

10.52.120 - Tree preservation and restoration in residential zones, Area Districts I and II.

- A. **Purpose.** Tree preservation is necessary for the health and welfare of the citizens of the City of Manhattan Beach in order to provide cooling shade and beauty, increase property values, minimize spread of disease to healthy trees, conserve scenic beauty, prevent erosion of topsoil, protect against flood hazards, counteract pollutants in the air, and generally maintain the climatic and ecological balance of the area.

These regulations strive to preserve and enhance the existing healthy tree canopies on individual residential properties as well as the overall neighborhood, in order to maintain the neighborhood character, while allowing flexibility for removal of existing trees that may be inappropriate for an area or causing damage. The intent is to enhance the future tree canopy of the City, striving to provide the right trees in the right location.

The intent of this section is also the reasonable retention and preservation of healthy trees while considering and balancing the reasonable enjoyment of private property. The design of residences, including grading, driveways, walkways, patios, utilities and right-of-way improvements, shall consider and accommodate existing healthy protected trees, as reasonably feasible.

The purpose of the Tree Trimmers Permit is to provide standards so that trees are pruned properly in order to protect the City's tree canopy and to provide residents with a list of permitted Tree Trimmers.

B. General Requirements.

1. Except as provided in subsection I (Exemptions), no person shall directly or indirectly remove or cause to be removed, or relocate any protected tree as herein defined, from residentially zoned properties within Area Districts I and II, without first obtaining a permit to do so in accordance with the procedures set forth in this section.
2. No person shall directly or indirectly neglect, abuse, damage, mutilate, injure or harm any protected tree as herein defined, from residentially zoned properties within Area Districts I and II.

C. Definitions.

1. "Protected tree" shall include: any species of tree, (excluding deciduous fruit-bearing trees and Washingtonia species palms) the trunk of which is located at least partially within the required front yard or streetside yard (on corner lots) of a site, with a trunk diameter of twelve inches (12") or greater or multiple trunks totaling twelve inches (12") in diameter or greater at a height of four and one-half feet (4.5') from existing grade; and any replacement tree required pursuant to this section.
2. A "tree permit" is a permit required for the removal, relocation or replacement of a protected tree.

3. A "tree plan" shall mean a plot plan (scale $\frac{1}{8}$ inch = 1 foot, minimally) with all trees on the subject property identified by location, size and species, including:
 - a. Footprint of all existing and proposed buildings and/or additions to buildings on the property;
 - b. Location of all trees within the front and streetside yards, in the adjacent public right-of-way and on adjacent properties within ten feet (10') of the subject property adjacent to the front and streetside yards;
 - c. Size (diameter and height) and species of each tree;
 - d. Location of drip line for each tree;
 - e. Designation of tree(s) to be removed, saved, relocated and/or replaced;
 - f. Proposed location, size and type of replacement tree(s);
 - g. Photos of all trees in front and streetside yards.

D. Preservation of Trees During Grading and Construction Operations.

1. All protected trees, as defined above, shall be preserved and protected, and may be only be removed or relocated with prior approval of a Tree Permit provided they are replaced or relocated in accordance with the provisions of this section.
2. Trees required to be retained shall be protected during demolition, grading, and construction operations by methods subject to the approval of the Community Development Director.
3. Care shall be exercised for trees to be preserved so that no damage occurs to said trees. Advisory sign(s) that identify the tree protection requirements shall be clearly posted on the site. All construction shall preserve and protect the health of trees:
 - a. Remaining in place;
 - b. Being relocated;
 - c. Planted to replace those removed;
 - d. Adjacent to the subject property.
4. Any tree which is adjacent to the subject property and may be potentially impacted by construction activity on the subject property shall be protected pursuant to the provisions of this chapter.
5. No grading or construction, including structures, paving, and walls, that disrupts the root system on private as well as public property, shall be permitted without prior approval by the Community Development Director. As a guideline, no cutting of roots over two inches (2") in diameter should occur within the drip line of the tree as measured at ground level. Where some root removal is necessary as approved by the City the tree crown may require thinning to prevent wind damage.

6. Required public right-of-way improvements shall take priority over tree preservation, however alternative designs and materials, including but not limited to modified dimensions, permeable surfaces and planter areas with irrigation, shall be considered and implemented, as feasible.
7. Relocation of protected trees shall only be allowed if the Community Development Director determines that the relocation will not be detrimental to the health of the tree or to other protected trees.
8. No fill material shall be placed within the drip line of any tree.
9. The Community Development Department may impose special measures determined necessary to preserve and protect the health of trees to remain on site.

E. Tree Permit Applications—Without Building Permit.

1. Any person desiring to remove or relocate one (1) or more protected trees shall obtain a Tree Permit from the Community Development Department. A fee, as specified in the City's Fee Resolution, shall be required for a Tree Permit.
2. Tree Permit applications shall include a Tree Plan, and written proof of neighbor notification pursuant to applicable permit instructions and may also include an arborist's report.
3. A bond, cash deposit or other financial security, may be required to ensure required replacement trees are planted and/or that existing protected trees are properly protected, as determined to be appropriate by the Community Development Director.
4. The Community Development Director, when approving Tree Permits, shall determine the adequacy and appropriateness of the submitted plan, neighbor input, and other related information.

F. Tree Permit—With Building Permit.

1. Application for a Building Permit shall require a Tree Permit/Acknowledgement and Plan as defined above, if protected trees are located on the property.
2. A Tree Permit shall be required if the proposed project may impact existing trees in the front or streetside yard of the subject property even though removal is not planned.
3. A fee, as specified in the City's Fee Resolution, shall be required for a Tree Permit.
4. A bond, cash deposit or other financial security, may be required to ensure required replacement trees are planted and/or that existing protected trees are properly protected, as determined to be appropriate by the Community Development Director.
5. Any new residential construction project in Area Districts I and II which exceeds fifty percent (50%) valuation (total estimated cost of reconstructing the entire structure as defined by Section 10.68.030 of this Code) shall be required to plant a minimum of one (1)

new thirty-six inch (36") box tree, unless the Director of Community Development determines that it is inappropriate to require additional tree(s) on the property.

G. Tree Removal Permit Process. A Tree Permit application is required for the removal and replacement of protected trees.

1. **Criteria and Findings.** In making a determination to approve a Tree Removal Permit application, the Director of Community Development shall require that the following criteria be met:
 - a. A finding shall be made that the application is consistent with the Purpose portion of this Section.
 - b. The age, species, history, and location of the tree in relationship to other trees, and existing and proposed surrounding structures, utilities and other improvements, shall be considered.
 - c. At least one (1) of the following criteria shall be met:
 - i. The tree is dead, or
 - ii. The tree is a health or safety hazard, or is structurally unstable, or
 - iii. The tree is dying or in marginal condition and reasonable alternatives to preserve or rejuvenate the tree have been implemented unsuccessfully or have been analyzed, and are not feasible, or
 - iv. Residential buildings shall take priority over tree preservation, however alternative designs and materials, shall be considered and implemented, as feasible, with the proposed overall design of the project, or
 - v. The tree is causing or will cause in the near future, significant damage to public or private property, which creates a liability, health or safety concern, and can not reasonably be repaired, maintained or corrected. Trees causing damage to sewers, water lines or other similar private underground utilities, in itself shall not be considered to meet the criteria for removal and replacement, or
 - vi. The tree is obstructing protected solar access as regulated by California State law, Solar Shade Control Act, Public Resources Code 25980-25986, and the tree can not be reasonably pruned or maintained in accordance with the State requirements.
2. **Arborist Report and Documentation.** The Director may require the applicant to submit a report from an ISA certified arborist or other horticultural professional, and/or historical or other support documentation in order to substantiate that the required criteria and findings have been met. The City arborist and/or other City staff may review the information. All costs shall be the responsibility of the applicant.
- 3.

Third Party Arborist. If the applicant's arborist or other horticultural professional is not in agreement with the findings of the City arborist or staff a third party ISA certified arborist, agreed to by the applicant and the City, may be contracted to mediate the situation. The cost of this third party arborist shall be shared between the applicant and the City.

- H. **Replacement Trees.** Required replacement trees shall be minimum thirty-six inch (36") box trees for each protected tree removed of an appropriate species and must be planted within ninety (90) days after the removal of the tree, or prior to issuance of a building permit final. Actual sizes, species, location, and quantities of replacement trees are subject to Community Development Director approval. The City street tree list may be used as a guideline by the Director in determining appropriate replacement tree(s). A combination of protected and replacement tree quantities shall not result in less than one (1) protected tree per lot or thirty feet (30') of site frontage. If the Director of Community Development determines that there is not adequate room on the property for replacement tree(s) due to the number of existing trees to remain, then the requirement for replacement trees may be modified or waived.
- I. **Exemptions.** Tree removals and alterations exempt from the requirements of this section are as follows:
1. Removal in case of imminent emergency caused by the hazardous or dangerous condition of a tree, requiring immediate action for the safety of life or property (e.g., a tree about to topple onto a dwelling due to heavy wind velocities) with the prior approval of the Director of Community Development or his or her designee if a subsequent application for a Tree Permit is filed within five (5) working days.
 2. Removal of any tree that is determined to be a public nuisance in accordance with Section 7.32.070, with prior approval of the Directors of Community Development and Public Works or his or her designee if a subsequent application for a Tree Permit is filed within five (5) working days.
 3. Removal of deciduous fruit-bearing trees, *Washingtonia robusta*, or *Washingtonia filifera*.
 4. Public utility actions, under the jurisdiction of the Public Utilities Commission of the State of California, as may be necessary to comply with their safety regulations, or to maintain the safe operation of the facilities.
 5. Cutting of tree branches and roots extending across property lines into adjacent property, to the extent that the pruning complies with the American National Standards Institute (ANSI A300) standards and does not damage or potentially damage the health and structure of the tree(s).
 6. Cutting of tree branches and roots to the extent that the pruning complies with the American National Standards Institute (ANSI A300) requirements and does not damage or potentially damage the health and structure of the tree(s).

J. Tree Trimmers Permit.

1. **Permit Requirements.** Any person pruning any private property protected tree in the City must have a Tree Trimmers Permit. Residents are responsible for hiring City licensed Tree Trimmers. Residents pruning their own trees are exempt from obtaining a Tree Trimmers Permit but must still comply with the ANSI A300 standards.
2. **Standards.**
 - a. **All Tree Trimmers and Residents.** Protected trees must be pruned in accordance with ANSI A300 pruning standards, which include, but are not limited to, the following standards:
 - i. Generally no more than twenty-five percent (25%) of living foliage should be removed annually, and
 - ii. Topping of trees is generally prohibited.
 - b. **All Tree Trimmers.** The following standards must also be met when pruning protected trees:
 - i. A notice provided by the City shall be posted on the site, in accordance with the requirements stated in the Tree Trimmers Permit.
 - ii. The State of California may require contractor's to have one (1) of the following licenses if the total cost of the job exceeds a dollar value established by the State:
 - aa. C27—Landscaping Contractor, or
 - bb. C61—Limited Specialty Classification and D49 Tree Service.

K. **Non-liability of City.** Nothing in this section shall be deemed to impose any liability for damages or a duty of care and maintenance upon the City or upon any of its officers or employees. The person in possession of any private property shall have a duty to keep the trees upon the property and under his control in a safe and healthy condition.

L. **Violation/Penalties.** Violation of this chapter shall be punishable as a misdemeanor or an infraction subject to the discretion of the City Prosecutor with the following additional penalties:

1. **Suspension, Revocation and Restoration.** In addition to any other penalties allowed by this Code, the Director of Community Development may suspend any Tree Permit. The Planning Commission or City Council may suspend the Tree Permit for a Discretionary Project upon a finding at a public hearing that a violation of conditions of approval has occurred.
2. **Stop Work Orders.** Whenever any construction or work is being performed contrary to the provisions of this section or condition of approval of the applicable discretionary project the Director of Community Development may issue a written notice to the

responsible party to stop work on the project on which the violation has occurred or upon which the danger exists. The notice shall state the nature of the violation and the risk to the trees. No work shall be allowed until the violation has been rectified and approved by the Director of Community Development.

3. **After-the-Fact Permit Fees.** The standard permit fee shall be doubled for tree removals or other work requiring a Tree Permit pursuant to this section when commenced prior to issuance of said permit.

M. **Administrative Fines.** The Director of Community Development may impose a fine against any person who is in violation of any provision of this section. Such fine shall be a range as specified in the City Fee Resolution. The proceeds of all administrative fines imposed under this section shall be placed in a "Tree Canopy Restoration Fund" to be used solely for the replacement and maintenance of trees in the public right-of-way or on public property within the City.

1. Any person upon whom a fine is considered to be imposed pursuant to this section shall be entitled to a written notice of the pending decision of the imposition of the fine within ten (10) calendar days of the decision of the imposition of the fine. The notice shall state the amount of the fine, the reason for the proposed imposition of the fine and the authority for imposing the fine. The notice shall also state that the person upon whom the fine is proposed to be imposed has a right to request a hearing to protest the proposed decision of imposition of the fine and the time and method by which a hearing may be requested.
2. Any person upon whom a fine authorized by this section is proposed to be imposed may request, in writing, a hearing to protest the proposed fine. The request must be filed with the City Clerk within ten (10) calendar days from the mailing date of the notice of the proposed fine. The failure to timely file a written request for a hearing shall constitute a waiver of the right to a hearing.
3. Upon timely receipt of a request for a hearing, the City shall, within ten (10) calendar days of receipt of such a request hold a hearing to be presided over by the Director of Community Development or his or her designee. This presiding officer shall determine the procedure and rules for the conduct of the hearing. The ruling of the presiding officer, notwithstanding any other provision of this Code shall be final.
4. If the Director determines that a fine is due, and the fine imposed by this section is not paid within fifteen (15) calendar days of its becoming due and payable the City may file a lien in the amount of the fine plus interest at the legal rate, which may be recorded on any property owned by the individual subject to the fine which is located in the City.
5. In the event that a civil action is filed regarding any provision of this subsection M, the City shall be entitled to attorney fees if it prevails.

N. **Effective date—Appeals.** Unless appealed in accordance with Chapter 10.100, a Tree Permit decision shall become effective after expiration of the time limits for appeal set forth in Section 10.100.030.

(Ord. No. 1884, Enacted August 19, 1993; § 2, Ord. 2045, eff. May 6, 2003, as amended by § 2, Ord. 2082, eff. March 21, 2006; §§ 2—9, Ord. 2121, eff. April 3, 2009)