ORDINANCE NO. 2016-0026

Adopted by the Sacramento City Council

August 4, 2016

AN ORDINANCE AMENDING SECTIONS 2.62.030 AND 8.04.100, DELETING AND ADDING CHAPTER 12.56, AND DELETING CHAPTERS 12.60 AND 12.64 OF THE SACRAMENTO CITY CODE, RELATING TO TREES

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 2.62.030 of the Sacramento City Code is amended to read as follows:

2.62.030 Powers and duties of commission.

The powers and duties of the commission are:

A. To provide recommendations and advice to the city council and the department of parks and recreation on policies, projects, and other matters pertaining to parks, recreation, trees, and human services affecting the City of Sacramento referred to the commission by the city council, the director of parks and recreation, the community, or members of the commission.

B. To review and provide recommendations on the development and implementation of the parks and recreation master plan as an element of the city's general plan.

C. To conduct public hearings and review complaints and other matters pertaining to parks and recreation issues, as requested by the director of parks and recreation or the city council.

D. To conduct an annual workshop to review the department's annual operating budget and capital improvement plan.

E. To meet with neighborhood associations and park user groups to discuss parks and recreation issues and needs.

F. To encourage individuals, business, and citizens groups to contribute funds, property, and volunteer services for the development and operation of parks and recreation facilities.

SECTION 2.

Section 8.04.100 of the Sacramento City Code is amended to read as follows:

8.04.100 Generally.

It is unlawful and a misdemeanor and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any premises in this city to maintain the premises in a manner that any one or more of the conditions or activities described in the following subsections are found to exist and allowed to continue:

A. The keeping, storage, depositing, or accumulation on the premises of any personal property within the view of persons on adjacent or nearby real property or the public right-of-way when the personal property constitutes visual blight, reduces the aesthetic appearance of the neighborhood, is offensive to the senses, or is detrimental to nearby property or property values. Personal property includes, but is not limited to, junk as defined in section 8.04.090, abandoned, wrecked, or dismantled automobiles, unseaworthy boats or vessels, automotive parts and equipment, appliances, furniture, containers, packing materials, scrap metal, wood, building materials, rubbish, and debris;

Wood and building materials being used, or to be used, for a project of repair or renovation and for which an active building permit is in existence may be stored for as long as is necessary to complete the project expeditiously. Upon expiration or cancellation of the permit, wood and building materials for the project must be immediately removed;

B. The keeping, storage, depositing, or accumulation of dirt, sand, gravel, concrete, or other similar materials that constitute visual blight, reduces the aesthetic appearance of the neighborhood, is offensive to the senses, or is detrimental to nearby property or property values;

C. The operation of a junk yard or automobile dismantling yard, except in an industrial zone pursuant to a conditional use permit;

D. Any abandoned drive-in enterprise;

E. Any dangerous, unsightly, or blighted condition that is detrimental to the health, safety, or welfare of the public;

F. Any condition in violation of the Sacramento City Building Code, set forth in title;

G. Any condition in violation of chapter 9.44 (animal care services law);

H. Any condition in violation of the Planning and Development Code set forth in title 17;

I. Any condition in violation of the fire prevention code, set forth in title 15;

J. Any condition in violation of chapter 5.152 (regulation of unattended donation boxes);

K. Any condition recognized in law or in equity as constituting a public nuisance;

L. The maintenance of the exterior of any vacant or unoccupied building or the interior of any such building that is readily visible from any public street or adjacent parcel of property in a state of unsightliness so as to constitute a blighted condition detrimental to the property values in the neighborhood or otherwise detrimental to the public welfare. Once proceedings have been commenced pursuant to this title to declare a building or property to be a public nuisance under this subsection, no such building or property shall be deemed to be in compliance with this title solely because the building or property thereafter becomes occupied;

M. Any unimproved real property that has become a dumping ground for litter, garbage, junk, debris, discarded vehicles, vehicle parts or vehicle hulks, and which real property has been subject to abatement action on one or more occasion by the city;

N. Any illegal activity occurring on the property that is detrimental to the life, health, safety, or welfare of the residents, neighbors, or public. For purposes of this chapter, illegal activity is defined as any violation of state or federal law, rules or regulations, or local ordinance;

O. Any condition in violation of chapter 8.132 (cultivation of medical marijuana); and

P. Any condition (including dutch elm disease, or other pests or disease) of trees on private property that constitutes a threat to the health, safety, or welfare of the residents, neighbors, public, or other trees.

SECTION 3.

Chapter 12.56 of the Sacramento City Code is deleted.

SECTION 4.

Chapter 12.56 is added to the Sacramento City Code to read as follows:

Chapter 12.56 TREE PLANTING, MAINTENANCE, AND CONSERVATION

12.56.010 Findings and purpose.

The city council finds that trees are a signature of the city and are an important element in promoting the well-being of the citizens of Sacramento. The city council finds that, when proper arboricultural practices are applied, trees enhance the natural scenic beauty of the city; increase oxygen levels; promote ecological balance; provide natural ventilation and air filtration; provide temperature and erosion controls; increase property values; and improve the quality of life. The city council also finds and determines that it is in the public interest to protect and manage tree resources within the city in order to preserve and maintain the benefits that they provide to the community. The purpose of this chapter is to provide for the conservation of existing tree resources; to optimize tree canopy coverage throughout the city while recognizing individual rights to develop and make reasonable use of private property consistent with the general plan; and to provide clear standards for protection, removal, and replacement of city trees and private protected trees.

12.56.020 Definitions.

As used in this chapter, the following definitions shall apply:

“ANSI A300 standards” means the most current version of the American National Standard for Tree Care Operations-Tree, Shrub and Other Woody Plant Maintenance-Standard Practices.

“Arborist report” means a report prepared by a qualified arborist that may include, as determined by the director, information concerning the location of, condition of, and potential impacts of proposed development on one or more city trees or private protected trees.

“City tree” means any tree the trunk of which, when measured 4.5 feet above ground, is partially or completely located in a city park, on real property the city owns in fee, or on a public right-of-way, including any street, road, sidewalk, park strip, mow strip, or alley.

“Day” means calendar day.

“Diameter at standard height” or “DSH,” means the diameter of a tree measured at 4.5 feet above natural grade, except as specified below. The diameter shall be calculated by using the following formula: diameter = circumference/3.14.

A. For a tree that branches at or below 4.5 feet, DSH means the diameter at the narrowest point between the grade and the branching point.

B. For a tree with a common root system that branches at the ground, DSH means the sum of the diameter of the largest trunk and one-half the cumulative diameter of the remaining trunks at 4.5 feet above natural grade.

“Director” means the following:

A. for city trees located in city parks, the director of the department of parks or the director’s designee; and

B. for all other city trees, the director of the department of public works or the director’s designee.

“Minor pruning” means the removal of dead branches; or cutting of roots or branches less than two inches in diameter, measured at the location of the cut, from a private protected tree in a cumulative amount of no more than 10% of a combination of the root system and tree crown within a twelve-month period.

“Person” means and includes any individual, partnership, corporation or other private or public entity, except the city of Sacramento.

“Private protected tree” means:

A. A tree that is designated by city council resolution to have special historical value, special environmental value, or significant community benefit, and is located on private property;

B. Any native Valley Oak (Quercus lobata), Blue Oak (Quercus douglasii), Interior Live Oak (Quercus wislizenii), Coast Live Oak (Quercus agrifolia), California Buckeye (Aesculus californica), or California Sycamore (Platanus racemosa), that has a DSH of 12 inches or more, and is located on private property;

C. A tree that has a DSH of 24 inches or more located on private property that:

    1. is an undeveloped lot; or

    2. does not include any single unit or duplex dwellings; or

D. A tree that has a DSH of 32 inches or more located on private property that includes any single unit or duplex dwellings.

“Property owner” means the person listed as the owner of the property on the last equalized assessment roll provided that if the director has actual knowledge of a grant deed or other reliable evidence showing that a different person owns legal title to the property, “owner” also may include the different person.

“Public project” means the same as defined in section 3.60.010.

“Public utility” means every pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system, and heat corporation, where the service is performed for or the commodity delivered to the public or any portion thereof.

“Qualified arborist” means a person who is certified as an arborist by the International Society of Arboriculture (ISA) with an active ISA certification number, a person who is a registered consulting arborist with the American

Society of Consulting Arborists, or a person who has five or more years of demonstrable professional experience as an arborist and who agrees in writing to perform all work in compliance with ANSI A300 standard.

“Regulated work” means planting a city tree, or any act that could adversely impact the health of a city tree or private protected tree such as:

A. Removing a city tree or private protected tree;

B. Pruning the branches or roots from a city tree or private protected tree;

C. Affixing any signs, lights, or hardware to a city tree;

D. Grading, clearing, excavating, adding fill soil, trenching, boring, compacting, or paving within the tree protection zone of a city tree or private protected tree;

E. Placing or storing construction equipment or construction material within the tree protection zone of a city tree or private protected tree;

F. Application of any harmful substance within the tree protection zone of a city tree or private protected tree; or

G. Topping a city tree or private protected tree.

Regulated work does not include routine maintenance.

“Routine maintenance” means minor pruning; irrigation; mulch application, mowing or trimming grass or other ground cover close to a tree; application of fertilizer, insecticides, or herbicides in accordance with their label; or any other similar acts that promote the life, growth, or health of trees. Any procedure, technique, or practice that is expressly prohibited under the current ANSI A300 standards, including topping, is not routine maintenance.

“Topping” means a type of pruning that is not routine maintenance and involves the removal of tops of trees, or large branches or trunks from tops of trees, leaving large stubs or lateral branches that are too small to assume the role of a terminal leader.

“Tree permit” means a permit to conduct regulated work on or around a city tree or private protected tree.

“Tree protection plan” means the plan submitted by the applicant and approved by the city to list the site conditions and treatments to guard city trees and private protected trees during the construction and landscaping processes.

“Tree protection zone” means the area around a tree within the outermost circumference of the canopy or as set forth in a tree protection plan.

“Tree replacement plan” means a plan prepared by an applicant for a tree permit that provides how the applicant will replace either city trees or private protected trees that will be removed if a tree permit is issued.

12.56.030 Inspection, maintenance, and removal by city.

A. The director may plant, inspect, perform regulated work on, or perform routine maintenance on city trees.

B. No person shall interfere or cause any other person to interfere with any tree related work performed pursuant to this code by any city employee or any city contractor.

C. Removal of city trees.

1. If the director intends to remove a city tree, the director shall post notice of the intent to remove the city tree for 15 days in a conspicuous place on or in proximity to the tree.

2. Within the 15-day notice period, any person may file a written objection with the director requesting a meeting with the director with the meeting to occur within 30 days after filing the written objection.

3. The director shall provide a written decision on the objection within 10 days after the meeting. The director’s decision shall be final.

4. This section does not apply:

a. if the director intends to remove a city tree, and the condition of the tree constitutes an imminently dangerous condition to the public health, safety or welfare as determined by the director in the director's sole discretion;

b. if the director intends to remove a city tree, and the tree is a threat to the health of other trees because of pests or disease as determined by the director in the director's sole discretion; or

c. if the proposal to remove a city tree will be heard by the city council pursuant to section 12.56.040.

12.56.040 Removal of city trees - Public projects.

A. Whenever feasible, the city shall modify the design of public projects to avoid the removal or damage to city trees.

B. If the city proposes to remove city trees that have a DSH of four inches or more as part of a public project that otherwise requires city council approval, the city project manager shall provide written justification to the director of the need to remove city trees for the public project. The director shall review the written justification and if the director agrees with the written justification the director shall make a recommendation to the city council to approve the request to remove the city trees. The request for approval from city council may take place at any stage of the public project but the city shall obtain council approval prior to removing the city trees. City trees proposed to be removed as part of a public project that either does not require city council approval or has a DSH less than four inches shall be removed as provided in section 12.56.030.C.

C. The director shall provide written notice of the proposal to remove city trees as part of a public project by posting a notice of the time, date, and location of the city council meeting during which the city council is to decide whether or not to remove city trees in a conspicuous place on or in proximity to the trees at least 15 days prior to the city council meeting.

12.56.050 Tree Permits.

A. Applications.

1. Except as provided in sections 12.32.020, 12.56.080.E, and 12.56.080.F, no person shall perform regulated work without a tree permit. Applications for a tree permit shall be in writing and shall be filed with the director upon forms provided by the city. The application shall include a statement detailing the nature and necessity for the proposed regulated work, the location of the proposed work, and signature of the applicant. The application shall be accompanied by an application fee in an amount established by resolution of the city council.

2. The director may require that the application be accompanied by:

a. An arborist report;

b. A site map indicating existing and proposed elevations, property lines, streets, easements, driveways, buildings and structures, building and structure setbacks, parking areas, existing and proposed land uses, and locations of all trees with identification numbers;

c. A landscape or tree planting plan;

d. A tree protection plan;

e. Proof of compliance with any applicable California Contractors State License Board licensing requirements;

f. Authorization of the property owner;

g. A tree replacement plan if the applicant proposes to remove a city tree or private protected tree; and

h. Any other information the director determines to be necessary.

B. Issuance for private protected trees.

1. The director shall issue the tree permits for removal of private protected trees if the director approves the tree replacement plan and the director finds:

a. That the tree must be removed to use the property for any use permitted as of right or by discretionary permit under the Planning and Development Code for the zoning district in which the property is located, and the use could not be made of the property unless the tree is removed;

b. That the condition of the tree with respect to disease, danger of falling, or interference with utility services, is such that the public health, safety, or welfare requires its removal; or

c. That the tree or its roots are causing, or threatening to cause, damage to any main structure on the property or on any adjacent property and there are no reasonable alternative means to mitigate the damage or threatened damage while minimizing the impact on the tree. Reasonable alternative means of mitigation include, but are not limited to, cutting tree roots, trimming the tree canopy, or installing a root barrier. Removing, relocating, or in any way altering any main structure on the property shall not be considered a reasonable alternative means of mitigation.

2. For all regulated work other than tree removal, the director shall issue tree permits if the director finds the regulated work is necessary:

a. to preserve the private protected tree;

b. to engage in construction activity on the property; or

c. to eliminate a condition of a private protected tree that constitutes a threat to the health, safety, or welfare of the residents, neighbors, or public.

C. Issuance for city trees.

1. The director shall issue tree permits for regulated work on city trees if the applicant establishes, to the director's satisfaction, that there is a need for the proposed work; any detriment to the city tree population entailed by the proposed work is justified in the individual case and, in the case of removal, the director approves the tree replacement plan. In making the determinations, the director shall consider any relevant factors, including, but not limited to:

   a. The health and structural condition of the tree;

   b. Whether the proposed regulated work conforms to current best management practices for the tree care industry;

   c. The above and below ground space available for root and crown growth;

   d. The desirability of the species;

   e. Whether the proposed work would improve growing conditions of neighboring trees;

   f. The approximate age of the tree compared with the average life span for the species;

   g. Whether or not the tree is acting as a host for an organism that is pathogenic to other trees;

   h. The need for the proposed work in order to develop property; and

   i. Whether there are reasonable means of accomplishing the applicant's goal with less impact to the tree.

2. The director may condition any permit issued for regulated work on city trees as the director determines to be necessary.

D. If the director denies the permit application, the director shall notify the applicant in writing. The applicant may appeal the director's decision to deny the permit application in accordance with the provisions of section 12.56.070. The director shall provide notice of appeal by the applicant by posting a notice in a conspicuous place on or in proximity to the tree, providing the time, date, and location of the appeal at least 15 days prior to any hearing on the appeal.

E. If the director issues a permit to remove a city tree or private protected tree, the director shall post notice of the permit issuance for 15 days in a conspicuous place on or in proximity to the tree. Any person may appeal the decision to issue the permit in accordance with the provisions of section 12.56.070. A permit shall not be effective until expiration of the 15-day notice period or final resolution of all appeals, whichever is later.

F. If the director issues a permit to remove a city tree, removal work shall include removal of the tree stump and nearby roots to a depth of 18 inches, and filling of the hole with clean topsoil, unless waived by the director. If no replacement tree is required by the director, the permittee shall install lawn, groundcover, or paving to match the adjacent area. The permittee also shall repair any damage to the street, curb, or sidewalk caused by the tree's removal.

G. If the Community Development Department determines that a tree permit is necessary for a project that includes an application for a discretionary permit under title 17:

1. the tree permit shall be processed under the same notice, hearing, and appeal provisions applicable to the title 17 discretionary permit if the discretionary permit is subject to director level review or higher; or

2. if the discretionary permit is subject to staff level review, the discretionary permit and tree permit shall be processed under the notice, hearing and appeal provisions applicable to director level review.

H. If an application for a tree permit is denied, no tree permit application for the same regulated work shall be filed within one year after the date of final denial by the authority having final jurisdiction in the matter.

I. Tree permits are not transferrable.

12.56.060 Tree Replacement Plans.

A. Replacement standards.

1. A tree replacement plan for private protected trees located on lots that include single-unit or duplex dwellings must provide for the replacement of one tree for each private protected tree removed.

2. Any other tree replacement plan must provide for the replacement of trees at a ratio of one inch DSH of tree replaced for each inch DSH of tree removed (1:1 ratio).

B. Replacement options.

A tree replacement plan must include one or more of the following options:

1. On-site or off-site replacement. A tree replacement plan that includes on-site or off-site replacement shall specify where the trees shall be planted and how the trees shall be monitored and maintained for a time period as determined by the director. The director may require security to ensure that the replacement trees survive for the minimum establishment period as provided in section 12.56.060.E.

2. Payment of an in-lieu fee as adopted by resolution of the city council. The applicant may pay an in-lieu fee for the loss of the trees in an amount established by resolution of the city council. Such monies shall be deposited in the tree planting and replacement fund described in section 12.56.060.F.

3. Credit for existing trees smaller than a private protected tree. An applicant may be entitled to replacement credit when the applicant preserves trees that are on the same lot from which the private protected trees were removed and that are smaller than the size requirements of private protected trees. To be entitled to the credit, the preserved trees must be viable long-term. The director shall determine whether a tree is viable long-term, by considering the location of the trees, the quality of the environment in which the

trees are located, potential impacts to the trees from any proposed development, and other factors that the director deems relevant. If approved the applicant shall receive credit at a rate of one inch DSH per one inch DSH of tree preserved with a two-inch minimum credit.

C. Replacement equivalents.

1. Unless funded through the tree planting and replacement fund, trees planted as replacement trees shall be the same species as those removed or a species that is acceptable to the director, with consideration given to species diversity.

2. The following equivalent sizes shall be used whenever new trees are planted (either on-site or off-site) pursuant to a tree replacement plan:

a. A tree in a 15 gallon container or smaller = one inch DSH.

b. A tree in a 24 inch box = two inch DSH.

c. A tree in a 36 box or larger = three inch DSH.

D. Waiver replacement requirement.

The director may waive the tree replacement requirements in this section, provided the private protected trees are removed pursuant to a tree permit issued for the reasons provided in section 12.56.050.B.1.b or 12.56.050.B.1.c.

E. Security.

1. Security may be required for any tree replacement plan that does not include payment of an in-lieu fee. The security shall guarantee the tree permittee’s compliance with conditions of approval and city provisions regarding tree protection and preservation. Security may also be required at the discretion of the director to insure the completion of any additional work specified as a condition of permit approval or other approvals.

2. The security shall be in the amount of the estimated cost of the required work. The applicant shall include the cost estimate as part of the tree replacement plan. The terms and conditions of the security shall be reviewed and approved by the director prior to approval of the tree replacement plan.

3. Security posted on actual work required shall be maintained for the time period determined by the director.

F. Tree planting and replacement fund.

A tree planting and replacement fund is established for the purposes of furthering tree planting and tree replacement. The in-lieu fees and any civil penalties collected pursuant to section 12.56.090.C shall be deposited into a tree planting and replacement fund. Except as provided in this section, the tree planting and replacement fund shall not be used for any purpose other than for tree planting (including but not limited to establishing new planting locations and support systems such as installation of irrigation and drainage) and preservation programs (including the creation of new woodland areas, under-plantings as part of a tree planting program, and other planting activities that support the purposes of this chapter). The city council may direct that the tree planting and replacement fund be used for the implementation of programs consistent with the purposes of the tree planting and replacement fund.

12.56.070 Appeals.

A. Any person aggrieved by the decision of the director under section 12.56.050 may appeal the decision to the city council in accordance with chapter 1.24. For an appeal in accordance with chapter 1.24, the appellant must file a written notice of appeal with the city clerk within 15 days of the director's decision. Any appeal shall be accompanied by an appeal fee in an amount established by resolution of the city council.

B. Any person aggrieved by a decision for a tree permit processed under title 17 may appeal the decision pursuant to the appeal provisions in title 17.

12.56.080 Maintenance responsibility and liability of property owners, public utilities, and public agencies performing flood protection work.

A. A property owner shall be responsible for maintaining all private protected trees on the property owner's property.

B. The owner of any lot adjacent to a street or alley, at their own expense, shall keep private protected trees and any other private trees located on that lot trimmed, so that:

1. The tree provides a clearance of at least 14 feet above any street or alley;

2. The tree provides a clearance of at least eight feet above any sidewalk; and

3. The tree does not obstruct the view of any traffic sign or device for vehicle traffic in the direction controlled by that traffic sign or device.

C. The owner of any lot adjacent to a street shall maintain any unpaved portion of the adjacent public right of way. Maintenance includes irrigation of city trees or other plantings, subject to federal, state and local government restrictions on water use, and keeping the unpaved areas free from weeds or any obstructions contrary to public safety.

D. The owner of any lot adjacent to a street, at their own expense, is responsible for removal of fallen leaves and other debris from city trees.

E. Before any public utility installs or performs maintenance on any overhead wires or underground pipes or conduits that may cause injury to a city tree or private protected tree, the utility shall obtain permission from the director. Public utilities shall not injure, cut, deface, prune, or scar any city tree or private protected tree, including its roots, until its plans and procedures are approved by the director.

F. A tree permit is not required for a public agency that performs any flood protection work on public property or within a public easement that may cause injury to or the removal of a city tree or private protected tree. As used in this section, "public agency" includes but is not limited to the US

Army Corps of Engineers, Sacramento Area Flood Control Agency, Reclamation District 1000, or American River Flood Control District.

12.56.090 Violations.

A. In addition to any other remedy allowed by law, any person who violates any provision of this chapter is subject to criminal sanctions, civil actions, and administrative penalties under chapter 1.28.

B. Violations of this chapter are a public nuisance.

C. Any person who violates any provision of this chapter is liable for civil penalties of not less than $250 or more than $25,000 for each day the violation continues.

D. All remedies prescribed under this chapter are cumulative, and the election of one or more remedies does not bar the city from the pursuit of any other remedy for the purpose of enforcing this chapter.

12.56.100 Solar Shade Control Act.

The city is exempt from the provisions of the Solar Shade Control Act, chapter 12 (commencing with section 25980) of division 15 of the California Public Resources Code.

12.56.110 Liability.

Nothing in this chapter imposes any liability upon the city, or any of its officers, agents, or employees; nor relieves the owner or occupant of any private property from the duty to keep their private property, sidewalks, and adjacent public street right-of-way planting area in a safe, nonhazardous condition.

SECTION 5. Chapter 12.60 of the Sacramento City Code is deleted.

SECTION 6. Chapter 12.64 of the Sacramento City Code is deleted.

Adopted by the City of Sacramento City Council on August 4, 2016, by the following vote:

Ayes: Members Ashby, Carr, Guerra, Hansen, Harris, Jennings, Schenirer, Warren and Mayor Johnson

Noes: None

Abstain: None

Absent: None

Attest:

Shirley Concolino

Digitally signed by Shirley Concolino
DN: cn=Shirley Concolino, o=City of Sacramento, ou=City Clerk, email=sconcolino@cityofsacramento.org, c=US
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Shirley Concolino, City Clerk

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