit, or the conditions imposed pursuant thereto or pursuant to a tree restoration requirements imposed pursuant to subsection D2 of this Section by filing a written appeal with the City Manager. The appeal shall:

a. Be signed by the appealing party; and
b. State the basis for the appeal; and
c. Be received by the City Manager within fifteen (15) calendar days of the City's decision on the permit application or of notification by first class mail to the applicant or property owner of same, which ever occurs later.

2. Upon receipt of a timely appeal, the City Manager shall send, or cause to be sent, a notice of hearing to the appealing party by first class mail which states the date, time and location of a hearing on the appeal. The hearing shall not be set sooner than ten (10) calendar days from the date the appeal was received. The appealing party has the right to be heard and to present testimony and other evidence in support of the appeal. Failure of the appealing party to receive the notice of hearing shall not invalidate the proceedings under this Section.

3. Upon consideration of reports, evidence and testimony of the appealing party, any City officials and any other interested parties, the City Manager shall:

a. Affirm, modify or reverse the decision or action of the Planning and Building Director, or his/her designee, or
b. Refer the matter back to the Planning and Building Director, or his/her designee, for further review and consideration.

4. The City Manager shall cause a notice of decision to be sent by first class mail to the appealing party within five (5) calendar days of the hearing. The Planning and Building Director or his/her

designee's decision remains in effect until the date of mailing of the City Manager's notice of decision.

5. The decision of the City Manager shall supersede the decision of the Planning and Building Director or his/her designee. This decision can be appealed to the Planning Commission and from the Planning Commission to the City Council. The decision of the Council shall be final and conclusive in all respects.

G. Appeal To Contest Determination That An Established Tree Has Been Severely Pruned Or Damaged: Property owners and persons exempt from the requirement to obtain a tree pruning permit according to subsection C1c of this Section, may appeal the City's determination that they have violated the provisions within this Section by severely pruning or damaging an established tree. The appeal shall be heard by the City Manager. The appeal procedure shall be conducted as specified in subsection F of this Section. (Ord. 096-1093, 7-10-1996)

23.06.16: STORAGE OF CONSTRUCTION MATERIALS:

No person shall use or permit the use of property to store earth, materials, or vehicles or to provide access for vehicles in connection with construction taking place on property owned by another person without issuance of a conditional use permit pursuant to Article 07 of this Chapter. (Ord. 096-1105, 1-8-1997)