

ORDINANCE NO. 20-0009

AN ORDINANCE OF THE CITY OF MANHATTAN BEACH
AMENDING MUNICIPAL CODE CHAPTER 7.32 OF TITLE 7
REGARDING TREE, SHRUB AND PLANT REGULATIONS

THE MANHATTAN BEACH CITY COUNCIL DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 7.32 of Title 7 is hereby revised to read as follows:

7.32.010 - Purpose.

Official tree, shrub and plant regulations for the City are hereby adopted and established to serve the public health, safety and general welfare. To that end the purposes of this chapter are specifically declared to be as follows:

- A. Improve general aesthetic values;
- B. Reduce traffic noise;
- C. Deflect glare and heat;
- D. Lower wind velocity;
- E. Purify air;
- F. Increase property values;
- G. Provide cooling shade and beauty;
- H. Provide for the proper selection of trees, shrubs and plants in the public right-of-way and public places;
- I. Minimize interference with street and traffic lighting and overhead utility lines;
- J. Minimize the spread of disease to healthy trees;
- K. Minimize danger of falling trees and limbs onto streets, sidewalks and private property;
- L. Promote the preservation of existing trees that are healthy;
- M. Select trees of longevity and suitability to the environment; and
- N. Minimize the amount of potable water used for landscape irrigation.

7.32.020 - Definitions.

Whenever in this chapter the words or phrases hereinafter in this section defined are used, they shall have the respective meanings assigned to them in the following definitions:

- A. "ANSI" shall mean American National Standards Institute.
- B. "ISA" shall mean International Society of Arboriculture.
- C. "City" shall mean the City of Manhattan Beach.

- D. "Community Development Director" shall mean the Community Development Director of the City of Manhattan Beach or his or her designee.
- E. "Parkway" shall mean that portion of the public right-of-way, or highway other than the roadway or sidewalk.
- F. "Public Right of Way" shall include all public places and areas, streets, highways and other public rights-of-way within the City and all other properties owned by the City of Manhattan Beach.
- G. "Public Works Director" shall mean the Public Works Director of the City of Manhattan Beach or his or her designee.
- H. "Street trees" shall mean trees and shrubs in the public right-of-way, along City streets, roads, boulevards and alleys.
- I. "Trees and shrubs" shall include all woody vegetation now or hereafter growing, planted or to be planted on any public place or area.

7.32.030 - Enforcement.

The Public Works Director shall have jurisdiction and control of the kind and type of planting, setting out, location, trimming, maintenance and removal of all trees and shrubs on City property and in the public right-of-way, and the supervision of all trees planted or growing in such places.

7.32.040 - Permits.

- A. It shall be unlawful, and it is hereby prohibited for any person, firm, association, corporation or franchisee of the City to plant, move, remove, destroy, top, mutilate, deface, injure, or replace any tree or shrub in, upon or along any public right-of-way within the City or to cause the same to be done without first obtaining a written permit from the Public Works Director. This permit shall specifically describe the work to be done.
- B. Application for a tree permit shall be made to the Public Works Director at least seven (7) days in advance of the time the work is to be done. The work shall be done within thirty (30) days from the date the permit is issued unless otherwise stated.
- C. The Public Works Director shall inspect the work in progress and make a final inspection upon completion of the work. The Applicant will be responsible for notifying the Director of the work's progress.
- D. Except where a tree or any tree part compromises the safety or integrity of all or part of a public utility, is hazardous, or poses a threat to public health, safety, or welfare (an "emergency", for purposes of this paragraph), it shall be unlawful and is hereby prohibited for any person, firm, or franchisee maintaining any overhead wires or pipes or underground conduits along or across any street, avenue, highway, park, parkway or public place within the City to have any tree or shrub trimmed or removed from any public place or area without first obtaining a written permit from the Public Works Director for the specific work to be done. If an emergency occurs during normal business hours, the Director shall be notified of

the necessary work immediately. If an emergency takes place after hours, the Director shall be notified no later than start of business the next morning.

- E. The Public Works Director may issue a tree permit for the removal of a street tree where it is in nonconformance with the Urban Forest Master Plan, or has been classified as a public nuisance according to Section 7.32.070, or is in such a condition as to present a threat to the maintenance of any overhead wires or pipes or underground conduits or pipes along or across any street.
- F. A fee, established by the Council under separate resolution, shall be required for a permit to remove a tree. The fee shall be refunded in the event the property owner replaces the removed tree within ninety (90) days with an approved tree from the Manhattan Beach approved Street Tree List, installed per the Public Works Department Tree Planting Detail, ST-14. Replacement trees shall comply with the American Standards for Nursery Stock ANSI Z60.1-2014 or latest edition. In the event the property owner does not replace the tree, the City will install a replacement tree, retain the fee, and bill the property owner for the balance of the actual cost of purchase and installation.

7.32.050 - Maintenance.

- A. It is hereby made the duty of all owners and persons having possession and control of real property within the City to cultivate and care for and provide complete maintenance of all trees, shrubs, lawns and ground covers now or hereafter planted or set out within any of the streets, avenues, highways and parkways adjacent to their real properties. This paragraph when applied to those certain residents and property owners designated in Manhattan Beach City Ordinance No. 916 shall not be construed to preclude access of vehicles for the planting, cutting, pruning, or removal of such trees, shrubs, lawns and ground covers provided that permission is first obtained from the Public Works Director for such access.
- B. It shall be the duty of all owners and persons having possession or control of real property within the City promptly to notify the Public Works Director of any tree or shrub in a public area immediately adjacent to his property which is in such condition as to be a menace to public safety, dangerous to life or property, or infringes on or impedes use of the public right-of-way.

7.32.060 - Abuse or mutilation of trees.

It shall be unlawful for any person to:

- A. Damage, cut, carve, etch, hew or engrave, or injure the bark of any street tree;
- B. Allow any gaseous, liquid, or solid substance harmful to trees to come in contact with any part of any street tree;
- C. Deposit, place, store, or maintain upon any public area any stone, brick, concrete, or other materials which may impede the free passage of air, water and fertilizer to the roots of any tree or shrub growing therein, except by written permit of the Public Works Director;
- D. Except as may be authorized by the provisions of Section 7.32.040, damage, tear up, or destroy any shrubs, or trees planted upon or in any area in the public right-of-way;

- E. Paint, tack, paste, post or otherwise attach or place any advertisement, notice, card or announcement or any printed or written matter or any wire, board, platform or injurious material of any kind upon any tree or shrub situated in any public place or area in the City; and
- F. Top, mutilate, exceed 25% of foliage removal in a growing season or any form of pruning not in accordance with ANSI A300 (Part 1)-2017 Pruning or latest edition or the ISA (International Society of Arboriculture) or latest edition.
- G. Administrative Fines. The Public Works Director may impose a fine against any person who is in violation of any provision of this section in such an amount as may be authorized by the provisions of Section 1.06.040. 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 tree in the public right-of-way or within the City.

7.32.070 - Public nuisance.

The Council, pursuant to the power and authority vested in it to do so under the provisions of Sections 38771 and 38773 of the Government Code of the State, does hereby find and declare that any of the following is apt to cause injury or damage to persons or property, or constitutes a then present menace or threat to life or property, or constitutes and is a nuisance, and shall be subject to abatement as such by civil action or summarily as provided by law:

- A. Any dead, diseased, infested, leaning or dying trees on private property so near to any street as to constitute a danger to street trees, or streets, sidewalks, or portions thereof, or the life, health or safety of the public.
- B. Any tree, shrub or plant on any private property or in a parkway of a type of species apt to destroy, impair or otherwise interfere with any street improvement, sidewalk, curb, approved street tree, gutter, sewer or other public improvements including water utilities or services.
- C. Any tree or shrub or parts thereof growing upon private property but overhanging or interfering due to leaf, fruit or limb drop with the use of any public right-of-way within the City such that in the opinion of the Public Works Director endangers the life, health, safety or use of public rights-of-way.
- D. The existence of any branches or foliage on private or public property which interferes with visibility on, or free use of, or access to any portion of any street improved for vehicular or pedestrian travel.
- E. Trees in the public right-of-way which constitute a public nuisance shall be removed, replaced or trimmed at the expense of the adjoining property owner as ordered by the Public Works Director.
- F. It shall be the duty of all owners and persons having possession and control of real property within the City to abate any public nuisances referred to in this section that occur on their real properties.
- G. The procedures for notice, service of notice, hearing, abatement and removal by the City, and collection of the cost of the work by tax lien as provided in Chapter 9.68 of this Code shall be utilized.

7.32.080 - General provisions.

A. Species or Varieties of Street Trees:

The Public Works Director shall prepare a list of street trees which may be planted in each of the parkway areas of the City, which list shall be available to the public to aid in the choice of trees to be planted. These trees shall be sized according to the Tree Replacement Trunk Formula listed in subdivision (C)(9) of this section. This list may be modified as experience indicates the desirability of such modification. The original list and any modifications thereto shall be approved by the Public Works Director.

B. Planting of New Street Trees:

1. All planting shall be in good horticultural practice as determined by the American Standards for Nursery Stock, ANSI Z60.1-2014 and Department of Public Works Tree Planting Detail ST-14.
2. All planting on unpaved streets or other public rights-of-way without curb must have the special permission of the Public Works Director who shall determine the tree's exact location so that it will not be injured or destroyed when the street is improved.
3. Spacing of trees shall be determined by the Public Works Director according to local conditions and species to be used, their mature height, spread and form.
4. The recommended size shall normally be that designated as 24" box size. The minimum size acceptable shall be a fifteen (15) gallon size. However, the Director of Public Works may require a larger tree to be install if there is adequate planting space available.

C. Tree Pruning, Root Pruning, Tree Removal and Tree Replacement:

1. The property owner shall normally assume responsibility for tree maintenance, irrigation, and removal. Public trees shall be maintained by State licensed tree service contractor, and work shall be performed in accordance with the American National Standards Institute, ANSI A300 (Part 1) & ANSI Z133-2012 Safety Requirements or latest edition.
2. During pavement, curb and gutter, sidewalk or residential construction, trees in the public right-of-way shall be protected and managed per ANSI A300 (Part 5) – 2012 Construction and ANSI A300 (Part 8) – 2013 Root Management, or latest editions.
3. Pruning of trees with trunks greater than six-inches in diameter shall be performed by a company with a C-61–Limited Specialty Classification and D-49 Tree Service.
4. Tree pruning should not be performed during the summer months due to the irreversible effects of foliage loss, sun scolding, and excessive flow. Therefore, tree pruning operations shall only be allowed between **September 1 and March 31**. Emergencies, clearance, access, and visibility issues are excluded from this provision.

5. California Department of Fish and Game Code Section 3503 states “It is unlawful to take, possess or needlessly destroy the nest or eggs of any bird,” therefore, it shall be the homeowner’s responsibility to bypass and leave undisturbed any or all trees scheduled for removal if active nesting birds or eggs are found to occupy the tree(s) during the nesting season from April 1 through August 31.
6. Except as may be provided for in subdivision (E) of Section 7.32.070, the City will not remove a tree in the parkway adjoining any property unless such tree is a hazard to street maintenance or other services of the City. Responsibility and expense of all other tree removals shall be borne by the requesting property owner, person, firm, association, corporation or franchisee.
7. Trees may be authorized for removal by the Public Works Director if they are in critical condition with evidence provided of their risk. Critical condition trees are candidates for removal based on risk they present to targets, likelihood of failure, and other hazards posed to public safety. These are to be assessed by an ISA Tree Risk Assessment Qualified (TRAQ) Arborist who shall submit a Tree Risk Assessment, which will be evaluated as part of permit process.

EXCLUSIONS FROM AUTOMATIC EXEMPTION: Tree will not be recommended for removal if assessment shows that structural defect or hazard can be reasonably mitigated with measures other than removal (pruning, disease/pest treatment, supplemental water, cabling, etc.).

8. A “tree permit” is a permit required for the removal, relocation, pruning, root pruning or replacement of a tree in the public-right-of-way. The Urban Forester may require the tree permit applicant to submit one or a combination of the following reports, prior and or post the tree permit process:
 - a. Certified Arborist Report - prepared by a Registered Consulting Arborist (RCA) and or an ISA Certified Arborist;
 - b. Tree Appraisal – using the Trunk Formula Methodology as established by the Council of Tree & Landscape Appraisers, Latest Edition, of the Guide for Plant Appraisal;
 - c. Tree Risk Assessment – using an International Society of Arboriculture (ISA), Tree Risk Assessment Qualified (TRAQ) Arborist.
9. Replacement Trees: Required replacement trees shall be established utilizing the Tree Replacement Trunk Formula for each tree removed in the public right-of-way and replaced with an appropriate Genus and species as defined in the Urban Forest Master Plan for the appropriate parkway width, and planted within ninety (90) days after the removal of the tree. In no circumstances should a replacement tree be less than a 24-inch box tree unless approved by the Director of Public Works and in conformance with subdivision (C)(10) of this section. A Deposit for Tree Protection may be required per Sections 10.52.120 (E)(3) and (F)(4), as established by the City’s Fee Resolution.

Tree Replacement Trunk Formula:

- a. 1 to 12 inches in diameter removed, replacement with 24 or 36-inch box tree

- b. 12 to 18 inches in diameter removed, replacement with 36 or 48-inch box tree
- c. 18 to 24 inches in diameter removed, replace with 48 or 60-inch box tree
- d. 24 to 30 inches in diameter removed, replace with 60 or 72-inch box tree
- e. 30 to 36 inches in diameter removed, replace with 72 or 84-inch box tree

Replacement trees shall be selected based on the American Standards for Nursery Stock ANSI Z60. 1-2014 or latest edition, and installed per the Department of Public Works Tree Planting Detail ST-14.

10. If the planting site will not accommodate the appropriate Tree Replacement Trunk Formula tree, then a smaller tree(s) shall be installed and the balance of the Deposit for Tree Protection, if any, as established by the City's Fee Resolution, deposited in the "Tree Canopy Restoration Fund" to be used solely for the replacement and maintenance of trees in the public right-of-way within the City.

D. Chemical Application:

Chemical application shall follow guidelines set forth by federal, State, county and local government codes. The City may require written recommendation from a Registered Pest Control Advisor for the prescribed treatment. Suitable precaution shall be taken to post, notify, protect and warn the public that spraying and/or chemical work is being done.

E. Landscaping and Irrigation:

For new public right-of-way or encroachment projects, and projects in the public right-of-way or on the adjoining private property over fifty percent (50%) in building valuation as defined by Section 10.68.030(E), planting and hardscape areas, including all landscaping, patios, decks, and walkways (excluding driveways), shall be installed in accordance with the requirements of this section and Chapter 7.36.

1. High water use plants, as defined by the Water Use Classification of Landscape Species (WUCOLS) publication, may be installed as follows:
 - a. Where potable water is used for irrigation, a maximum of twenty percent (20%) of the total planting and hardscape areas (defined above) may be high water use plants per Region 3 of WUCOLS. High water use plants shall be grouped together. Turf grass watered with a subterranean drip irrigation system, or turf grass that is not high water use, as determined by the Community Development Director based on documentation submitted by the applicant, shall not be considered high water use plants; or
 - b. Submission of design plans with calculations per WUCOLS Region 3 standards prepared by a landscape designer, licensed landscape architect or other qualified person and approved by the Community Development Director. Exceptions include:
 - i. Sites entirely irrigated by non-potable water.
 - ii. Landscapes using low or medium water use plants as defined by WUCOLS publication.

- iii. Projects with no exterior site work, landscaping, hardscaping, or similar improvements.
 - iv. Administrative exception for special circumstances or undue hardship as determined by the Community Development Director.
2. Irrigation systems shall be designed as follows:
- a. Provide an automatic controller.
 - b. Drip, low volume or other water efficient system, shall be used in the 80% non-high water use landscaped area.
 - c. High water use plants shall be on separate irrigation valve(s) from the non-high water use landscaped area.
 - d. Projects shall comply with Section 7.44.030, Permanent Water Conservation Requirements.
3. Landscape and irrigation plans shall be prepared by a landscape designer, a licensed landscape architect or other qualified professional, and submitted to the Community Development Department for approval prior to issuance of a permit. No significant or substantive changes to the approved landscaping or irrigation plans shall be made without prior written approval by the Community Development Director and the landscape professional. Substantial changes shall require approval of the Planning Commission if this body granted approval of the original project.
4. Evidence of completion of approved landscaping and irrigation shall be provided to the Community Development Department prior to issuance of an occupancy permit or permit final, unless an extension is granted by the Director with due cause.

7.32.090 - Street tree planting guide.

Those street trees now existing may remain as long as they are biologically sustainable or until for other reasons they are removed. When any new street tree is planted it shall conform to the street tree planting guide referred to in subdivision (B)(1) of Section 7.32.080.

7.32.100 - Protection of trees.

During the erection, repair, alteration, or removal of any building, house, structure, or street in the City, any person, firm, association, corporation or franchisee in charge of such work shall protect any tree, shrub or plant in any street, park, boulevard, or public place in the vicinity of such building or structure with sufficient guards or protectors as shall prevent injury to said tree, shrub or plant arising out of or by reason of said erection, repair, alteration or removal, and shall be held responsible for replacing the tree if the Public Works Director determines that this protection has not been provided.

If the Public Works Director determines protection has not been provided and tree(s) are removed, mutilated or damaged resulting in the immediate or eventual death of the tree, then the Tree Replacement Trunk Formula listed in subdivision (C)(9) of Section 7.32.080 shall apply for the tree(s) replacement. If the planting site will not accommodate the appropriate Tree Replacement Trunk Formula tree, then a smaller tree(s) shall be

installed and the balance of the Deposit for Tree Protection, as established by the City's Fee Resolution, deposited in the "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.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT EXEMPTION. The City Council determines that this ordinance is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA") and the regulations promulgated thereunder (14 California Code of Regulations §§ 15000, et seq., the "CEQA Guidelines"). It can be seen with certainty that there is no possibility that the adoption of this Ordinance, and the regulations established hereby, may have a significant effect on the environment, and the action taken herein is not a "project" within the meaning of CEQA.

SECTION 3. INTERNAL CONSISTENCY. Any provisions of the Municipal Code, or any other resolution or ordinance of the City, to the extent that they are inconsistent with this Ordinance are hereby repealed, and the City Clerk shall make any necessary changes to the Municipal Code for internal consistency.

SECTION 4. SEVERABILITY. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or their application and, to this end, the provisions of this Ordinance are severable.

SECTION 5. CERTIFICATION. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published within 15 days after its passage, in accordance with Section 36933 of the Government Code.

ADOPTED _____, 2020.

AYES:
NOES:
ABSENT:
ABSTAIN:

RICHARD MONTGOMERY
Mayor

ATTEST:

LIZA TAMURA
City Clerk