



DEPARTMENT OF
PARKS AND RECREATION

CITY OF SACRAMENTO
CALIFORNIA

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PARK MAINTENANCE AND TREE
SERVICES DIVISION

February 3, 2004

City Council
Sacramento, California

Honorable Members in Session:

**SUBJECT: ORDINANCE AMENDING TITLE 12 OF THE SACRAMENTO CITY
CODE RELATING TO TREES**

LOCATION AND COUNCIL DISTRICT: Citywide; All Council Districts

RECOMMENDATION:

Staff recommends that the City Council approve, by ordinance (pages 9-12), the following amendments to Title 12 of the Sacramento City Code on Trees with regard to:

- 1) Definition of "person" per City Code (Section 12.56.020),
- 2) Stump grinding depth requirements per City Code (Section 12.56.080),
- 3) Appeals process for denied permit to remove or maintain a city street tree per City Code (Section 12.56.120),
- 4) Violations of the City's Tree Ordinance per City Code (Section 12.64.050), and
- 5) Penalties for violation of the City's Tree Ordinance per City Code (Section 12.64.070).

CONTACT PERSON: Robert J. Fleming, Park And Tree Maintenance
Services Manager, 433-6301

FOR COUNCIL MEETING OF: February 24, 2004

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SUMMARY

The City Council passed the proposed Ordinance change for publication on February 17, 2004. The City of Sacramento's Tree Ordinance went through its last major modification in 1993. The proposed Tree Ordinance Amendments will modify current stump grinding requirements corresponding to current city standards and change the section regarding administrative penalties making contractors as well as property owners responsible for violations of the ordinance.

COMMITTEE/COMMISSION ACTION

The Citizen's Advisory Committee for Parks and Recreation approved the proposed ordinance amendments in July 2002.

The City Council Law and Legislation Committee approved the proposed ordinance amendments on September 2, 2003.

BACKGROUND INFORMATION

The City of Sacramento's Tree Ordinance went through its last major modification in November of 1993 as part of the adoption of the Urban Forest Management Plan. These modifications included such things as:

- Clarifications to the definition of "City Street Trees;"
- Expansion of the Heritage Tree Section;
- Deletion of the requirement to maintain an Official Heritage Tree Register; and
- A new section requiring the registration of those maintaining street trees.

Staff recommends that modifications be made to the Ordinance regarding tree stump grinding depth requirements. The current requirement per City Code (Section 12.56.080) is 12 inches. Tree Services' staff regularly removes stumps to a depth of 18 inches minimum to ensure all roots are removed from the area and the newly planted tree can be well established. Staff recommends the ordinance reflect "18 inches" rather than "12 inches" making the code requirements consistent with city staff practice.

Staff also recommends approval of changes to the section regarding Administrative Penalties (Sections 12.64.050 and 12.64.070). Recent appeals of the Administrative Penalties under current code have resulted in the requirement that the property owner be held solely responsible for violations of the Tree Ordinance. Staff's experience is that, in many cases, the owner is dealing with the particular tree problems for the first time and is not fully aware of the rules and regulations, but, in fact, the vendor or contractor is well aware of code requirements and may even have been put on notice previously for similar Ordinance violations. The new language recommended by staff will subject any and all violators to penalty.

FINANCIAL CONSIDERATIONS

Approval of staff's recommended amendments to the Tree Ordinance would result in a minor increase in penalty collections, estimated at an additional \$1,000 - \$2,000 per year.

ENVIRONMENTAL CONSIDERATIONS

The Environmental Services Manager has determined the approval of the amendments to Title 12 of the Sacramento City Code related to trees is exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA Guidelines. Exemption 15061(b)(3) consists of an activity covered by the general rule that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

POLICY CONSIDERATIONS

This report's recommendations are consistent with the City of Sacramento's approved Strategic Plan as they enhance and preserve neighborhoods by setting citywide standards for service and preserve and expand the urban forest by guaranteeing proper maintenance of our city's street tree system.

ESBD CONSIDERATIONS

Not applicable as no goods or services are being purchased as a result of approving amendments to Title 12 of the Sacramento City Code related to trees.

Respectfully Submitted,



ROBERT G. OVERSTREET,
Director of parks and Recreation

Recommendation Approved:



ROBERT P. THOMAS
City Manager

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ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

AN ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTER 12.56 RELATING TO CITY STREET TREES, AND CHAPTER 12.64 RELATING TO HERITAGE TREES

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

SECTION 1.

A definition of "person" is added to Section 12.56.020 of the Sacramento City Code, between the definition of "maintenance easement private street tree" and the definition of "planting list," to read as follows:

"Person" means and includes any individual, partnership, corporation or other private or public entity, including but not limited to the property owner, a tenant, a licensed or unlicensed provider of tree services retained by the property owner or tenant, or a licensed or unlicensed provider of tree services acting without the consent of the property owner or tenant.

SECTION 2.

Section 12.56.080 of the Sacramento City Code is amended to read as follows:

12.56.080 Removal work.

Where the director has granted a permit to remove a city street tree, removal work shall include removal of the tree stump and nearby roots to a depth of ~~twelve (12)~~ eighteen (18) inches, and filling of the hole with clean topsoil. If no replacement tree is required by the director, then lawn, groundcover, or paving to match the adjacent area shall be provided by the permittee. The permittee shall also repair any damages to the street, curb or sidewalk caused by the tree's removal. (Prior code § 45.01.008)

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SECTION 3.

Section 12.56.120 of the Sacramento City Code is amended to read as follows:

12.56.120 Appeals.

Any person who is denied a permit to remove or maintain a city street tree or who objects to the removal of a tree pursuant to Section 12.56.040 or Section 12.56.070 of this chapter, shall be entitled to meet personally with the ~~director, assistant director, or deputy director of neighborhood services~~ director of parks and recreation to review the permit application. Any person aggrieved by the director's decision may appeal ~~such~~ the decision to the city council by filing a written notice of appeal with the city clerk within ten (10) days of the date of the director's final decision. The notice shall clearly specify the action or determination appealed from, and the reasons for which a hearing is requested. (Prior code § 45.01.013)

SECTION 4.

Section 12.64.050 of the Sacramento City Code is amended to read as follows:

12.64.050 Maintenance responsibility--Permits for activities affecting heritage trees.

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

B. None of the following activities shall be performed by any person unless a permit therefor is first applied for by the property owner or person authorized by the property owner and granted by the director, subject to appeal provisions in Section 12.64.060 of this chapter.

1. The removal of any heritage tree;
2. Pruning of any heritage tree segment greater than twelve (12) inches in circumference or the placement of any chemical or other deleterious substance by spray or otherwise on any heritage tree;
3. Disturbing the soil or placing any chemical or other deleterious substance or material on the soil within the drip line area of any heritage tree.

C. The permit shall be granted by the director if he or she finds:

1. In the case of removal, (a) that the heritage tree must be removed in order for the applicant to use the property for any use permitted as of right or by special permit under the city zoning ordinance for the zoning district in which the property is located and that such use could not be made of the property unless the tree is removed; or (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 ~~require~~ requires its removal; or (c) that the tree or tree roots are causing, or

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threatening to cause, damage to any main structure on the owner's property; or (d) that the tree no longer meets the criteria for a heritage tree set forth in Section 12.64.020 of this chapter;

2. In the case of any other activity for which a permit is required, that such activity is necessary either to preserve the heritage tree or to engage in construction activity on the property.

D. In the case of removal of any heritage tree under subsection (C)(1) of this section, the director shall not act on such an application until a hearing is held thereon. Notice of the time and place of the hearing shall be posted in a conspicuous place on the real property upon which the heritage tree is located and shall be mailed to the applicant and to all owners of real property located within a five hundred (500) foot radius of the real property upon which the heritage tree is located. Notices shall be posted and mailed at least ten (10) days in advance of the hearing. As used herein, "owner" means the person to whom the property was assessed in the latest equalized assessment roll of the county of Sacramento unless the director has knowledge of a person other than such assessee claiming record ownership of the property.

E. The director shall not act on any permit application unless the director has first given the permit applicant an opportunity to be heard thereon. Notice of the time and place at which the applicant may be heard shall be given to the applicant by mail, postage prepaid, at the address shown for the purpose in the application at least ten (10) days in advance thereof.

F. The decision of the director may be to grant, grant with conditions or deny any permit applied for and shall be rendered within fifteen (15) days after the application is filed. It shall be in writing and shall state the reasons therefor. Such decision shall be mailed postage prepaid to the property owner. (Prior code § 45.04.217)

SECTION 5.

Section 12.64.070 of the Sacramento City Code is amended to read as follows:

12.64.070 Violation--Penalty.

A. Any person who violates any provision of this chapter including, but not limited to, the property owner, a tenant, a licensed or unlicensed provider of tree services retained by the property owner or tenant, or a licensed or unlicensed provider of tree services acting without the consent of the property owner or tenant, is guilty of a misdemeanor which shall be punished by a fine of not less than five hundred dollars (\$500.00) and not more than one thousand dollars (\$1,000.00) or imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment. For purposes of this chapter "person" includes individuals, partnerships, corporations and other private and public entities. (Prior code § 45.04.219)

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B. Administrative Penalties. In addition to criminal sanctions and other remedies available to the City, administrative penalties may be imposed pursuant to Chapter 1.28 of this code against any person who violates the provisions of this chapter including, but not limited to, the property owner, a tenant, a licensed or unlicensed provider of tree services retained by the property owner or tenant, or a licensed or unlicensed provider of tree services acting without the consent of the property owner or tenant. Imposition, enforcement, collection, and administrative review of administrative penalties imposed shall be conducted pursuant to Chapter 1.28 of this code.

DATE PASSED FOR PUBLICATION:
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ATTEST:

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