

## **ORDINANCE NO. 1544 (2010 Series)**

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### **12.24.010 Purpose and intent.**

A. The public interest and welfare require that the city establish, adopt and maintain a comprehensive program for installing, maintaining and preserving trees within the city.

B. This chapter establishes policies, regulations and specifications necessary to govern installation, maintenance, removal and preservation of trees to beautify the city, to purify the air, to provide shade and wind protection, add environmental and economic value and to preserve trees with historic or unusual value.

C. It is the policy of the city to line its streets with trees and to conduct a consistent and effective program for maintaining and preserving these trees. This policy provides for planting trees in all areas of the city and for selecting appropriate species to achieve the city's goals. It is also the policy of the city to protect and preserve all desirable trees, wherever they are located. It shall be the duty of the director to enforce, implement and carry out this policy and the provisions of this chapter.

D. It is the policy of the city to encourage new tree planting on public and private property and to cultivate a flourishing urban forest with an emphasis on native and drought tolerant species.

E. Trees are essential to the community's well being and the care and planting of all trees will be done in a manner consistent with city policies and standards.

**12.24.020 Tree committee.**

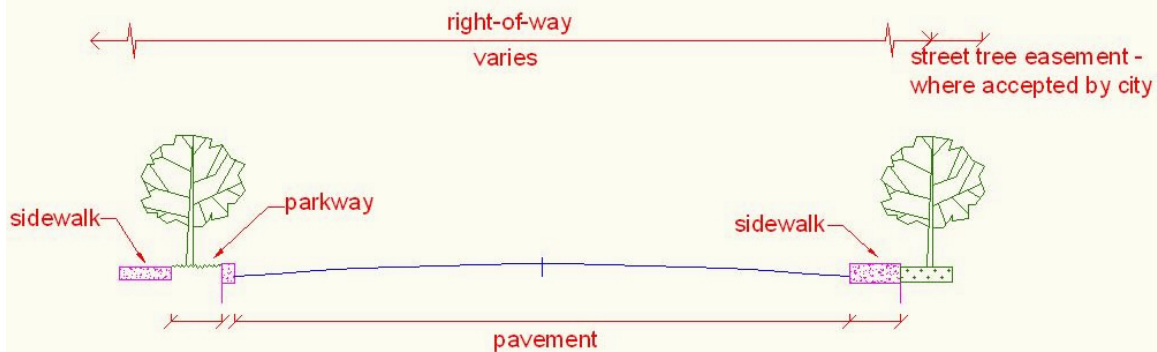
- A. The tree committee shall act as an advisory body to the director and the city council on all matters related to trees in San Luis Obispo.
- B. The tree committee shall have five members who shall serve four-year terms, which shall be staggered.

**12.24.030 Definitions.**

The following words and phrases used in this chapter, unless a different meaning is clearly required by the context, shall have the following meanings:

- A. "City Arborist" means the person employed by the city as the City Arborist responsible for making recommendations in the care, planting, pruning, trimming and removal of all trees in the city.
- B. "Development" means any subdivision, or other action requiring a building permit or any discretionary permit or approval by the City.
- C. "Diameter" means the circumference measured at DSH (Diameter Shoulder Height) or 4'6" as per ISA standards.
- D. "Director" means the public works director or his or her designated representative.
- E. "Downtown District" means the area between Palm and Pacific and Santa Rosa and Nipomo, and extending south between Higuera and Marsh to where Higuera and Marsh meet, including both sides of each street.
- F. "Establish" means to plant and maintain trees during the first years of their life to ensure their survival.
- G. "Heritage tree" means any tree existing within the city limits, which has been so designated by resolution of the city council. Heritage trees shall be trees with notable historic interest or trees of an unusual species or size.
- H. "ISA" means International Society of Arboriculture.
- I. "Major Streets" means those streets identified in the city's current Engineering Standard "Street Trees-Major Streets".
- J. "Master List" means those trees identified in the city's Engineering Standard "Street Trees-Master List".
- K. "Maintain" or "maintenance" means the entire care of trees as well as the preparation of ground and fertilizing, mulching, trimming and watering.
- L. "Native" means the following listed trees:
  - (1) Quercus agrifolia (coast live oak),
  - (2) Umbellularia californica (California laurel),
  - (3) Platanus racemosa (California sycamore),
  - (4) Juglans californica (Southern California black walnut),
  - (5) Salix lasiolepis (willow),
  - (6) Populus trichocarpa (black cottonwood),
  - (7) Heteromeles arbutifolia (California holly toyon),
  - (8) Acer macrophyllum (big leaf maple),
  - (9) Acer negundo (box elder),
  - (10) Quercus lobata (valley or white oak)

- M. “Planting” means new planting and replacement planting.
- N. “Public utility” means any company doing business as a public utility under the jurisdiction of the Public Utilities Commission of the state and any duly constituted public agency authorized to provide and providing utility service.
- O. “Right-of-Way for Street Trees” – See Diagram



- P. “Site Plan” means a map or diagram which will include all buildings, driveways, streets, sidewalks, utilities, trees by size and species and any proposed changes, additions or removals.
- Q. “Street tree” means a tree accepted by resolution of the City Council and growing adjacent to dedicated roadways and within the city’s right-of-way or within a street tree easement accepted by the city.
- R. “Tree” means a woody, perennial plant with one main stem or trunk which develops many branches: most trees are over ten feet tall. This definition shall include any tree planted by or required to be planted by the city which may attain the stated size at maturity.

**12.24.040 Street Trees-Master Lists.**

The tree committee, with the assistance of the public works and community development departments, has developed and will maintain a Street Tree-Master List and a Street Tree-Major Streets list which shall be adopted by resolution of the city council and shall be on file in the public works department, engineering standards. These documents shall specify the species of trees suitable and desirable for planting in certain areas in order to establish a diverse urban forest.

**12.24.050 Tree planting plans.**

- A. The city arborist designates specific tree planting plans for certain neighborhoods, developments or blocks, which specify the species and locations for trees to be planted in those neighborhoods or blocks. Plans are subject to the approval of the tree committee, the architectural review commission or the city council. The city arborist must approve any deviations from these tree planting plans.
- B. Street tree planting for areas without specific tree planting plans, must be selected from the Street Tree Master List.

**12.24.060 Street tree planting and maintenance standards.**

The public works and community development departments, with the approval of the tree committee, shall develop and implement policies and standards for street tree planting and maintenance, which shall be adopted by resolution of the city council.

**12.24.070 Street tree planting requirements.**

- A. Planting street trees may be required as a condition of a use permit, variance or other city entitlement.
- B. Planting street trees shall be required as a condition of approval for all subdivisions and related building permits. The policies and standards for street tree planting and maintenance shall be followed in all instances.

**12.24.080 Street tree planting procedures.**

- A. After planting, all street trees must be inspected and approved by the city arborist or his or her designee.
- B. Required street trees must be planted after completion of each adjacent building and before an occupancy release is issued for the adjacent building.
- C. Property owners shall be required to establish and maintain required street trees adjacent to their property, except as provided elsewhere in this chapter.

**12.24.090 Tree removal.**

- A. Policy. The city values trees as an important part of the natural and economic environment and efforts shall be made to preserve them whenever possible and feasible. When reviewing requests for tree removal permits, the city shall discourage removing desirable trees and shall consider approving removal of desirable trees only as a last resort alternative for the applicant.
- B. Permits for Removal. Removing any tree in the city shall require a tree removal permit, except as otherwise provided in this chapter.
- C. Tree Removal Not Related to Property Development.
  - 1. Removing a tree in all zones except as otherwise provided in this chapter shall require a permit issued by the public works department.
  - 2. An application for a tree removal permit issued by the public works department shall include:
    - a. A site plan showing the location and species of any tree proposed for removal;
    - b. All information to support the reason for removal;
    - c. Any other pertinent information to the request, including documentation of property damage.
- D. Removals for Tree Health or Hazard Mitigation
  - 1. The city arborist may authorize a tree removal upon receipt of a removal application without the need for a permit from public works upon finding any of the following circumstances:
    - a. The tree is an imminent hazard to life or property, and removing it is the only feasible way to eliminate the hazard;
    - b. The tree is dead or dying or damaged beyond reclamation;
    - c. The tree's roots are causing severe damage to public or private property, and removing the tree is the only feasible way to eliminate the damage.
  - 2. When the city arborist cannot authorize a tree removal, the request shall be reviewed by the tree committee, which may authorize removal if it finds one of the following circumstances:
    - a. The tree is causing undue hardship to the property owner. Normal routine maintenance does not constitute a hardship, i.e., cleaning of gutters, leaf raking, pruning or root intrusion into a failed sewer lateral, etc.; or

- b. Removing the tree promotes good arboricultural practice; or
- c. Removing the tree will not harm the character or environment of the surrounding neighborhood.

E. Tree Removal with a Development Permit.

1. To remove a tree from any parcel in the city as part of property development by subdivision, building permit or other entitlement, the developer shall clearly delineate trees proposed to be removed as part of the development application and approval process.

All development applications which include tree removals shall include the following documents:

- a. A site plan showing the location and species of any tree proposed for removal;
- b. All information to support the reason for removal;
- c. Any other pertinent information required.

2. Review of the application to remove a tree with a development permit shall proceed as follows:

a. The city arborist shall inspect the property and recommend approving or denying the application;

b. If no architectural review is required for the development, the tree committee shall approve or deny the application;

c. If architectural review is required for the development, the architectural review commission shall approve or deny the application:

(1) If the city arborist has recommended denying the application and the architectural review commission has approved the application, the tree committee shall review the architectural review commission's decision;

(2) If the tree committee concurs with the city arborist's recommendation to deny the application when the architectural review commission has approved the application, the city council shall review the matter for final action.

F. Permit Not Required

Removing a tree in R-1 & R-2 zones only, does not require a permit if all of the following conditions exist:

a. The tree is a designated native species and the trunk is less than ten (10) inches DSH (see Definitions; native trees) or when the tree is non-native and the trunk is less than twenty (20) inches DSH; and

b. The tree is more than twenty-five feet from the top of a creek bank; and

c. The tree is on a lot developed to the maximum allowed density; and

d. The tree is not a street tree, and is not located within ten feet of the back of the sidewalk; and

e. The tree was not a condition of development.

f. The tree is a palm and the trunk is less than 12 inches DSH.

G. Tree Removal by the city.

1. Tree removal requests for any city project must follow the same procedures as any property owner.

2. After receiving approval to remove a tree, the city shall replace the tree as soon as feasible during the project.

H. Notification of Tree Removal.

1. The city shall post a sign notifying the public of the date and description of a proposed tree removal. This sign shall be posted in a prominent location, visible from a public street, for a period not less than five days before either staff consideration of a tree removal permit or a public hearing on a related development.

2. The public works director may waive notification requirements for a tree removal when the director determines that a tree's condition threatens public health, safety or welfare.

I. Approval Conditions. In approving an application for tree removal, the director, the tree committee, the architectural review commission or the city council may require planting of replacement trees and may require a bond ensuring that replacement trees shall be planted and maintained.

J. Expiration of Appeals. Decisions on tree removal by the director, the tree committee and the architectural review commission shall be subject to appeal according to the appeal provisions of this code, and no permit shall be issued until the appeal period has lapsed.

K. City Street and Sidewalk Maintenance Program.

1. The city has a program whereby staff evaluates and repairs sidewalks and streets on a predetermined schedule. When the city determines a street tree must be removed to repair the sidewalk, the city will pay all costs to repair sidewalk, curb, and gutter, remove the tree and plant a new tree.

2. If a property owner wishes to remove a street tree and repair hardscape damage they may do so at their own expense, if the removal is approved by the tree committee. The property owner shall pay for the necessary hardscape repairs, and be required to plant and maintain a new tree as a condition of their approved tree removal permit unless tree replacement is waived by the tree committee.

#### **12.24.100 Control of trees and shrubs for protection of public safety.**

A. To prevent hazards to the public, property owners shall maintain all trees, shrubs and other plant growth on their property or adjacent to their property and within the public right-of-way and shall at all times ensure that no tree shrub or other plant for which the property owners bears responsibility is maintained so as to create a dangerous condition of public property. Hazards shall include, but not be limited to, branches hanging over sidewalks and shrubbery growing into the right-of-way which interferes with passage or visibility.

B. The city will notify property owners of known hazards by posting abatement notices according to the Streets and Highways Code, Improvement Act of 1911, Sections 5610 through 5618, or as subsequently amended.

C. Any tree or shrub growing on private property that, in the opinion of the director, endangers public property shall be removed or trimmed by the property owner within fourteen days after receiving notice from the director. If the property owner fails to remove or trim the trees or shrubs, the city will conduct the work and assess the property owner for the cost of the City Tree Crew or for a Contractor to do the work. Any removal and trimming costs shall become a lien on the property if not paid by the property owner after being billed by the City. These costs shall be recorded with the county recorder's office. The assessment may be collected by court action.

D. To the fullest extent permitted by law, the property owner shall bear responsibility for injuries to and shall be responsible for any liability caused by or resulting from the property

owner's negligent failure to maintain or repair any tree, shrub or plant growth as required by this Chapter.

E. In case of emergency caused by a tree in a hazardous condition, the tree may be removed by order of the director.

F. Emergency tree services.

The city may provide on-call tree services in emergencies. Emergencies include fallen trees and other immediate safety hazards. The director shall determine if an emergency exists.

#### **12.24.110 Street tree maintenance.**

A. Street trees will be pruned and sprayed based on a predetermined schedule approved by the public works director. Owners may wait for scheduled maintenance or may have their street trees pruned by an International Society of Arboriculture certified arborist at their own expense.

B. The city's pruning of street trees shall not relieve property owners of their responsibility to prevent hazards as required in Section 12.24.100, and to complete all other interim maintenance.

C. The city will maintain all street trees in the downtown commercial area and on major streets.

#### **12.24.120 Tree maintenance by public utilities.**

A. A public utility shall obtain a permit, issued by the director and valid for one year from the date of issuance, in order to maintain trees growing adjacent to utility fixtures or apparatus. This permission shall cover trees which encroach upon public streets.

B. When maintaining street trees, a public utility must observe good arboricultural practices, as specified by International Society of Arboriculture Western Chapter Pruning Standards.

C. When public utility pruning affects ten percent or more of a street tree's natural canopy, or when there are energized utility lines closer than ten feet from a street tree's main trunk or trunks, the public utility shall provide complete pruning of the entire tree.

#### **12.24.130 Tree service contractors.**

A. Any tree service provider doing business in the City of San Luis Obispo must have the appropriate contractors license, city business license, and at least one currently certified ISA arborist on its staff overseeing any work done in the city. This arborist must oversee all pruning work and certify that all work meets the city's pruning specifications.

B. All tree trimming work must conform to Western Chapter of the International Society of Arboriculture pruning standards, OSHA safety regulations and ANSI standards.

C. Any tree work involving staging in the right-of-way requires an encroachment permit.

#### **12.24.140 Responsibility for repairing tree damage to curbs, gutters and sidewalks.**

A. When roots of a street tree damage city curbs, gutters and sidewalks, including driveway ramps, the city shall be responsible for appropriate corrective measures which are least damaging to the tree. Work will be undertaken in accordance with Section 12.24.090 J.

B. When roots of a tree, other than a street tree, damage city curbs, gutters and sidewalks, including driveway ramps, the property owner shall be responsible for appropriate corrective measures which are least damaging to the tree.

C. When the city installs new sidewalks, curb or driveway approaches the city shall seek alternative options to preserve desirable trees. When trees must be removed it shall be the responsibility of the city to remove any trees. Any trees so removed shall be replaced at the city's expense with acceptable trees from the Master Tree List.

D. When a property owner installs or repairs sidewalk, curb or driveway approach, the property owner shall seek alternative options to preserve desirable trees. When trees must be removed, removal shall be at the expense of the property owner. Any trees so removed shall be replaced by the property owner with acceptable trees from the Master Tree List in a location approved by the city arborist.

#### **12.24.150 Protection of trees.**

A. No person shall:

1. Trim, prune or cut any tree unless such work conforms to this chapter and is performed in accordance with all International Society of Arboriculture standards. In no case shall more than one-third of the tree canopy be removed.

2. Interfere, or cause any other person to interfere, with employees of the city who are engaged in planting, maintaining, treating or removing any tree or removing any material detrimental to the tree.

3. Willfully injure, disfigure or intentionally destroy by any means any tree, except with permits described elsewhere in this chapter.

4. Construct concrete, asphalt, brick or gravel sidewalk, or otherwise fill up the ground area near any tree, to shut off air, light or water from the roots, except under written authority from the public works department.

5. Place building material, equipment or other harmful substance near any tree, which might cause injury to the tree.

6. Post any sign on any tree, tree-stake or guard, or fasten any guy wire, cable or rope to any tree, tree-stake or guard, except when said activity relates to slack lining (The act of balancing and tight rope style walking on a suspended line) and is conducted in an area designated by City council resolution for slack lining...

7. Plant any street tree except according to policies, regulations and specifications established pursuant to this chapter or any currently applicable ordinances or code sections.

B. Tree-stakes or guards may be placed around street trees by property owners for the purpose of protecting or training the trees, with approval of the director.

C. It shall be unlawful for a property owner to maintain a tree or shrubbery hazard as described in Section 12.24.100 and identified by city inspection.

D. Any tree required to be planted must be maintained in good health or replaced by property owner.

E. Any person or contractor deemed responsible for damaging any tree in violation of this ordinance shall be liable for penalties to the city according to Chapter 12.24.170, Enforcement.

F. The City Council may designate slack lining areas in City parks. Such an area is designated by City Council resolution in Meadow Park.

#### **12.24.160 Heritage trees.**



A. The city recognizes the important role trees have played in the history and development of San Luis Obispo and recognizes that a wide variety of trees can grow in its unique and temperate climate.

B. Any healthy tree within the city limits may be proposed as a heritage tree. The city arborist and tree committee review each proposed heritage tree and, with the owner's consent, recommend suitable candidates to the city council for official designation as heritage trees.

C. The city shall protect and maintain all designated heritage trees. Heritage trees shall be pruned according to a schedule developed and approved by the public works director. All interim maintenance shall be the responsibility of the property owner.

#### **12.24.170 Enforcement.**

The public works department shall be responsible for enforcement of this chapter.

A. Any person deemed responsible for damaging a tree or removing a tree without a permit as described in this chapter shall be liable for civil penalties to the city.

(1) The civil penalties shall be the value of the tree times two, plus all staff costs related to the illegal tree removal or tree damage. The city arborist will compute the value of the tree using methods established by the International Society of Arboriculture.

(2) The property owner shall also be held responsible for damaging or removing a tree on the owner's property without a permit as described in this chapter and be liable for additional civil penalties to the city as described above 12.24.170A(1).

(3) If the tree removal or damaged tree is related to any development or subdivision then the civil penalties shall be the value of the tree times four, plus all related staff costs.

(4) In addition to civil penalties the property owner will be required to plant up to three trees under the direction of the city arborist. The size of the tree shall be determined by the city arborist and may be up to a 48" box tree.

(5) For damaged trees, in addition to civil penalties, the property owner will be required to obtain the services of an ISA certified arborist to determine the future viability of the tree and if salvageable, create a maintenance plan to restore the tree.

(6) The city council may adopt, by resolution, alternate civil damage amounts to be assessed against any person deemed responsible for damaging, harming or removing a tree without a permit.

#### **12.24.180 Appeals.**

A. In accordance with the provisions of San Luis Obispo Municipal Code, Chapter 1.20, any person aggrieved by an act or determination of the staff in exercising the authority herein granted shall have the right to appeal to the tree committee, whose decisions are appealable to the city council.

B. Appeals received by the city clerk within ten calendar days from the date of determination or act shall cause the public works director to withhold tree removal permits and stop any construction or demolition activity affecting the subject tree until the appeal is heard and a decision is reached.

**12.24.190 No liability upon the city.**

Nothing in this chapter shall be deemed to impose any liability upon the city or upon any of its officers or employees, nor to relieve the owner or occupant of any private property from the duty to keep in safe condition any trees and shrubs upon that private property or upon sidewalks and planting areas in front of that property.