

CHAPTER 23A: TREES AND SHRUBS

Article

I. GENERAL PROVISIONS

ARTICLE I: GENERAL PROVISIONS

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§ 23A.1 SHORT TITLE OF CHAPTER.

This chapter shall be known as the "Tree Chapter" and may be cited as such.

(`61 Code, § 23A.1) (Ord. 419, passed 2-5-1963)

§ 23A.2 PURPOSE OF CHAPTER.

It is for the best interests of the city and of the citizens and public thereof that a comprehensive plan for planting and maintenance of trees, plants and shrubs within the city should be developed and established. This chapter is adopted, therefore, for the purpose of developing and providing a plan and program and for the purpose of establishing rules and regulations relating to the planting, care, removal and maintenance of trees, plants and shrubs within or adjacent to public streets and rights-of-way, and heritage trees and mature native trees (as defined herein) located within the city.

(`61 Code, § 23A.2) (Ord. 419, passed 2-5-1963; Am. Ord. 946, passed 10-7-2003)

§ 23A.3 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

D.B.H. Diameter at breast height.

DEVELOPED. When describing land, the value of on-site improvements exceeding \$10,000.

DIAMETER AT BREAST HEIGHT. The diameter of a tree trunk, calculated by measuring the circumference at a point of four feet-six inches above grade on the uphill side of the tree and then dividing the circumference by 3.0.

HERITAGE TREE. Those oak trees, located on private property, with a single trunk diameter greater than 36 inches d.b.h., or in the case of an oak tree with multiple trunks, any such tree where the sum of the diameters of its two largest trunks exceeds 40 inches d.b.h.

IMPROVED LOT. Any lot or parcel of land with one or more buildings having a combined value exceeding \$30,000, prior to the effective date of Ordinance 946, as determined by the Tehama County Assessor.

MATURE NATIVE TREE. Any sycamore, oak, or cottonwood tree, located on private property, with a trunk diameter greater than ten inches d.b.h. and not classified as a heritage tree.

PUBLIC STREETS or **STREETS.** All roads, streets, avenues, boulevards, alleys, parks and public places and public rights-of-way or any portion thereof, of the city.

TREE. Trees, shrubs and plants and shall apply to such as are within the public right-of-way.

(`61 Code, § 23A.3) (Ord. 419, passed 2-5-1963; Am. Ord. 946, passed 10-7-2003)

§ 23A.4 ENFORCEMENT OF CHAPTER.

The Public Works Director or the Planning Director or their duly authorized representatives shall be charged with the enforcement of this chapter as specified below. Generally, the Public Works Director shall be responsible for enforcement of this chapter as it relates to trees, and any portion of mature native trees or heritage trees located within the public streets and/or rights-of-way. Generally, the Planning Director shall be responsible for the enforcement of this chapter as it relates to mature native trees or heritage trees located on private property. The owner of the private property where mature native trees or heritage trees are located is responsible for complying with the provisions of this chapter.

(`61 Code, § 23A.4) (Ord. 419, passed 2-5-1963; Am. Ord. 946, passed 10-7-2003)

§ 23A.5 MASTER TREE PLAN; PUBLIC HEARING PRIOR TO APPROVAL.

(A) The Public Works Director is hereby charged with the duty of promptly determining the types and species of trees suitable and desirable for planting and the areas in which and conditions under which the trees shall be planted or which may overhang the public streets within the city. The determination shall be made by the Public Works Director, who shall consult with those familiar with the subject of the plantings, such as landscape architects, arborists, nurserymen and park executives.

(B) When the determination has been made, the Public Works Director shall report his or her findings in writing to the Parks and Recreation Commission who shall recommend the plan to the city Council. The City Council shall hold an advertised public hearing. The hearing shall be advertised once in a daily paper ten days prior to the hearing. When approved by the City Council, the report shall be known as the master tree plan, shall be placed on file in the Office of the City Clerk and shall thereafter be the official determination of the Public Works Director. Revisions or changes in the master tree plan may be made from time to time by the Public Works Director, in the manner described hereinabove for the development, approval and filing of the original master tree plan.

(`61 Code, § 23A.5) (Ord. 419, passed 2-5-1963)

§ 23A.6 DUTIES OF THE PUBLIC WORKS DIRECTOR RELATIVE TO MASTER TREE PLAN; RIGHT OF PROPERTY OWNERS TO PETITION FOR CERTAIN TYPES.

(A) (1) It shall be the duty of the Public Works Director, with the assistance from the Public Works Department to plant, trim and prune all trees within the city right-of-way and to remove all objectionable or unsafe tree(s). Prior to removal of any tree(s) within the right-of-way, the Public Works Director will:

(a) Post a notice on the tree for ten calendar days which states: "This tree is scheduled for removal. Concerned citizens may file an appeal with the Public Works Director until 5 p.m. on (state date)." The appeal shall include the name and contact number of the person filing the appeal and the reason for the appeal.

(b) Notice shall also be mailed to owners of property immediately adjacent to the tree proposed for removal and to all such persons or entities requesting such notice. Notice of proposed tree removal shall also be posted at City Hall.

(c) If a timely appeal is not submitted, the tree may be scheduled for removal.

(d) If an appeal is filed, the Public Works Director shall consult with a licensed arborist as to whether the roots can be cut without killing the tree or causing a hazard to falling or in the case of disease or structural problems whether the tree can be treated for the disease or trimmed in such a way as to remove the structural problems. The Public Works Director shall consider the licensed arborist's recommendation before ruling on the appeal.

(e) The Public Works Director shall make a written determination regarding any appeal, and a copy thereof shall be mailed to the appellant. The appellant may appeal the Public Works Director's determination to the City Council by

submitting a written statement of appeal within ten calendar days of the Public Works Director's determination. The decision of the City Council shall be final.

(2) The above notice requirements will not apply if the Public Works Director determines that the subject tree constitutes an immediate threat to public safety.

(B) The Public Works Director shall have the power to designate the kind or variety of trees to be planted in conformity with the master tree plan. The owners of property fronting on any street, alley or public place may petition the Parks and Recreation Commission that the trees shall be a certain kind or variety, and the decision of the Commission shall be merely advisory to the action of the City Council which shall make the final decision.

(`61 Code, § 23A.6) (Ord. 419, passed 2-5-1963; Am. Ord. 998, passed 5-19-09)

§ 23A.7 PERMISSION TO CUT AND THE LIKE; REQUIRED.

(A) No person shall cut, trim, prune, plant, remove, injure or interfere with any tree without the prior permission and approval of the Public Works Director. The Public Works Director is authorized to grant permission in accordance with policies established by the Parks and Recreation Commission and may attach the condition that any removed tree be replaced by an official tree in conformity with the master tree plan.

(B) No permission shall be valid for a longer period than 30 days after its date of issuance.

(`61 Code, § 23A.7) (Ord. 419, passed 2-5-1963)

§ 23A.8 MUST FILE WRITTEN REQUEST WITH PUBLIC WORKS DIRECTOR; COST TO PETITIONER.

Any person, maintaining any overhead wires or any pipes or underground conduits along or across any street of the city, or owning any property abutting upon any street, desiring to have any tree cut, trimmed, pruned or removed may file with the Public Works Director a written request that the work be done and the request shall describe the work desired to be done and such shall be within the discretion of the Public Works Director to require a written agreement upon the part of the petitioner to pay the cost thereof and to do the work in the way stipulated by the Public Works Director before the issuance of any permit hereunder.

(`61 Code, § 23A.8) (Ord. 419, passed 2-5-1963)

§ 23A.9 TO BE GRANTED TO PUBLIC UTILITY; TERM OF PERMIT.

Any person doing business as a public utility subject to the jurisdiction of the Public Utilities Commission of the state and any duly constituted public agency authorized to provide and providing utility service, shall be given a permit from the Public Works Director, valid up to one year from the date of issuance, permitting the person to trim, brace, remove or perform other acts with respect to trees growing adjacent to the public streets of the city or which grow upon private property to the extent that they encroach upon public streets as may be necessary to comply with the safety regulations of the Commission and as may be necessary to maintain the safe operation of its business.

(`61 Code, § 23A.9) (Ord. 419, passed 2-5-1963)

§ 23A.10 WHO MAY CUT TREES.

(A) No person other than an owner or his or her authorized employees or public utility may do any act for which permission is required under § 23A.7, except a person whose principal business is tree surgery, trimming or maintenance and who is qualified for the business in accordance with standards to be established by the Parks and Recreation Commission and who has obtained a permit to carry on the business in the city from the Public Works Director.

(B) Permits issued pursuant to this section shall be granted for a period of one year from the date of issuance but may be revoked for good cause by the Public Works Director.

(`61 Code, § 23A.10) (Ord. 419, passed 2-5-1963)

§ 23A.11 INTERFERENCE WITH PUBLIC WORKS DIRECTOR PROHIBITED.

No person shall interfere with the Public Works Director or persons acting under his or her authority while engaged in planting, mulching, pruning, trimming, spraying, treating or removing any tree or in the removing of any stone, cement or other substance from about the trunk of any tree, shrub or plant in any street.

(`61 Code, § 23A.11) (Ord. 419, passed 2-5-1963)

§ 23A.12 PROHIBITIVE ACTS.

(A) (1) No person shall cause, authorize or permit any brine water, oil, liquid dye or other substance deleterious to tree life to lie, leak, pour, flow or drip upon or into the soil about the base of any tree, heritage tree or mature native tree, or onto any sidewalk, road or pavement at a point from which the substance may by lying upon or flowing, dripping or seeping into the soil causing injury to or otherwise harm or kill any tree, heritage tree, or mature native tree.

(2) It shall be unlawful for any person to break, injure, remove, cut or deface, mutilate, kill or destroy any tree or set fire or permit any fire to burn where the fire or the heat thereof will injure any portion of any tree. It shall be unlawful for any

person to break, injure, or deface mutilate, kill or destroy any heritage tree or mature native tree or set fire or permit any fire to burn where the fire or the heat thereof will injure any portion of any heritage tree or mature native tree without prior written approval of the Planning Director or Planning Commission.

(3) No person, without the approval of the Public Works Director, shall place or maintain any stone, cement or other substance so that it shall impede the free access of water or air to the roots of any tree. No person, without approval of the Planning Director, shall place or maintain any stone, cement or other substance so that it shall impede the free access of water or air to the roots of any heritage tree or mature native tree without prior written approval of the Planning Director or Planning Commission.

(B) No person shall place, apply, attach or keep attached to any tree, or to the guard or stake intended for the protection thereof, any wire, rope, sign, paint or any other substance, structure, thing or device of any kind or nature whatsoever without first obtaining written permission of the Public Works Director. No person shall place, apply, attach, or keep attached to any heritage tree or mature native tree, or to the guard or stake intended for protection thereof, any wire, rope, sign, paint or any substance, structure, thing, or device of any kind or nature whatsoever without first obtaining written permission of the Planning Director.

(`61 Code, § 23A.12) (Ord. 419, passed 2-5-1963; Am. Ord. 946, passed 10-7-2003)

§ 23A.13 PROTECTION FOR TREES TO BE PROVIDED DURING ERECTION AND THE LIKE OF BUILDINGS.

During the erection, repair, alteration or removal of any building, house or structure, no person in charge of the work shall leave any tree in the vicinity of the building or structure without the good and sufficient guards or protectors as shall prevent injury to the tree arising out of or by any reason of the erection, repair, alteration or removal.

(`61 Code, § 23A.13) (Ord. 419, passed 2-5-1963)

§ 23A.14 APPLICATION FOR MOVING OF BUILDING REQUIRED; TREES ALONG DESIGNATED ROUTE TO BE PROTECTED; CONDITIONS TO APPROVING APPLICATION.

(A) No person shall move any building, house or portion thereof on the streets without obtaining approval from the Public Works Director at least three days in advance of the moving. The application shall designate the route to be followed and all other details pertinent to the work. The Public Works Director shall have the authority to change the route and designate one which in his or her opinion will cause less damage to trees along and adjacent to the route.

(B) If necessary to protect the trees, the Public Works Director may require that the house, building or portions thereof be cut into segments small enough to fit the available width between trees along the designated route.

(C) As a condition to approving any route for the moving of any building, house or portion thereof the Public Works Director may require the person doing the work to enter into an agreement to pay all costs incurred for any labor, equipment or material used to protect or preserve the trees, shrubs or plants either before or after the moving.

(`61 Code, § 23A.14) (Ord. 419, passed 2-5-1963)

§ 23A.15 CERTAIN TREES DECLARED A PUBLIC NUISANCE; WRITTEN NOTICE TO ABATE; RIGHT OF OBJECTION AND APPEAL BY OWNER.

(A) The Public Works Director may inspect any tree adjacent to or overhanging any public street to determine whether the same or any portion thereof is in a condition as to constitute a hazard or impediment to the progress or vision of anyone traveling on the public street. Any tree or part thereof growing upon private property but overhanging or interfering with the use of any street that in the opinion of the Public Works Director endangers the life, health, safety or property of the public shall be declared a public nuisance. If the owner of the private property does not correct or remove the nuisance within ten days after receipt of written notice thereof from the Public Works Director, the Public Works Director shall cause the nuisance to be corrected or removed and the cost shall be assessed to the owner. If the owner, occupant or agent of the private property within seven days after receipt of the notice has filed his or her objection to the removal with the Public Works Director, the tree shall not be cut down or removed unless the Public Works Director shall give the owner, occupant or agent a reasonable opportunity to be heard in support of the objection.

(B) If the objection be not sustained, the Public Works Director shall thereafter approve in writing the cutting down or removal of the hazardous or impeding tree, plant or shrub. Any decision of the Public Works Director may be appealed within ten days to the Parks and Recreation Commission and, if still not sustained, then to the City Council. Nothing contained herein shall be deemed to impose any liability upon the city, its officers or employees, nor to relieve the owner of any private property from the duty to keep any tree upon his or her property or under his or her control in a condition as to prevent it from constituting a hazard or an impeding to travel or vision upon any street.

(`61 Code, § 23A.15) (Ord. 419, passed 2-5-1963)

§ 23A.16 DEVELOPMENT PLANS.

All development plans and applications for development submitted to the city, including maps, subdivision maps, construction plans, and grading plans, shall indicate the size and location of all mature native trees and all heritage trees located on the property to be developed. Development plans and applications for development shall include descriptions of measures to protect mature native and heritage trees from damage or destruction during and after construction or

excavation activities. All development plans must include details showing that the areas within five feet of the drip line of mature native and heritage trees to be preserved shall not be disturbed during construction or grading activities. A barrier shall be constructed at least five feet outside the drip line of mature native and heritage trees to be preserved. The Planning Director is allowed to reduce this to a five-foot setback.

(Ord. 946, passed 10-7-2003)

§ 23A.17 REMOVAL.

The city may approve requests to remove mature native trees or heritage trees only when said removal is found to comply with these standards.

(Ord. 946, passed 10-7-2003)

§ 23A.18 TREE REPLACEMENT PLANS.

(A) Prior to the city approving the removal of any mature native or heritage trees, an applicant shall provide to the Planning Department a plan to mitigate the loss of the trees. Mitigation shall be, on-site or off-site replacement within the city as specified below, or other method approved by the Planning Commission.

(B) A "Tree Replacement Plan" (TRP) shall accompany all requests for removal of any mature native or heritage trees and shall be submitted to and subject to approval of the Planning Director. The TRP shall be implemented within a period of time specified by Planning Director. The TRP shall include the following information:

(1) A site plan indicating the locations, species and d.b.h. of all heritage and mature native trees on the lot. A site plan indicating the locations, species and d.b.h. of all heritage and mature native trees to be removed and the proposed locations, species and size of all replacement trees. Replacement trees shall be the same species as those removed. However, unique circumstances may make same species replacement impractical. In those cases, when approved by the City Planning Director, replacement trees may be from the City's Master Plan Tree Plan;

(2) A property owner's or authorized agent's statement guaranteeing to irrigate and maintain all replacement trees in a healthy manner for a duration of not less than three years shall be attached to the site plan;

(3) Planting and irrigation details; and

(4) The schedule for implementing the TRP.

(Ord. 946, passed 10-7-2003)

§ 23A.19 REPLACEMENT OF HERITAGE OR MATURE NATIVE TREE.

Each removed heritage or mature native tree shall be replaced as follows:

(A) For mature native trees proposed to be removed from a lot that is developed and has an area of less than 10,000 square feet, replacement shall be at the rate of not fewer than one 15-gallon replacement tree for each mature native tree removed.

(B) For mature native trees proposed to be removed from a lot that is not developed and has an area of less than 10,000 square feet, replacement shall be at the rate of not fewer than two 15-gallon replacement trees for each mature native tree removed.

(C) For mature native trees proposed to be removed from a lot with an area equal to or greater than 10,000 square feet, replacement shall be at the rate of not fewer than three 15-gallon replacement trees for each mature native tree removed.

(D) For heritage trees proposed to be removed from any lot, replacement shall be as directed by the Planning Commission.

(Ord. 946, passed 10-7-2003)

§ 23A.20 EXEMPT TREES.

(A) mature native trees on improved lots with an area of one acre (43,560 square feet) or less are exempt from the provisions of this chapter.

(B) The following trees are exempt from replacement standards: heritage and mature native trees of any trunk diameter found in writing to be dead or hazardous to life or property by city staff, a Certified Arborist, a Registered Professional Forester (RPF), a State Licensed Tree Service Contractor (D-49), or equivalent state licensed professional.

(Ord. 946, passed 10-7-2003)

§ 23A.21 REMOVAL WITHOUT PRIOR WRITTEN CITY APPROVAL.

(A) Each mature native tree removed without prior written approval of the city shall be replaced with not fewer than five 15-gallon trees at locations approved by the city within a period of time specified by the Planning Director.

(B) Each heritage tree removed without prior written approval of the city shall be replaced with not fewer than ten 15-

gallon trees at locations approved by the city within a period of time specified by the Planning Director.

(Ord. 946, passed 10-7-2003)

§ 23A.22 EXCEPTIONS.

The Planning Commission may grant exceptions to the standards found in this chapter.

(Ord. 946, passed 10-7-2003)

§ 23A.23 APPEALS.

Appeals to city staff decisions can be made to the Planning Commission, and appeals to Planning Commission decisions can be made to the City Council, provided the appeal is submitted in writing to the Planning Director, within ten days of the decision, with the appeal fee in effect at the time the appeal is submitted.

(Ord. 946, passed 10-7-2003)