



Agenda Item #: \_\_\_\_\_

# Staff Report

## City of Manhattan Beach

**TO:** Honorable Mayor Ward and Members of the City Council

**THROUGH:** Geoff Dolan, City Manager

**FROM:** Richard Thompson, Director of Community Development  
Laurie B. Jester, Senior Planner

**DATE:** February 7, 2006

**SUBJECT:** Consideration of Planning Commission Recommendation for City Council 2005-2007 Work Plan Item to Amend the Tree Preservation Regulations, Section 10.52.120 of the Zoning Code

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### **RECOMMENDATION:**

Staff recommends that the City Council **CONDUCT THE PUBLIC HEARING, WAIVE FURTHER READING AND INTRODUCE ORDINANCE NO. 2082.**

### **FISCAL IMPLICATION:**

There are no fiscal implications associated with the recommended action

### **BACKGROUND:**

The City's Tree Preservation Ordinance was originally adopted in 1993 and at that time, the Ordinance applied only to the Tree Section. The Ordinance protects most trees with a 12" or greater trunk diameter located in the front yard. At that time the Ordinance was implemented more as a "removal and replacement" regulation than a "preservation" regulation.

In 2003, the Ordinance was expanded to apply to all of the residential zones in Area Districts I and II; the Beach Area is not covered by the Tree Ordinance. With the expansion of the Tree Ordinance, planning staff began implementing the regulation as a "preservation" regulation, not a "removal and replacement" regulation as previously implemented. After the adoption of the expanded Tree Ordinance, the City Council and Planning Commission held a joint meeting and at that meeting the City Council confirmed that the Ordinance was intended to preserve trees, and that Staff should continue to enforce the Ordinance accordingly.

In May 2005 the City Council heard the first two appeals of staff decisions on Tree Permits and at that time the Council requested that staff bring back a report on the status of the Tree Ordinance. In July 2005, the City Council adopted the 2005-2007 Work Plan which included this item as one of the top Work Plan priority items for the Department, reviewed a status report on the Tree Preservation regulations, and provided direction on revisions to the regulations.

On August 24, 2005 the Planning Commission conducted a public hearing, discussed the proposed Code Amendments and adopted Resolution No. PC 05-11, with a 5:0 vote. On September 20, 2005 staff presented the Planning Commission recommendation, including a draft Ordinance, to the City Council at a public hearing. At that meeting the City Council supported the majority of the Planning Commissions recommendations with a few modifications, and asked that staff and the Planning Commission to further study the protected and replacement tree sizes, and contact individuals to provide input on the issue.

On October 26, 2005, the Planning Commission held a public hearing, took public input, provided direction to staff for further revisions to the Tree Ordinance, and continued the public hearing to December 14, 2005. At the December 14<sup>th</sup> meeting the Commission took further public input at the continued public hearing and adopted Resolution No. PC 05-20 (Attachment B) recommending to the City Council revisions to the Tree Preservation regulations.

**DISCUSSION:**

*Current regulations*

The City's Tree Preservation Ordinance protects most trees with a 12" or greater trunk diameter located in the front yard. Trees that are removed are required to be replaced with a minimum of one 24" box tree. The number, size, species, and location of replacement trees are subject to review and approval by the Director of Community Development. At this time, based on City Council direction, the Ordinance is implemented as more of a "preservation" regulation, not a "removal and replacement" regulation. The intent of this section is the retention and preservation of trees while permitting the reasonable enjoyment of private property.

The attached Planning Commission staff report (Attachment C) provides a complete description of the Tree Permit process. The following sections provide a summary of the most recent revisions to the Tree Ordinance as recommended by the Planning Commission. The proposed revisions will clarify the City's Tree Ordinance requirements and make it easier to enforce as requested by the City Council.

*City Council and Planning Commission comments*

At the September 20<sup>th</sup> meeting some Councilmembers expressed frustration that the proposed ordinance was too difficult and complex to enforce and implement, and an easier to implement approach should be explored. Some of the Commissioners' commented that the issue is so complex that any Ordinance will not be perfect. It was also indicated by some Councilmembers that the smaller trees, less than 12" trunk diameter, were not as critical to protect. The City Council requested that staff and the Planning Commission reevaluate the approach to the protected and replacement tree sizes. All seemed to agree with staff that the issue that they and the community perceive is that currently we have small homes with large trees and these are being replaced with large homes with small trees, which is changing the character of residential neighborhoods.

Some of the Council suggested that a better definition of a "mature" tree should be provided. Also some Councilmembers suggested that incentive programs to protect mature trees should be considered, and if mature trees are removed that they should be replaced with mature trees. The Council commented that trees that are removed should be replaced with trees that are a certain ratio to the size of the tree that is removed. The City Council indicated that one of their goals was to preserve and enhance the existing tree canopies on individual residential properties as well as the

overall neighborhood, in order to maintain the neighborhood character.

At the October 26<sup>th</sup> and December 14<sup>th</sup> Planning Commission meetings all of these issues raised by the City Council were discussed and addressed. The Planning Commission discussed the importance of notifying the community of the regulations. Defining a mature tree, trunk diameter of trees and replacement size of trees was discussed. The Commission clarified that all required replacement trees are protected regardless of their trunk diameter. They felt that using canopy size and/or height to define maturity is difficult due to the individual growth, environment and pruning factors. The Councils goal of keeping the regulations simple and easy to enforce was discussed. The Commission stated that the residential code enforcement officer could help inform contractors of the tree permit regulations and a citizens committee probably is not necessary, although the City Council could review this issue. Posting signs at the site with the Tree Permit regulations was proposed, as well as requiring a review of the new regulations in one year.

*Community input*

On September 20<sup>th</sup> the City Council asked that individuals be contacted to provide input on the Tree Ordinance, specifically the issue of protected tree size and replacement tree size. Staff provided notice of the Planning Commission meetings and tonight's City Council meeting, as well as copies of the staff reports to a number of individuals that have expressed interest in the Tree Ordinance.

At the October 26<sup>th</sup> Planning Commission meeting a number of residents spoke on protecting the tree canopy. Generally the residents felt that all trees in the front yard and the streetside should be preserved to the extent feasible. They felt that if trees are removed illegally that there should be severe financial penalties. Some residents stated that the regulations should be simple to enforce. Other members of the public have commented to staff that they feel that removal of trees is acceptable as long as large mature specimen trees are planted as replacements. They feel that when new homes are constructed that it is an opportunity to remove existing trees that may not be the most appropriate specimens for the particular location, or that may be older and starting to decline, and then these trees can be replaced with new large, healthy specimens that are more suited to the environment.

At the December 14<sup>th</sup> meeting some residents expressed the importance of notifying the community about the Tree Permit process and regulations. They suggested that a citizens committee be formed to review Tree Permits as well as create a replacement tree list. They suggested strong enforcement and fines for repeat violators and those who are aware of the regulations, and more leniency for people not familiar with the requirements. Protection of trees during construction and limiting hardscape surrounding trees was encouraged. The importance of providing a definition of a mature tree and requiring replacement trees in relationship to the size of the trees removed was discussed.

A number of letters were also received from residents and are attached to this report (Attachment D). One suggested mature shrubs, specifically succulents, be protected. The Councils direction was to protect mature trees and therefore protection for shrubs is not proposed. Another comment related to Palo Altos regulations and their strict enforcement and fines. These provisions will be addressed separately as discussed below. Another letter discussed improper pruning, and a citizens committee, which was addressed by the Commission and is further discussed below.

Regarding the definition of a mature tree, one resident suggesting using the International Society of Arborists (ISA) standard related to canopy size. The City arborist discussed a number of options for defining a mature or “protected” tree, as defined within the Ordinance, and suggested that we continue to use trunk diameter as other standards have too many variables and ISA, as well as appraisals and other cities tree regulations, generally use trunk diameter to define protected trees. Using trunk diameter to define protected trees also meets the Council goal of providing a simple, easy to implement ordinance.

Two other very similar e-mails (dated 1/21/06 and 1/31/06) suggested educating the public using the new residential code enforcement officer, requiring a 24” not 36” box size replacement tree, very large fines for violators, and requiring an arborist report and direct involvement during the design process and prior to issuance of a certificate of occupancy. Most of these issues were discussed by the Commission and are addressed elsewhere in this report. An arborist report is often required when a tree is proposed to be removed, and arborist involvement is encouraged, although not required, up front. Staff believes that requiring an arborist to be involved up front in the design would complicate the regulations and staff was directed by the Council to simplify the regulations.

#### *Proposed Code revisions*

Staff is striving to provide a balanced approach to addressing all of the views expressed. The following revisions to the Code are proposed to address the comments and concerns from the Planning Commission and the community raised at the October 26 and December 14, 2005 meetings, as well as the direction provided by the City Council.

#### *Tree canopy preservation and enhancement*

In order to meet the City Councils goal of protecting the existing tree canopies, the Purpose section, 10.52.120 (A.) of the regulations will include language to ensure the preservation and enhancement of the existing tree canopies on individual residential properties as well as the overall neighborhood, in order to maintain the neighborhood character. The Council and Commission had discussed protecting smaller trees (6” to 12” trunk diameter) and determined that the current standards which protect trees with a 12” or greater diameter would preserve the tree canopy most effectively. Staff also added new provisions in Section F. 4, which requires at least one new 36” box tree be planted per property, which is intended to preserve and enhance the City’s overall tree canopy.

#### *Tree list*

Some of the Planning Commissioners and residents commented that they would support having a list of trees from which to select an appropriate replacement tree. The City has a street tree list that is currently also used as a guideline for replacement trees on private property, which is referenced in the Ordinance in Section 10.52.120 G. The City arborist is currently assisting staff in updating the current list of street trees so that replacements fit the soil conditions and climate of Manhattan Beach and suit the smaller and larger sized lots.

#### *Posting of Tree Regulation*

The Commission and residents had suggested that advisory signs be posted on the property identifying the tree protection requirements. Section 10.52.120 D 3 of the regulations has been revised to include this requirement. Also in response to the Council and Commission to

continue to inform the public of the regulations, notice of the existing and proposed requirements are regularly provided in the Construction Newsletter, and to interested residents and will be provided on the water bill and Recreation Newsletter.

*Exceptions- Pruning*

Although not discussed by the Council, the Commission recommendation includes provisions in Section 10.52.120 H. 4. and 5. that trees would be required to be pruned to International Society of Arboriculture (ISA) standards, but no permit would be required for pruning. Pruning should not damage the health and structure of a tree.

*Annual review*

Based on the recommendation from the Planning Commission, Section 10.52.120 3. of the Ordinance requires a review of the amendments one year after the effective date.

*Fines*

The Commission felt that fines need to be very high to discourage developers and others from illegally removing trees, and that there should be different fines for the intentional removal of trees or other violations of the Ordinance by people that are aware of the regulations versus unintentional removal by those who are not familiar with the requirements. Revisions related to these recommendations have not been incorporated into the Ordinance as fines will be reviewed separately by the City Council and adopted by Resolution at a later date.

*Citizens Committee*

A number of residents felt that a citizens committee could be beneficial, however the Commission felt that the residential code enforcement officer could help inform the contractors and residents of the regulations. The local environment organization, VOICE, has been discussing the regulations at their regular meetings and staff has provided information on the tree regulations to the group.

*Other revisions previously approved in concept by City Council*

The following is a summary of the revisions to the Tree Ordinance as directed by the City Council on September 20<sup>th</sup>. The proposed revisions will clarify the City's Tree Ordinance requirements and make it easier to enforce as requested by the City Council.

*Emergency Removal*

The Exemptions section of the Code (Section 10.52.120 H. 1.) currently allows removal of trees in cases of emergency. This section requires that a Tree Permit application then be submitted within five working days after removal of a tree. The revision requires approval by the Director of Community Development prior to removal.

*Trees on Adjacent Properties*

There are two sections of the Code that address trees on adjacent properties that conflict. These two Sections (10.52.120 D and 10.52.120 H. 4) have been revised so that adjacent property trees are reasonably protected. Any pruning of roots or branches on adjacent properties that could potentially damage the health of trees is not permitted. Pruning will not require a permit, however if the pruning damages the health of the tree then it becomes a civil matter between the two property owners.

*Trees Exempt from Protection*

Section 10.52.120 H. 2 exempts deciduous fruit bearing trees and two fan Palm trees from the protection regulations, so currently these trees can be removed without a permit and do not need to be replaced. Staff had suggested revisions that would eliminate this exemption. With this revision staff would anticipate that fruit and Palm tree removal requests would generally be approved and a replacement tree would be required. There was not a City Council consensus on this proposed revision so no changes are included in the draft Ordinance.

*Street Side yard trees*

The Tree Ordinance only protects trees in the 20 foot front yard setback. On corner lots the front setback is located adjacent to the shortest property line, so there is a long streetside setback in which the trees are not protected. These streetside trees will be protected by the Ordinance the same as front yard trees are currently protected. If it is not possible to protect and retain trees then they can be removed with approval of a Tree Permit. Any removed tree will be required to be replaced with a minimum 36-inch box size tree (Sections 10.52.120 D. 1 and G.).

*Violations and Penalties*

Section 10.52.120 J. establishes standards for violations of the Tree Preservation standards. As an addition to this section an administrative fine, Section K., has been added for any violation of the tree preservation regulations. A fee resolution will be brought back to the City Council at a later date.

*Right-of- Way Improvements*

Public Works and Planning staff currently work together to look at alternative designs and materials in situations where right-of-way improvements may impact trees. Required public improvements take priority over preserving trees, however alternative designs will be used to preserve trees where feasible, and the revisions (Section D. 6.) codify these current practices.

*Purpose*

The purpose section has been expanded to discuss the design of residences being required to consider and accommodate existing protected trees when feasible, and that the preservation of trees increases property values, provides cooling shade and beauty, and minimizes spread of disease to healthy trees. (Section A).

*Miscellaneous revisions and abuse of trees*

A few language changes for consistency with current procedures and internal language consistency will be provided. These include revisions related to the arborist report, the tree plan, and replacement trees. Additionally, the abuse or mutilation of trees can severely damage or kill a tree so new language has been added into Section 10.52.120 B.2., so that damage of trees is a violation of the regulations, consistent with the public tree requirements.

**CONCLUSION:**

The proposed revisions to the Tree Preservation regulations are intended to meet the City Councils goal of preserving and enhancing the existing tree canopies on individual residential properties as well as the overall neighborhood, in order to maintain the neighborhood character. The revisions

are also intended to simplify the regulations and make them easier to enforce.

Staff requests that the City Council hold the public hearing and introduce the attached Ordinance. All of the proposed changes to the existing regulations are shown as redline/strikeout text.

- Attachments:
- A. Draft City Council Ordinance No. 2082
  - B. Planning Commission Resolution No. PC 05-20
  - C. Planning Commission minute excerpts, staff report, and attachments – December 14, 2005
  - D. Public comment letters and e-mails

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ORDINANCE NO. 2082

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
MANHATTAN BEACH APPROVING AMENDMENTS TO THE CITY  
ZONING CODE (SECTION 10.52.120) TO REVISE THE TREE  
PRESERVATION REGULATIONS

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES  
HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council of the City of Manhattan Beach, California, does hereby  
find, determine and declare as follows:

**WHEREAS**, the City's Tree Preservation Ordinance was originally adopted August 19,  
1993 (Ordinance No. 1884), and is included as Section 10.52.120 of the Zoning Code, and the  
Ordinance originally applied only to the Tree Section, generally bounded by Rosecrans Avenue,  
Blanche Road, Valley Drive and Sepulveda Boulevard, and;

**WHEREAS**, on May 6, 2003, the Ordinance was expanded (Ordinance No. 2045) to  
apply to all of the residential zones in Area Districts I and II; the Beach Area is not covered by the Tree  
Ordinance, and;

**WHEREAS**, on June 24, 2005, the City Council held a special session and developed  
the 2005-2007 Work Plan, which included an item to study possible revisions to the Tree Ordinance,  
and;

**WHEREAS**, on July 5, 2005, the City Council amended and formally adopted the 2005-  
2007 Work Plan, and;

**WHEREAS**, on July 26, 2005 the City Council and Planning Commission held a joint  
Work Plan meeting, and provided direction to revise the Tree Ordinance as one of the top priorities for  
the Community Development Department, and;

**WHEREAS**, pursuant to applicable law, the Planning Commission of the City of Manhattan  
Beach conducted a public hearing on August 24, 2005, on the proposed Code Amendments related to  
revisions to the Tree Preservation regulation, and adopted Resolution No. PC 05-11 recommending to the  
City Council revisions to the Tree Ordinance, and;

**WHEREAS**, the public hearing was advertised pursuant to applicable law, testimony was  
invited and received, and;

**WHEREAS**, public noticing included a one-quarter page display ad published on August  
11, 2005 in a newspaper of general circulation (Beach Reporter), and;

**WHEREAS**, pursuant to applicable law, the City Council conducted a duly noticed public  
hearing on September 20, 2005 regarding the Planning Commission's recommendation regarding the  
proposed Code Amendments (Resolution No. PC 05-11) related to revisions to the tree preservation  
regulations, and public testimony was invited and received, and the Council directed staff and the  
Planning Commission to revisit portions of the proposed Ordinance, and;

**WHEREAS**, the public hearing held by the City Council was advertised by a one-quarter  
page display ad published on September 1, 2005 in The Beach Reporter, a newspaper of general  
circulation in Manhattan Beach and notice was mailed to interested parties of record, and;

**WHEREAS**, pursuant to applicable law, the Planning Commission of the City of Manhattan  
Beach conducted a public hearing on October 26, 2005, on the proposed Code Amendments related to  
revisions to the Tree Preservation regulation, and after accepting public input and discussing the item,  
provided direction to staff for revisions to the Ordinance and continued the public hearing to December 14,  
2005, and adopted Resolution No. PC 05-20, recommending to the City Council revisions to the Tree  
Preservation regulations, and;



**WHEREAS**, the public hearing was advertised pursuant to applicable law, testimony was invited and received, and;

**WHEREAS**, public noticing included a one-quarter page display ad published on October 13, 2005 in a newspaper of general circulation (Beach Reporter), and;

**WHEREAS**, pursuant to applicable law, the City Council of the City of Manhattan Beach conducted a public hearing on February 7, 2006, on the proposed Code Amendments related to revisions to the Tree Preservation regulation, and after accepting public input and discussing the item, introduced Ordinance No. 2082, for revisions to the Tree Preservation regulations, and;

**WHEREAS**, the public hearing was advertised pursuant to applicable law, testimony was invited and received, and;

**WHEREAS**, the public hearing held by the City Council was advertised by an ad published on January 26, 2006 in The Beach Reporter, a newspaper of general circulation in Manhattan Beach and notice was mailed to interested parties of record, and;

**WHEREAS**, the applicant for the subject project is the City of Manhattan Beach; and,

**WHEREAS**, pursuant to the California Environmental Quality Act (CEQA) and the Manhattan Beach CEQA Guidelines, the subject Amendments are exempt in that they are covered by the general rule that CEQA [Section 15061 (3)] only applies to projects which have the potential for causing a significant effect on the environment, and since it can be seen with certainty that there is no possibility that the activity will have a significant effect on the environment, the activity is not subject to CEQA; and,

**WHEREAS**, the proposed amendments have been prepared in accordance with the provisions of Title 7, Division 1, Chapter 4, Section No. 65853, et seq., of the State of California Government Code, and;

**WHEREAS**, the City Council finds that the project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code; and,

**WHEREAS**, the City Council made the following findings with regard to the proposed changes:

1. The proposed amendments are consistent with the City of Manhattan Beach General Plan as follows:

**Goal LU-2: Encourage the provision and retention of private landscaped open space.**

Policy LU-2.3: Protect existing mature trees throughout the City, and encourage their replacement with specimen trees whenever they are lost or removed.

**Goal LU-3: Achieve a strong, positive community aesthetic.**

**Goal CR-4: Preserve the existing landscape resources in the City, and encourage the provision of additional landscaping.**

Policy CR-4.1: Protect existing mature trees throughout the City and encourage their replacement with specimen trees whenever they are lost or removed.

Policy CR-4.3: Recognize that landscaping, and particularly trees, provide valuable protection against air pollution, noise, soil erosion, excessive heat, and water runoff, and that they promote a healthy environment.

Policy CR-4.4: Review the tree ordinance to consider its application citywide and to determine the need to strengthen tree preservation criteria.

Policy CR-4.5: Discourage the reduction of landscaped open space and especially the removal of trees from public and private land.

2. The purpose of the proposed amendments include, but are not limited to, the following;
  - A. Continue to encourage the retention and preservation of trees while permitting the reasonable enjoyment of private property;
  - B. Provide internal consistency within the existing Tree Preservation regulations;
  - C. Ensure that the purpose as stated within the regulations is met;
  - D. Preservation and retention of trees for future generations;
  - E. Adequate size replacement trees in relationship to the size of trees that are removed; and,
  - F. Consistency with other Code provisions and current practices, including but not limited to street tree provisions.
  
3. The City Council also finds as follows:
  - A. Removal of trees in certain zones requires a permit to be issued by the Director of Community Development;
  - B. An exemption to this requirement is provided for when an "emergency" exists;
  - C. Because this section is vague as to what constitutes an "emergency" it is susceptible to abuse by those wishing to rid themselves of unwanted trees who cannot otherwise obtain a permit.
  - D. It is therefore in the best interests of the general public health, safety and welfare with regard to the preservation of trees to amend this exemption to clarify when a tree may be removed for "emergency" reasons and to insure that public safety is the real reason.

SECTION 2. The City Council of the City of Manhattan Beach hereby amends Section 10.52.120 of Title 10, of the Manhattan Beach Municipal Code, entitled Tree preservation and restoration in residential zones, Area Districts I and II as follows:

**"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 tree canopies on individual residential properties as well as the overall neighborhood, in order to maintain the neighborhood character. The design of residences, including grading, driveways, walkways, patios, utilities and right-of-way improvements, shall consider and accommodate existing protected trees when feasible. The intent of this section is the retention and preservation of trees while permitting the reasonable enjoyment of private property.

B. **General Requirements.**

1. Except as provided in subsection G (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 or replacement of a protected tree.

3. A "tree plan" shall mean a plot plan (scale 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 10 feet 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, 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 located in the front and streetside yards with a twelve (12") inch or greater trunk diameter at a height of four and one-half feet (4.5') from existing grade, shall be protected and may be only be removed or relocated with prior approval of a tree permit provided they are replaced 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 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.
5. 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.
6. No 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 2 inches in diameter should occur within the drip line of the tree as measured at ground level. Required public right-of-way improvements shall take priority over tree preservation, however alternative designs and materials, including but not limited to permeable surfaces and planter areas with irrigation, shall be considered and implemented as feasible. Where some root removal is necessary as approved by the City the tree crown may require thinning to prevent wind damage.
7. No fill material shall be placed within the drip line of any tree.
8. 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 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 may 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 or an arborist's report, or verification of a potential safety risk.
3. 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 may require a Tree Permit 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. 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 the Manhattan Beach Municipal Code) shall be required to plant a minimum of one

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. **Replacement Trees.** Required replacement trees shall be minimum ~~twenty-four inch (24") boxed trees~~ thirty-six inch (36") box trees for each protected tree removed of an appropriate species and must be planted prior to final inspection. 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). In no case shall A combination of protected and replacement tree quantities shall not result in less than one protected tree per lot or thirty feet (30') of site ~~frontage storage~~ 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.

H. **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.

2. Removal of deciduous, fruit-bearing trees, Washingtonia robusta, or Washingtonia filifera.

3. 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.

4. Cutting of tree branches and roots extending across property lines into adjacent property, to the extent that the pruning complies with the International Society of Arboriculture (ISA) standards and does not damage or potentially damage the health and structure of the tree(s).

5. Cutting of tree branches and roots to the extent that the pruning complies with the International Society of Arboriculture (ISA) standards and does not damage or potentially damage the health and structure of the tree(s).

I. **Non-liability of City.** Nothing in this Ordinance 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.

J. **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."

K. **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 of Manhattan Beach.

5. In the event that a civil action is filed regarding any provision of this subsection "K" the City shall be entitled to attorney fees if it prevails.

SECTION 3. All other provisions of the City of Manhattan Beach Municipal Code shall remain unchanged and continue in full force and effect.

SECTION 4. Any provisions of the City of Manhattan Beach Municipal Code, or appendices thereto, or any other ordinances of the City, to the extent that they are inconsistent with this ordinance, and no further, are hereby repealed.

SECTION 5. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 6. A staff review of the proposed amendments per Section 2 of this Ordinance is hereby directed to occur approximately twelve (12) months after the effective date of this Ordinance.

SECTION 7. This ordinance shall go into effect and be in full force and operation from and after thirty days after its final passage and adoption.

SECTION 8. The City Clerk shall certify to the passage and adoption of this ordinance shall enter the same in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council of said City in the minutes of the meeting of said Council at which the same is passed and adopted; and shall within fifteen (15) days after the passage and adoption thereof cause the same to be published once in a weekly newspaper of general circulation, printed, published and circulated within the City of Manhattan Beach, California and which is hereby designated for that purpose.

PASSED, APPROVED AND ADOPTED this 21<sup>st</sup> day of February, 2006.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Mayor of the City of Manhattan Beach, California

ATTEST:

\_\_\_\_\_  
City Clerk

**RESOLUTION NO. PC 05-20**

**RESOLUTION OF THE PLANNING COMMISSION  
OF THE CITY OF MANHATTAN BEACH  
RECOMMENDING APPROVAL OF AMENDMENTS  
TO THE CITY ZONING CODE (SECTION 10.52.120)  
TO REVISE THE TREE PRESERVATION  
REGULATIONS**

**THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH  
DOES HEREBY RESOLVE AS FOLLOWS:**

**WHEREAS**, the City's Tree Preservation Ordinance was originally adopted August 19, 1993 (Ordinance No. 1884), and is included as Section 10.52.120 of the Zoning Code, and the Ordinance originally applied only to the Tree Section, generally bounded by Rosecrans Avenue, Blanche Road, Valley Drive and Sepulveda Boulevard, and;

**WHEREAS**, on May 6, 2003, the Ordinance was expanded (Ordinance No. 2045) to apply to all of the residential zones in Area Districts I and II; the Beach Area is not covered by the Tree Ordinance, and;

**WHEREAS**, on June 24, 2005, the City Council held a special session and developed the 2005-2007 Work Plan, which included an item to study possible revisions to the Tree Ordinance, and;

**WHEREAS**, on July 5, 2005, the City Council amended and formally adopted the 2005-2007 Work Plan, and;

**WHEREAS**, on July 26, 2005 the City Council and Planning Commission held a joint Work Plan meeting, and provided direction to revise the Tree Ordinance as one of the top priorities for the Community Development Department, and;

**WHEREAS**, pursuant to applicable law, the Planning Commission of the City of Manhattan Beach conducted a public hearing on August 24, 2005, on the proposed Code Amendments related to revisions to the Tree Preservation regulation, and adopted Resolution No. PC 05-11 recommending to the City Council revisions to the Tree Ordinance, and;

**WHEREAS**, the public hearing was advertised pursuant to applicable law, testimony was invited and received, and;

**WHEREAS**, public noticing included a one-quarter page display ad published on August 11, 2005 in a newspaper of general circulation (Beach Reporter), and;

**WHEREAS**, pursuant to applicable law, the City Council conducted a duly noticed public hearing on September 20, 2005 regarding the Planning Commission's recommendation regarding the proposed Code Amendments (Resolution No. PC 05-11) related to revisions to

**RESOLUTION NO. PC 05-20**

the tree preservation regulations, and public testimony was invited and received, and the Council directed staff and the Planning Commission to revisit portions of the proposed Ordinance, and;

**WHEREAS**, the public hearing held by the City Council was advertised by a one-quarter page display ad published on September 1, 2005 in The Beach Reporter, a newspaper of general circulation in Manhattan Beach and notice was mailed to interested parties of record, and;

**WHEREAS**, pursuant to applicable law, the Planning Commission of the City of Manhattan Beach conducted a public hearing on October 26, 2005, on the proposed Code Amendments related to revisions to the Tree Preservation regulation, and after accepting public input and discussing the item, provided direction to staff for revisions to the Ordinance and continued the public hearing to December 14, 2005, and;

**WHEREAS**, the public hearing was advertised pursuant to applicable law, testimony was invited and received, and;

**WHEREAS**, public noticing included a one-quarter page display ad published on October 13, 2005 in a newspaper of general circulation (Beach Reporter), and;

**WHEREAS**, the applicant for the subject project is the City of Manhattan Beach; and,

**WHEREAS**, pursuant to the California Environmental Quality Act (CEQA) and the Manhattan Beach CEQA Guidelines, the subject Amendments are exempt in that they are covered by the general rule that CEQA [Section 15061 (3)] only applies to projects which have the potential for causing a significant effect on the environment, and since it can be seen with certainty that there is no possibility that the activity will have a significant effect on the environment, the activity is not subject to CEQA; and,

**WHEREAS**, the proposed amendments have been prepared in accordance with the provisions of Title 7, Division 1, Chapter 4, Section No. 65853, et seq., of the State of California Government Code, and;

**WHEREAS**, the Planning Commission finds that the project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code; and,

**WHEREAS**, the Planning Commission made the following findings with regard to the proposed changes:

1. The proposed amendments are consistent with the City of Manhattan Beach General Plan.

**Goal LU-2: Encourage the provision and retention of private landscaped open space.**



## RESOLUTION NO. PC 05-20

Policy LU-2.3: Protect existing mature trees throughout the City, and encourage their replacement with specimen trees whenever they are lost or removed.

**Goal LU-3: Achieve a strong, positive community aesthetic.**

**Goal CR-4: Preserve the existing landscape resources in the City, and encourage the provision of additional landscaping.**

Policy CR-4.1: Protect existing mature trees throughout the City and encourage their replacement with specimen trees whenever they are lost or removed.

Policy CR-4.3: Recognize that landscaping, and particularly trees, provide valuable protection against air pollution, noise, soil erosion, excessive heat, and water runoff, and that they promote a healthy environment.

Policy CR-4.4: Review the tree ordinance to consider its application citywide and to determine the need to strengthen tree preservation criteria.

Policy CR-4.5: Discourage the reduction of landscaped open space and especially the removal of trees from public and private land.

2. The purpose of the proposed amendments include, but are not limited to, the following:
  - A. Continue to encourage the retention and preservation of trees while permitting the reasonable enjoyment of private property;
  - B. Provide internal consistency within the existing Tree Preservation regulations;
  - C. Ensure that the purpose as stated within the regulations is met;
  - D. Preservation and retention of trees for future generations;
  - E. Adequate size replacement trees in relationship to the size of trees that are removed; and,
  - F. Consistency with other Code provisions and current practices, including but not limited to street tree provisions.
  
3. The Planning Commission also finds as follows:
  - A. Removal of trees in certain zones requires a permit to be issued by the Director of Community Development;
  - B. An exemption to this requirement is provided for when an “emergency” exists;
  - C. Because this section is vague as to what constitutes an “emergency” it is susceptible to abuse by those wishing to rid themselves of unwanted trees who cannot otherwise obtain a permit.

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- D. It is therefore in the best interests of the general public health, safety and welfare with regard to the preservation of trees to amend this exemption to clarify when a tree may be removed for “emergency” reasons and to insure that public safety is the real reason.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of Manhattan Beach hereby recommends **APPROVAL** of the proposed amendments to the Manhattan Beach Municipal Code (Section 10.52.120-Tree preservation and restoration in residential zones, Area Districts I and II) as follows:

### **“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 tree canopies on individual residential properties as well as the overall neighborhood, in order to maintain the neighborhood character. The design of residences, including grading, driveways, walkways, patios, utilities and right-of-way improvements, shall consider and accommodate existing protected trees when feasible. The intent of this section is the retention and preservation of trees while permitting the reasonable enjoyment of private property.

#### **B. General Requirements.**

1. Except as provided in subsection G (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 or replacement of a protected tree.

3. A "tree plan" shall mean a plot plan (scale 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 10 feet of the subject property adjacent to the front and streetside yards

c. size (diameter and height) and species of each tree

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- d. location of drip line for each tree
- e. designation of tree(s) to be removed, saved, 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 located in the front and streetside yards with a twelve (12") inch or greater trunk diameter at a height of four and one-half feet (4.5') from existing grade, shall be protected and may be only be removed or relocated with prior approval of a tree permit provided they are replaced 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 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.

5. 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.

6. No 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 2 inches in diameter should occur within the drip line of the tree as measured at ground level. Required public right-of-way improvements shall take priority over tree preservation, however alternative designs and materials, including but not limited to permeable surfaces and planter areas with irrigation, shall be considered and implemented as feasible. Where some root removal is necessary as approved by the City the tree crown may require thinning to prevent wind damage.

7. No fill material shall be placed within the drip line of any tree.

8. 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 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 may 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 ~~or~~ an arborist's report, or verification of a potential safety risk.

3. 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 may require a Tree Permit 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.

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4. 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 the Manhattan Beach Municipal Code) shall be required to plant a minimum of one 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. **Replacement Trees.** Required replacement trees shall be minimum ~~twenty-four inch (24") boxed trees~~ thirty-six inch (36") box trees for each protected tree removed of an appropriate species and must be planted prior to final inspection. 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). ~~In no case shall~~ A combination of protected and replacement tree quantities shall not result in less than one protected tree per lot or thirty feet (30') of site ~~frontage~~ storage. 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.

H. **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.

2. Removal of deciduous, fruit-bearing trees, Washingtonia robusta, or Washingtonia filifera.

3. 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.

4. Cutting of tree branches and roots extending across property lines into adjacent property, to the extent that the pruning complies with the International Society of Arboriculture (ISA) standards and does not damage or potentially damage the health and structure of the tree(s).

5. Cutting of tree branches and roots to the extent that the pruning complies with the International Society of Arboriculture (ISA) standards and does not damage or potentially damage the health and structure of the tree(s).

I. **Non-liability of City.** Nothing in this Ordinance 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.

J. **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

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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.”

*K. 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 of Manhattan Beach.*

*5. In the event that a civil action is filed regarding any provision of this subsection “K” the City shall be entitled to attorney fees if it prevails.*

**SECTION 3.** A staff review of the proposed amendments is hereby directed to occur approximately twelve (12) months after the effective date of the City Council approved Ordinance.

**SECTION 4.** Pursuant to Government Code Section 66499.37, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the

**RESOLUTION NO. PC 05-20**

proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution.

**SECTION 5.** If any sentence, clause, or phrase of this resolution is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this resolution. The Planning Commission hereby declares that it would have passed this resolution and each sentence, clause or phrase thereof irrespective of the fact that any one or more sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

**SECTION 6.** Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other resolution of the City, to the extent that they are inconsistent with this resolution, and no further, are hereby repealed.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of December 14, 2005 and that said Resolution was adopted by the following votes:

AYES:           Chairperson   Savikas,   Vice-chair   Simon,  
                    Commissioner Lesser, Commissioner Bohner  
NOES:           None  
ABSENT:        Commissioner Schlager  
ABSTAIN:       None

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**RICHARD THOMPSON**  
Secretary to the Planning Commission

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**SARAH BOESCHEN**  
Recording Secretary

**CITY OF MANHATTAN BEACH  
EXCERPTS OF MINUTES OF THE REGULAR MEETING OF THE  
PLANNING COMMISSION  
DECEMBER 14, 2005**

1 A regular meeting of the Planning Commission of the City of Manhattan Beach was held on  
2 Wednesday, December 14, 2005, at 6:30 p.m. in the City Council Chambers, City Hall, 1400  
3 Highland Avenue.

4  
5 **ROLL CALL**

6  
7 Chairperson Savikas called the meeting to order.

8  
9 Members Present: Bohner, Lesser, Simon, Chairperson Savikas  
10 Members Absent: Schlager  
11 Staff: Richard Thompson, Director of Community Development  
12 Laurie Jester, Senior Planner  
13 Rosemary Lackow, Senior Planner  
14 Sarah Boeschon, Recording Secretary  
15

16 **PUBLIC HEARINGS (CONTINUED)**

17  
18 **05/1026.3-3 Consideration of a City-Council 2005-2007 Work Plan Item to Amend the**  
19 **Tree Preservation Regulations, Section 10.52.120 of the Zoning Code**  
20

21 Director Thompson indicated that the City Council had referred the issue back to the Planning  
22 Commission, and a public hearing was held in October in which public testimony was received  
23 and direction was provided by the Commissioners. He said that staff is proposing a few changes  
24 to the Ordinance.  
25

26 Senior Planner Jester summarized the staff report. She commented that the City Council  
27 requested that more consideration be given to the size of protected trees and replacement trees  
28 and that more community outreach be done. She commented that input from the public and  
29 Commission was received at the public hearing in October. She stated that further consideration  
30 by the Commission should include enacting regulations that are easy to implement; the existing  
31 trend of smaller homes with large trees being replaced with large homes and smaller trees;  
32 maintaining the character of the neighborhoods within the City; preserving and enhancing the  
33 City's tree canopy; determination of an appropriate replacement tree size and number; receiving  
34 and listening to any additional community input; and using the City's street tree list of  
35 replacement trees as a reference for appropriate replacement trees for residences. She  
36 commented that there currently is a list for replacement of street trees which is in the process of  
37 being updated. She indicated that currently trees with trunks of 12 inches or larger in diameter  
38 are protected, and the new regulations would not provide protection for smaller trees. She said  
39 that staff feels it is best to continue using trunk diameter to define protected trees because it is the  
40 industry standard and is a uniform type of measurement, given the great variation in different

**PLANNING COMMISSION MINUTES-EXCERPTS**

December 14, 2005

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1 species and varieties of trees. She said that currently a 24 inch box tree is required as a  
2 replacement size which is not particularly large, and staff is suggesting that the replacement size  
3 be increased to a 36 inch box tree. She said that staff is suggesting that if there is an  
4 overabundance of trees on a site a replacement tree may not be required if one is removed. She  
5 commented that there may not be space for replacement trees in areas that have many existing  
6 trees, as trees need space to grow.

7  
8 Regarding of Section F, Item 4 on page 5 of the Resolution, Commissioner Simon commented  
9 that whether there is room on a property to allow for a tree is separate from whether there is a  
10 sufficient number of existing trees on a property. He said that the current language of the section  
11 requires that an additional tree must be planted regardless of whether there are a sufficient  
12 number of existing trees provided there is adequate room.

13  
14 Director Thompson commented that staff’s intention is to ensure that there is at least a minimum  
15 of one tree in the front of a house for any construction over 50 percent of the value of the existing  
16 structure. He indicated that if there are existing trees the language of the section wouldn’t apply,  
17 and staff would take other factors on the site into account.

18  
19 Commissioner Simon suggested changing the language of the section to read: “Any new  
20 residential construction project in Area Districts I and II which exceeds 50 percent valuation shall  
21 be required to plant a minimum of one new 36 inch box tree unless the Director of Community  
22 Development determines that there is not adequate room on the property or existing trees on the  
23 property.”

24  
25 Commissioner Bohner suggested changing the language of Section F, Item 4 on page 5 of the  
26 Resolution to read: “. . . unless the Director of Community Development determines that it is  
27 inappropriate to require additional trees on the property.”

28  
29 Senior Planner Jester indicated that there was a concern from residents regarding street trees  
30 being removed by developers to accommodate new construction, and the City Council felt that it  
31 would be appropriate to provide the same protection for street side trees as for trees in front  
32 yards. She said that staff is recommending that requests for removal of any street side trees be  
33 reviewed through the tree permit process and any that any such trees approved for removal would  
34 be required to be replaced. She commented that staff is also recommending that the street tree  
35 list be referenced in the Ordinance.

36  
37 In response to a question from Commissioner Lesser, Director Thompson commented that he has  
38 worked for the City 10 years and has never encountered a situation where there was not time for  
39 staff to go to a property to look at the situation before a tree is removed on an emergency basis.  
40 He said that if a tree truly has to be cut down or a limb is falling, a property owner is going to



**PLANNING COMMISSION MINUTES-EXCERPTS**

December 14, 2005

Page 3

1 resolve the problem. He indicated that staff is more concerned about people who abuse the  
2 emergency provision to cut down trees without a permit and claim later to the City later that it  
3 was an emergency circumstance.

4  
5 Chairperson Savikas opened the public hearing.

6  
7 **Mark Quigley**, a resident of 19<sup>th</sup> Street, said that he is impressed with the proposed  
8 recommendations of staff. He said that he has a concern that notice of the Code changes is given  
9 to property owners, developers, and tree service companies to inform them that there is a permit  
10 process. He said that he would like for involvement by citizens to work with City staff when a  
11 developer requests to cut down trees to allow for construction instead of the decision being left  
12 only to staff. He suggested a citizen committee be formed which would meet and work with staff  
13 in granting tree permit applications. He indicated that the recommendations would work when  
14 followed, but there is not sufficient deterrents in the proposed language to deter developers from  
15 disregarding the Ordinance. He said that a fine is not mandatory and not specified in the  
16 Ordinance as proposed, and he would like for a mandatory fine to be included. He indicated that  
17 there could be an appeal process and the Council could have discretion to be more lenient toward  
18 people who they determine are first time offenders and were honestly unaware of the  
19 requirements.

20  
21 **Carol Wahlberg**, stated that she is grateful for the progress that has been made; however, she  
22 would still like to see much more progress. She said that she would also support a citizen  
23 committee to review tree permit applications which would help to take burden off of staff and on  
24 to residents that have a vested interest. She said that she feels a citizen committee should decide  
25 which trees are appropriate for the community.

26  
27 **Andy Cohn**, a resident of Ruland Avenue, said that there will always be developers who search  
28 for loopholes, and he would urge that stronger enforcement measures be included in the  
29 Ordinance. He suggested that offenders of the Ordinance could possibly be charged a fee per  
30 foot of the tree that is removed in order to replace it.

31  
32 **Ann Barklow**, a resident of Duncan Avenue, stated that damage to trees resulting from  
33 construction projects can appear on trees five or ten years later and is not identified as being  
34 caused by the construction. She said that she would like for the Tree Ordinance rules to be  
35 posted at construction sites and to have someone monitor construction projects to ensure that the  
36 regulations are followed. She said that she would like for stricter rules to be established. She  
37 said that tree limbs are damaged and are surrounded by surfaces that are impermeable which  
38 prevent water from reaching the root systems.

39  
40 **Gerry O'Connor**, a resident of Manhattan Beach, pointed out that there is no audio on the

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1 Adelpia cable broadcast or on the webcast. He also commented that there is no agenda packet  
2 available for the audience in the lobby of the Council chambers. He stated that the Council's  
3 agreement with the vast majority of the proposal from the Commission is commendable, and  
4 those items are great improvements. He said that the size of replacement trees was requested by  
5 the Council to be reviewed. He indicated that he has been on record as objecting to using box  
6 size as the sole criteria for measuring the size of a replacement tree. He said that while there is  
7 some correlation between box size and the size of the tree, the box size does not define the tree  
8 size. He said that increasing 24 to 36 inch box is not a great increase in the size of replacement  
9 trees. He said that he would like for the size to be increased beyond the 36 inches or at least for  
10 it to be acknowledged that increasing to a box size of 36 inches is not a big change. He indicated  
11 that in removing the protection of smaller trees eliminates protection of trees that are used as  
12 replacements until they are large enough to be protected. He said that he did not hear directly  
13 from Council members that they supported lessening the protection of smaller trees but rather  
14 that the focus should be on protecting larger trees. He indicated that he does not feel the Council  
15 provided the basis for removal of protection for smaller trees. He said that he feels that an effort  
16 should be made to provide a definition of a mature tree if the emphasis is to protect mature trees.  
17 He commented that his interpretation is that the Council was looking for a clearer definition of  
18 mature trees. He pointed out that the intent is to make it more difficult to remove trees. He  
19 requested that staff place his name on the list of people to be provided notice of any hearings  
20 regarding the Tree Ordinance.

21  
22 **Kay Shirback**, a resident of Agnes Road, said that while there is progress being made, she wants  
23 to stress the urgency of the issue. She said that success cannot be measured until behavior has  
24 been changed. She suggested the possibility of making incremental changes in order for the  
25 standards to be passed more quickly if there is difficulty in addressing the entire Ordinance at  
26 once. She said that consequences of violating the Ordinance are very important. She indicated  
27 that there are people in the community who are willing to take pictures and help to document  
28 existing trees on sites. She stated that she would like for the City to address issues of abuse of  
29 existing trees during construction projects, including placing cement around tree trunks. She  
30 commented that trees end up being cut down once the roots grow and crack the surrounding  
31 cement. She said that becoming proactive in maintaining and protecting trees is important in  
32 order to keep the City green.

33  
34 Chairperson Savikas closed the public hearing.

35  
36 Director Thompson indicated that noticing contractors and architects and members of the  
37 community is one of the largest challenge of staff. He commented that the contractors who do  
38 work in the City know about the regulations. He indicated that the residential code enforcement  
39 officer sits down with contractors and discusses trees before the building permit is issued. He  
40 said that staff needs to continue informing the homeowners about the Ordinance.

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Senior Planner Jester commented that a residential property report is prepared when a property is sold which includes a notice stating that the City does have a Tree Preservation Ordinance and all trees in the front yard are protected.

Chairperson Savikas suggested placing a notice that is sent annually once a year with the water bill informing residents of the Tree Preservation Ordinance.

Director Thompson stated that citizen communities can take up more staff time than they save in many ways, and he is not sure if such a committee really would assist staff in making determinations. He said that the goal is for an Ordinance that is easy to understand so that people are aware of the requirements.

Senior Planner Jester stated that when a tree application permit is applied they are required to inform the immediate neighbors and have them sign a neighbor acknowledgement form.

Director Thompson commented that the issue of imposing mandatory fines will be brought before the City Council under a separate process. He said that staff's experience is that there is a number of people who are legitimately unaware of the regulations, and staff has not imposed fines in those cases. He said, however, that there are builders who have been made aware who have been fined significantly and been warned that it will be more severe with the next offense.

Director Thompson commented that the main purpose for the discussion at the previous hearing was to consider issues regarding the definition of mature tree, measuring the size of trees, and the size of box trees that would be appropriate as replacement trees. He indicated that it is not always the best option to replace a mature tree with another mature tree. He stated that after the discussion at the last hearing, staff concluded that the simplest method of enforcing the Ordinance was to require that trees with diameter of 12 inches or greater be protected and that a certain box size be required as a replacement. He indicated that staff also heard from the City's arborist that not all trees should be replaced with a 48 inch box and some remain healthier when replaced when they are slightly smaller trees.

Commissioner Bohner commented that the City arborist at the last meeting stated that diameter size was a better indication than any other method of determining tree size. He indicated that measuring trees is an imprecise science, and he has not heard anything to indicate that the trunk diameter is not the best method for providing a comparison of different trees.

Commissioner Simon said that he is comfortable with consideration of a mature tree at 12 inches; however, he would not want for protection to be eliminated for trees with a trunk diameter of less than 12 inches. He indicated that there are many trees whose trunk diameter will never reach 12

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1 inches, that the City may wish to protect, that would be excluded from protection. He suggested  
2 that perhaps an appropriate measure of maturity could also be by determining the age of a tree in  
3 relationship to its projected life span.

4  
5 Director Thompson commented that the directive of the Council was to have an Ordinance that is  
6 easy to follow, and staff feels additional requirements beyond those that already are in place  
7 would make the Ordinance more complex and difficult to implement.

8  
9 Commissioner Simon indicated that he is satisfied with using 12 inch diameter as a measurement  
10 of maturity, although he would question whether there is another measure such as percentage of  
11 projected lifespan of a tree that could also be used. He commented that there may be species of  
12 trees with trunk diameters below 12 inches that the City wishes to protect.

13  
14 Senior Planner Jester commented that it is very difficult to determine the age of a tree without  
15 boring into it, which jeopardizes its health. She indicated that each tree is individual and growth  
16 depends on a variety factors, and age cannot be determined by a standard size for a particular  
17 species. She indicated that staff believes using trunk diameter is the best method of determining  
18 maturity.

19  
20 Chairperson Savikas commented that it may not always be appropriate to replace a tree with the  
21 same species which could eventually create the same issues as the existing tree. She indicated  
22 that the age and type of replacement tree becomes discretionary, and there are many factors that  
23 need to be taken into consideration.

24  
25 Senior Planner Jester pointed out that replacement trees are protected under the definition of  
26 “protected tree” on page 4 of the Resolution regardless of whether they reach a trunk diameter of  
27 12 inches. She pointed out that the word “mature” was purposely not used in the purpose section  
28 of the Resolution.

29  
30 In response to a question from Commissioner Lesser, Director Thompson commented that the  
31 canopy of a tree is considered when staff looks at the overall health of a tree in terms of whether  
32 it should be protected or replaced. He said that the canopy is a difficult standard to calculate  
33 when considering a replacement tree.

34  
35 In response to a question from Commissioner Lesser, Director Thompson indicated that the most  
36 productive manner by which citizens can be involved is by talking to residents and making them  
37 aware of the Ordinance.

38  
39 In response to a question from Commissioner Simon, Director Thompson said that posting of  
40 construction rules occurs before a building permit is issued. He said that posting a notice

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1 regarding the trees on the site that are protected could be included with the construction rules.

2  
3 Commissioner Simon said that he would support using a threshold of 12 inches in diameter to  
4 define maturity; however, he would welcome further input for incorporating different measures  
5 in the future. He stated that he likes the idea of a citizen committee, and it has been helpful in  
6 other issues to have citizens with the background and the interest to provide their input. He  
7 commented that the City needs to be proactive in preserving trees. He commented that he likes  
8 the idea of the ordinance of Pasadena which provides protection to landmark trees, although he is  
9 not certain regarding how such trees would be defined. He indicated that he supports the  
10 proposed recommendations.

11  
12 Commissioner Lesser said that there are conflicting directives from the City Council between  
13 keeping the regulations simple and achieving the goal of protecting mature trees. He indicated  
14 that maturity is a very subjective standard, and the proposed Ordinance changes are an excellent  
15 first step. He commended staff and the public for their work and input and indicated that the  
16 residents who care passionately about the issue have helped to get the Ordinance to this point.  
17 He said that he feels the proposed Ordinance does address the directives of the City Council, and  
18 he is in support.

19  
20 Commissioner Bohner indicated that he echoes the comments of the other Commissioners. He  
21 said that he would encourage residents to remain involved and believes that City staff will look at  
22 any evidence of violations of the Ordinance that are brought forward. He said that the Ordinance  
23 is a good start, and he supports staff's recommendation.

24  
25 Chairperson Savikas also thanked staff for all of their work on the Ordinance. She commented  
26 that she would like for a requirement to be included that the Tree Ordinance rules to be posted at  
27 construction sites. She commented that the argument that the same size of tree can be placed in a  
28 24 inch and a 36 inch box can also be extended to larger box sizes, and she does not feel it is  
29 necessary to increase the box size to greater than 36 inches. She indicated that she is not opposed  
30 to the incorporation of a citizens committee, but she would first like for the residential code  
31 enforcement officer to have an opportunity to regulate the rules herself before it is determined  
32 whether such a committee should be established.

33  
34 In response to a question from Chairperson Savikas, Director Thompson indicated that once the  
35 Ordinance is passed by the City Council, the Council would have to follow up on any further  
36 recommendations made by the Commission. He commented that the Council may decide to  
37 include issues such as forming a citizen committee or identifying heritage trees as work plan  
38 items.

39  
40 Commissioner Bohner commented that it does not appear to him that it is essential to have a

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1 citizen committee mandated by the City to help regulate the Ordinance. He said that citizens are  
2 free to form their own committee and serve to inform staff of violations to the Ordinance.

3  
4 Commissioner Lesser suggested that the Commissioners urge the Council to revisit the  
5 Ordinance in a year to see its effectiveness and whether further changes may be appropriate  
6 including utilizing the services of a citizens committee.

7  
8 Director Thompson commented that staff typically returns after a year and report to Council on  
9 the effectiveness of the Ordinance, and staff can include in the staff report to the Council that the  
10 Commission supports such a review of this Ordinance.

11  
12 A motion was MADE and SECONDED (Lesser/Bohner) to **ADOPT** staff’s recommendation for  
13 revisions to the Tree Ordinance subject to the additional requirements that a sign be posted  
14 relative to the Tree Ordinance requirements at construction sites identifying the specific  
15 requirements for a particular site; with a recommendation that the City Council revisit the Tree  
16 Ordinance in one year; and with revision to the language of Item F on page 6 of the Resolution to  
17 read: “Any new residential construction project in Area Districts I and II which exceeds 50  
18 percent valuation (total estimated cost of reconstructing the entire structure as defined by Section  
19 10.68.030 of the Manhattan Beach Municipal Code) shall be required to plant a minimum of one  
20 36 inch box tree unless the Director of Community Development determines that it is  
21 inappropriate to require additional trees on the property.”

- 22  
23 AYES: Bohner, Lesser, Simon, Chairperson Savikas  
24 NOES: None  
25 ABSENT: Schlager  
26 ABSTAIN: None

27  
28 Director Thompson stated that the item will be presented to the City Council as a public hearing  
29 most likely in January or February of 2006.

30  
31  
32  
33  
34

**CITY OF MANHATTAN BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT**

**TO:** Planning Commission

**THROUGH:** Richard Thompson, Director of Community Development

**FROM:** Laurie B. Jester, Senior Planner

**DATE:** December 14, 2005

**SUBJECT:** Consideration of City Council 2005-2007 Work Plan Item to Amend the Tree Preservation Regulations, Section 10.52.120 of the Zoning Code

**RECOMMENDATION**

Staff recommends that the Planning Commission **CONDUCT** the **CONTINUED PUBLIC HEARING, DISCUSS**, and **ADOPT A RESOLUTION** recommending to the City Council approval of revisions to the Zoning Code related to the Tree Preservation Ordinance.

**BACKGROUND**

The City's Tree Preservation Ordinance was originally adopted in 1993 and at that time, the Ordinance applied only to the Tree Section. The Ordinance protects most trees with a 12" or greater trunk diameter located in the front yard. At that time the Ordinance was implemented more as a "removal and replacement" regulation than a "preservation" regulation.

In 2003, the Ordinance was expanded to apply to all of the residential zones in Area Districts I and II; the Beach Area is not covered by the Tree Ordinance. With the expansion of the Tree Ordinance, planning staff began implementing the regulation as a "preservation" regulation, not a "removal and replacement" regulation as previously implemented. After the adoption of the expanded Tree Ordinance, the City Council and Planning Commission held a joint meeting and at that meeting the City Council confirmed that the Ordinance was intended to preserve trees, and that Staff should continue to enforce the Ordinance accordingly.

In May 2005 the City Council heard the first two appeals of staff decisions on Tree Permits and at that time the Council requested that staff bring back a report on the status of the Tree Ordinance. In July 2005, the City Council adopted the 2005-2007 Work Plan which included this item as one of the top Work Plan priority items for the Department, reviewed a status report on the Tree Preservation regulations, and provided direction on revisions to the regulations.

On August 24, 2005 the Planning Commission conducted a public hearing, discussed the proposed Code Amendments and adopted Resolution No. PC 05-11, with a 5:0 vote. On September 20, 2005 staff presented the Planning Commission recommendation, including a draft Ordinance to the City Council at a public hearing. At that meeting the City Council supported the majority of the Planning Commissions recommendations with a few modifications, and asked

that staff and the Planning Commission study further the protected and replacement tree sizes, and contact individuals to provide input on the issue.

On October 26, 2005, the Planning Commission held a public hearing, took public input, and provided direction to staff for further revisions to the Tree Ordinance. At that meeting staff provided three options to address the protected and replacement tree sizes, one from the Bel Air Crest Custom Homes Association, the second from the City of Pasadena, and the third was a proposal by staff. The attached October 26<sup>th</sup> Planning Commission staff report, attachments and minutes provides a complete background as well as a description of the Tree Permit process.

## **DISCUSSION:**

### *Current regulations*

The City's Tree Preservation Ordinance protects most trees with a 12" or greater trunk diameter located in the front yard. Trees that are removed are required to be replaced with a minimum of one 24" box tree. The number, size, species, and location of replacement trees are subject to review and approval by the Director of Community Development. At this time, based on City Council direction, the Ordinance is implemented as more of a "preservation" regulation, not a "removal and replacement" regulation. The intent of this section is the retention and preservation of trees while permitting the reasonable enjoyment of private property.

### *City Council and Planning Commission comments*

At the September 20<sup>th</sup> meeting some Councilmembers expressed frustration that the proposed ordinance was too difficult and complex to enforce and implement, and an easier to implement approach should be explored. Some of the Commissioners' commented that the issue is so complex that any Ordinance will not be perfect. They agreed with staff that the issue that they and the community are perceiving is that currently we have small homes with large trees and these are being replaced with large homes with small trees, which is changing the character of residential neighborhoods. It was also indicated by some Councilmembers that the smaller trees, less than 12" trunk diameter, were not as critical to protect. At that meeting the City Council requested that staff and the Planning Commission reevaluate the approach to the protected and replacement tree sizes.

The following comments made by the City Council at the September 20<sup>th</sup> meeting, and the Planning Commission at the October 26<sup>th</sup> meeting, were more specific and therefore staff will address them individually.

### *Mature tree definition*

Some of the Council suggested that a better definition of a "mature" tree should be provided. Also some Councilmembers suggested that incentive programs to protect mature trees should be considered, and if mature trees are removed that they should be replaced with mature trees. The City arborist and staff addressed this comment at the last meeting and indicated that determining whether a tree is mature depends on the individual species. The City arborist stated that different species of trees may have a life span of between 25 and over 100 years. He said that arborists, growers and professionals in the nursery business tend to define maturity by tree trunk diameter rather than canopy size, as it is difficult to measure or gauge canopy size. The arborist stated that appraisals for the value of trees are typically made according to trunk diameter. Some trees will



not put out large broad canopies but can grow extremely tall. He also commented that replacing a mature tree with another mature tree is constrained by the types and sizes of trees that are available in the nursery. For example, a tree with a 36 inch trunk diameter would be extremely difficult to locate and install, and would be very expensive. Huge replacement trees generally are not recommended as there can be significant issues with maintenance and survival rates. Staff researched a number of jurisdictions regulations to determine what trunk size was used for tree protection. The size of protected trees varied greatly, basically from 8” to 25” in trunk diameter being defined as a protected tree.

Because of the tremendous variety in mature tree sizes, which is dependent on the species, the individual specimen itself, as well as the environmental conditions that a tree is grown in, a definition for what is considered a mature tree is not proposed. The sense that staff received from the Council was that they wanted to preserve “mature” trees, and using the industry standard of trunk diameter staff would suggest that the Tree Preservation regulations continue to protect trees that have a trunk diameter of 12” or larger. Trees with a 12” trunk diameter and larger would be protected and would require a Tree Permit and replacement if proposed to be removed. Staff is no longer suggesting that trees with a smaller trunk size (6-12” diameter) be protected or required to be replaced if they are removed, as the Council direction was to protect the “mature” trees.

#### *Replacement tree size and number*

The Council also commented that trees that are removed should be replaced with trees that are a certain ratio of the size of the tree that is removed. Several Commissioners agreed with this approach. Staff had originally made the suggestion in July that Council look at the size of replacement trees in relationship to the size of the trees that are being removed, possibly using a ratio of trunk caliper, tree height and canopy spread. Since that time staff discussed a number of options with the City Arborist, and the Public Works Maintenance Superintendent, who is responsible for the City street and park trees, and staff researched various cities’ Codes on tree preservation. A ratio system would need to be very detailed and relate to individual tree species, which staff believes would be much too complex for the public as well as staff, and therefore this approach was not recommended, as the Council directed staff to simply the regulations. The City arborist and staff discussed this approach at the last Planning Commission meeting, and some members of the Commission agreed that the issue of establishing replacement standards based on a ratio is very complex because of the variables in the nature of trees such as in variety, maturity, canopy size, trunk size, height, and growth rate.

To address this issue staff is recommending that the minimum replacement size of trees be increased from a 24” box to a 36” box tree. This will ensure that larger and more mature trees are used when tree removals are approved.

Another new requirement would be that at least one new 36” box size tree would be required on sites with new construction projects that exceed 50% valuation of the existing development on the site, even if no trees currently exist on the site. The 50% valuation threshold is used as a standard for when other requirements, such as public right-of-way improvements, are required to be installed. This is a new provision that will help protect and enhance the City’s existing tree canopy consistent with the City Council direction.

There may be some situations where a property has an overabundance of existing trees and replacement of all the trees that are removed on a one to one basis would be detrimental to the health of the existing trees or to the new replacement trees. Sometimes the driveway and the walkways take up a significant amount of area in the front yard and there only is room for one or two, or possibly no new replacement trees, particularly if several mature trees are being retained. There may also be other factors, such as the existing street trees and neighbor's trees next to a particular property that would compete with new and existing trees. In these situations fewer new replacement trees would be required or if some of the trees on the property were proposed to remain, then potentially no new trees would be required to be planted. To allow further flexibility staff has also added language to allow relocation of protected trees. In some situations trees could potentially be relocated to accommodate new development which meets the intent of preserving the existing tree canopy.

In August the Planning Commission recommended that if it is determined that in these situations where it is not feasible to physically fit new replacement trees on a particular site, the applicant would be required to pay a fee to the City's existing Tree Canopy Restoration Fund, in lieu of planting all of the required replacement trees. The fund is used to evaluate the health of trees and plant new trees throughout the City to compensate for the loss and to help re-establish and enhance the tree canopy throughout the City in the future. This in-lieu fee was discussed by the City Council in September and there were some concerns with its application, and ensuring that the replacement trees would be within the same neighborhood so that the canopy within a particular area would be maintained. The majority of the Council did not support this concept and therefore it is not included in the draft Resolution.

#### *Community input*

The City Council asked that individuals be contacted to provide input on the Tree Ordinance, specifically the issue of protected tree size and replacement tree size. Staff provided notice of the October 26<sup>th</sup> Planning Commission meeting, as well as copies of the staff report to a number of individuals that have expressed interest in the Tree Ordinance. After the meeting staff notified the same individuals of the continuance of the meeting to today's date and a copy of the staff report was provided to all of the interested parties.

The Council also commented that staff needed to determine which trees the community wants to preserve and determine how to preserve them or replace them with mature trees if they are removed. The Council discussed preserving and enhancing the character of a property and a neighborhood by protecting the tree canopy. At the last Planning Commission meeting a number of residents spoke on the issue. Generally the residents felt that all trees in the front yard and the streetside should be preserved to the extent feasible. They felt that homes and landscaped areas should be designed to accommodate existing trees, and if trees are removed illegally that there should be severe financial penalties. Some residents stated that the regulations should be simple to enforce. Other members of the public have commented to staff that they feel that removal of trees is acceptable as long as large mature specimen trees are planted as replacements. They feel that when new homes are constructed that it is an opportunity to remove existing trees that may not be the most appropriate specimens for the particular location, or that may be older and

starting to decline, and then these trees can be replaced with new large, healthy specimens that are more suited to the environment.

Staff is striving to provide a balanced approach to addressing all of the views expressed. In addition to increasing the box size of trees as discussed previously, streetside trees which are currently not protected will be protected with the Code revisions. On corner lots the front setback is located adjacent to the shortest property line, so there is a long streetside setback in which the trees currently are not protected. These streetside trees will be protected by the Ordinance the same as front yard trees.

#### *Tree canopy preservation and enhancement*

The City Council indicated that one of their goals was to preserve and enhance the existing tree canopies on individual residential properties as well as the overall neighborhood, in order to maintain the neighborhood character.

In order to address this comment, the Purpose section of the regulations will include language to ensure the preservation and enhancement of the existing tree canopies on individual residential properties as well as the overall neighborhood, in order to maintain the neighborhood character. Staff also added the provisions which requires at least one new 36" box tree be planted, which is intended to preserve and enhance the City's overall tree canopy.

#### *Tree list*

Some of the Planning Commissioners commented that they would support having a list of trees from which to select an appropriate replacement tree. It was suggested that the list could include many different types of trees in order to provide a variety to match different architectural styles and possibly separating the types of trees that are permitted to different sections of the City. Other Commissioners indicated that the Ordinance needs to be kept simple, and breaking a replacement list into five or six components becomes complex.

In response staff commented that there is such a huge variety of lots in the City that it would be difficult for staff to be constrained by a finite list of acceptable trees. There are lots in the City that are an acre in size where a very large eucalyptus or redwood tree would be appropriate; however, such trees may not be appropriate on smaller lots in the Tree and Hill Sections. The City has a street tree list that is currently also used as a guideline for replacement trees on private property. The list is not all inclusive, but it is a beneficial tool and guide and will be referenced in the Ordinance as these trees help meet the goal of preserving the tree canopy while protecting the City's infrastructure. The City arborist is currently assisting staff in updating the current list of street trees so that replacements fit the soil conditions and climate of Manhattan Beach and suit the smaller and larger sized lots. Staff believes that this will address the Commissions comments.

*Other revisions approved in concept by City Council*

The following is a summary of the revisions to the Tree Ordinance as directed by the City Council on September 20<sup>th</sup>. The proposed revisions will clarify the City's Tree Ordinance requirements and make it easier to enforce as requested by the City Council.

*Emergency Removal*

The Exemptions section of the Code (Section 10.52.120 H. 1.) currently allows removal of trees in cases of emergency. This section requires that a Tree Permit application then be submitted within five working days after removal of a tree. The revision would require approval by the Director of Community Development prior to removal.

*Trees on Adjacent Properties*

There are two sections of the Code that address trees on adjacent properties that conflict. These two Sections (10.52.120 D and 10.52.120 H. 4) will be revised so that adjacent property trees are reasonably protected. Any pruning of roots or branches on adjacent properties that could potentially damage the health of trees is not permitted. Pruning will not require a permit, however if the pruning damages the health of the tree then it becomes a civil matter between the two property owners.

*Trees Exempt from Protection*

Section 10.52.120 H. 2 exempts deciduous fruit bearing trees and two Palm trees from the protection regulations. Staff had suggested revisions that would require no trees with a trunk diameter of 12 inches or greater would be exempt from the ordinance. With this revision Staff would anticipate that fruit and Palm tree removal requests would be approved and a replacement tree would be required; where under the current regulations no permit or replacement is required. However, there was not a City Council consensus on this proposed revision so no changes are proposed.

*Street Side yard trees*

The Tree Ordinance only protects trees in the 20 foot front yard setback. On corner lots the front setback is located adjacent to the shortest property line, so there is a long streetside setback in which the trees are not protected. These streetside trees will be protected by the Ordinance the same as front yard trees are currently protected. If it is not possible to protect and retain trees then they can be removed with approval of a Tree Permit. Any removed tree will be required to be replaced with a minimum 36-inch box size tree (Sections D. 1 and G.).

*Violations and Penalties*

Section 10.52.120 J. establishes standards for violations of the Tree Preservation standards. As an addition to this section an administrative fine, Section K., will be added for any violation of the tree preservation regulations. A fee resolution will be brought back to the City Council at a later date.

*Right-of- Way Improvements*

Public Works and Planning staff currently work together to look at alternative designs and materials in situations where right-of-way improvements may impact trees. Required public

improvements take priority over preserving trees, however alternative designs will be used to preserve trees where feasible, and the revisions (Section D. 6.) codify these current practices.

*Purpose*

The purpose section will be expanded to discuss the design of residences being required to consider and accommodate existing protected trees when feasible, and that the preservation of trees increases property values, provides cooling shade and beauty, and minimizes spread of disease to healthy trees. (Section A).

*Miscellaneous revisions and abuse of trees*

A few language changes for consistency with current procedures and internal language consistency will be provided. These include revisions related to the arborist report, the tree plan, and replacement trees. Additionally, the abuse or mutilation of trees can severely damage or kill a tree so new language has been added into Section 10.52.120 B.2., so that damage of trees is a violation of the regulations, consistent with the public tree requirements. Although not discussed by the Council, Staff would also suggest that a statement be added (Section H. 5.) that trees would be required to be pruned to International Society of Arboriculture (ISA) standards, but no permit would be required for pruning.

**CONCLUSION:**

The proposed revisions to the Tree Preservation regulations are intended to meet the City Councils goal of preserving and enhancing the existing tree canopies on individual residential properties as well as the overall neighborhood, in order to maintain the neighborhood character. The revisions are also intended to simplify the regulations and make them easier to enforce.

Staff requests that the Commission hold the continued public hearing, and adopt the attached Resolution recommending to the City Council approval of revisions to the Tree Ordinance. All of the proposed changes to the existing regulations are shown as redline/strikeout text.

- Attachments:
- A. Draft Resolution No. PC 05-xx
  - B. Planning Commission staff report, attachments, and minutes (duplicates deleted)- October 26, 2005

**RESOLUTION NO. PC 05-xx**

**RESOLUTION OF THE PLANNING COMMISSION  
OF THE CITY OF MANHATTAN BEACH  
RECOMMENDING APPROVAL OF AMENDMENTS  
TO THE CITY ZONING CODE (SECTION 10.52.120)  
TO REVISE THE TREE PRESERVATION  
REGULATIONS**

**THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH  
DOES HEREBY RESOLVE AS FOLLOWS:**

**WHEREAS**, the City's Tree Preservation Ordinance was originally adopted August 19, 1993 (Ordinance No. 1884), and is included as Section 10.52.120 of the Zoning Code, and the Ordinance originally applied only to the Tree Section, generally bounded by Rosecrans Avenue, Blanche Road, Valley Drive and Sepulveda Boulevard, and;

**WHEREAS**, on May 6, 2003, the Ordinance was expanded (Ordinance No. 2045) to apply to all of the residential zones in Area Districts I and II; the Beach Area is not covered by the Tree Ordinance, and;

**WHEREAS**, on June 24, 2005, the City Council held a special session and developed the 2005-2007 Work Plan, which included an item to study possible revisions to the Tree Ordinance, and;

**WHEREAS**, on July 5, 2005, the City Council amended and formally adopted the 2005-2007 Work Plan, and;

**WHEREAS**, on July 26, 2005 the City Council and Planning Commission held a joint Work Plan meeting, and provided direction to revise the Tree Ordinance as one of the top priorities for the Community Development Department, and;

**WHEREAS**, pursuant to applicable law, the Planning Commission of the City of Manhattan Beach conducted a public hearing on August 24, 2005, on the proposed Code Amendments related to revisions to the Tree Preservation regulation, and adopted Resolution No. PC 05-11 recommending to the City Council revisions to the Tree Ordinance, and;

**WHEREAS**, the public hearing was advertised pursuant to applicable law, testimony was invited and received, and;

**WHEREAS**, public noticing included a one-quarter page display ad published on August 11, 2005 in a newspaper of general circulation (Beach Reporter), and;

**WHEREAS**, pursuant to applicable law, the City Council conducted a duly noticed public hearing on September 20, 2005 regarding the Planning Commission's recommendation regarding the proposed Code Amendments (Resolution No. PC 05-11) related to revisions to

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the tree preservation regulations, and public testimony was invited and received, and the Council directed staff and the Planning Commission to revisit portions of the proposed Ordinance, and;

**WHEREAS**, the public hearing held by the City Council was advertised by a one-quarter page display ad published on September 1, 2005 in The Beach Reporter, a newspaper of general circulation in Manhattan Beach and notice was mailed to interested parties of record, and;

**WHEREAS**, pursuant to applicable law, the Planning Commission of the City of Manhattan Beach conducted a public hearing on October 26, 2005, on the proposed Code Amendments related to revisions to the Tree Preservation regulation, and after accepting public input and discussing the item, provided direction to staff for revisions to the Ordinance and continued the public hearing to December 14, 2005, and;

**WHEREAS**, the public hearing was advertised pursuant to applicable law, testimony was invited and received, and;

**WHEREAS**, public noticing included a one-quarter page display ad published on October 13, 2005 in a newspaper of general circulation (Beach Reporter), and;

**WHEREAS**, the applicant for the subject project is the City of Manhattan Beach; and,

**WHEREAS**, pursuant to the California Environmental Quality Act (CEQA) and the Manhattan Beach CEQA Guidelines, the subject Amendments are exempt in that they are covered by the general rule that CEQA [Section 15061 (3)] only applies to projects which have the potential for causing a significant effect on the environment, and since it can be seen with certainty that there is no possibility that the activity will have a significant effect on the environment, the activity is not subject to CEQA; and,

**WHEREAS**, the proposed amendments have been prepared in accordance with the provisions of Title 7, Division 1, Chapter 4, Section No. 65853, et seq., of the State of California Government Code, and;

**WHEREAS**, the Planning Commission finds that the project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code; and,

**WHEREAS**, the Planning Commission made the following findings with regard to the proposed changes:

1. The proposed amendments are consistent with the City of Manhattan Beach General Plan.

**Goal LU-2: Encourage the provision and retention of private landscaped open space.**

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Policy LU-2.3: Protect existing mature trees throughout the City, and encourage their replacement with specimen trees whenever they are lost or removed.

**Goal LU-3: Achieve a strong, positive community aesthetic.**

**Goal CR-4: Preserve the existing landscape resources in the City, and encourage the provision of additional landscaping.**

Policy CR-4.1: Protect existing mature trees throughout the City and encourage their replacement with specimen trees whenever they are lost or removed.

Policy CR-4.3: Recognize that landscaping, and particularly trees, provide valuable protection against air pollution, noise, soil erosion, excessive heat, and water runoff, and that they promote a healthy environment.

Policy CR-4.4: Review the tree ordinance to consider its application citywide and to determine the need to strengthen tree preservation criteria.

Policy CR-4.5: Discourage the reduction of landscaped open space and especially the removal of trees from public and private land.

2. The purpose of the proposed amendments include, but are not limited to, the following;
  - A. Continue to encourage the retention and preservation of trees while permitting the reasonable enjoyment of private property;
  - B. Provide internal consistency within the existing Tree Preservation regulations;
  - C. Ensure that the purpose as stated within the regulations is met;
  - D. Preservation and retention of trees for future generations;
  - E. Adequate size replacement trees in relationship to the size of trees that are removed; and,
  - F. Consistency with other Code provisions and current practices, including but not limited to street tree provisions.
  
3. The Planning Commission also finds as follows:
  - A. Removal of trees in certain zones requires a permit to be issued by the Director of Community Development;
  - B. An exemption to this requirement is provided for when an “emergency” exists;
  - C. Because this section is vague as to what constitutes an “emergency” it is susceptible to abuse by those wishing to rid themselves of unwanted trees who cannot otherwise obtain a permit.



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- D. It is therefore in the best interests of the general public health, safety and welfare with regard to the preservation of trees to amend this exemption to clarify when a tree may be removed for “emergency” reasons and to insure that public safety is the real reason.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of Manhattan Beach hereby recommends **APPROVAL** of the proposed amendments to the Manhattan Beach Municipal Code (Section 10.52.120-Tree preservation and restoration in residential zones, Area Districts I and II) as follows:

### **“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 tree canopies on individual residential properties as well as the overall neighborhood, in order to maintain the neighborhood character. The design of residences, including grading, driveways, walkways, patios, utilities and right-of-way improvements, shall consider and accommodate existing protected trees when feasible. The intent of this section is the retention and preservation of trees while permitting the reasonable enjoyment of private property.

**B. General Requirements.**

1. Except as provided in subsection G (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 or replacement of a protected tree.

3. A "tree plan" shall mean a plot plan (scale 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 10 feet of the subject property adjacent to the front and streetside yards

c. size (diameter and height) and species of each tree

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- d. location of drip line for each tree
- e. designation of tree(s) to be removed, saved, 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 located in the front and streetside yards with a twelve (12") inch or greater trunk diameter at a height of four and one-half feet (4.5') from existing grade, shall be protected and may be only be removed or relocated with prior approval of a tree permit provided they are replaced 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. 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.

5. 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.

6. No 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 2 inches in diameter should occur within the drip line of the tree as measured at ground level. Required public right-of-way improvements shall take priority over tree preservation, however alternative designs and materials, including but not limited to permeable surfaces and planter areas with irrigation, shall be considered and implemented as feasible. Where some root removal is necessary as approved by the City the tree crown may require thinning to prevent wind damage.

7. No fill material shall be placed within the drip line of any tree.

8. 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 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 may 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 or an arborist's report, or verification of a potential safety risk.

3. 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 may require a Tree Permit 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. Any new residential construction project in Area Districts I and II which

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exceeds fifty-percent (50%) valuation (total estimated cost of reconstructing the entire structure as defined by Section 10.68.030 of the Manhattan Beach Municipal Code) shall be required to plant a minimum of one new thirty-six inch (36") box tree, unless the Director of Community Development determines that there is not adequate room on the property.

G. **Replacement Trees.** Required replacement trees shall be minimum ~~twenty-four inch (24") boxed trees~~ thirty-six inch (36") box trees for each protected tree removed of an appropriate species and must be planted prior to final inspection. 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). ~~In no case shall~~ A combination of protected and replacement tree quantities shall not result in less than one protected tree per lot or thirty feet (30') of site frontage ~~storage~~. 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.

H. **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.

2. Removal of deciduous, fruit-bearing trees, Washingtonia robusta, or Washingtonia filifera.

3. 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.

4. Cutting of tree branches and roots extending across property lines into adjacent property, to the extent that the pruning complies with the International Society of Arboriculture (ISA) standards and does not damage or potentially damage the health and structure of the tree(s).

5. Cutting of tree branches and roots to the extent that the pruning complies with the International Society of Arboriculture (ISA) standards and does not damage or potentially damage the health and structure of the tree(s).

I. **Non-liability of City.** Nothing in this Ordinance 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.

J. **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

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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.”

*K. **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 of Manhattan Beach.*

*5. In the event that a civil action is filed regarding any provision of this subsection “K” the City shall be entitled to attorney fees if it prevails.*

**SECTION 3.** Pursuant to Government Code Section 66499.37, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served

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within 120 days of the date of this resolution.

**SECTION 4.** If any sentence, clause, or phrase of this resolution is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this resolution. The Planning Commission hereby declares that it would have passed this resolution and each sentence, clause or phrase thereof irrespective of the fact that any one or more sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

**SECTION 5.** Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other resolution of the City, to the extent that they are inconsistent with this resolution, and no further, are hereby repealed.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of December 14, 2005 and that said Resolution was adopted by the following votes:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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**RICHARD THOMPSON**  
Secretary to the Planning Commission

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**SARAH BOESCHEN**  
Recording Secretary

**CITY OF MANHATTAN BEACH  
EXCERPTS OF MINUTES OF THE REGULAR MEETING  
OF THE PLANNING COMMISSION  
OCTOBER 26, 2005**

1 A regular meeting of the Planning Commission of the City of Manhattan Beach was held on  
2 Wednesday, October 26, 2005, at 6:30 p.m. in the City Council Chambers, City Hall, 1400  
3 Highland Avenue.

4  
5 **ROLL CALL**

6  
7 Chairperson Savikas called the meeting to order.

8  
9 Members Present: Bohner, Lesser, Schlager, Simon, Chairperson Savikas  
10 Members Absent: None  
11 Staff: Richard Thompson, Director of Community Development  
12 Laurie Jester, Senior Planner  
13 Rosemary Lackow, Senior Planner  
14 Eric Haaland, Associate Planner  
15 Sarah Boeschen, Recording Secretary  
16

17 **PUBLIC HEARINGS**

18  
19 **05/1026.3 City Council Work Plan Item: Zoning Code Amendment to the Tree  
20 Preservation Regulations, Section 10.52.120 of the Zoning Code (City of  
21 Manhattan Beach**

22  
23 Director Thompson indicated that changes to the Tree Ordinance were discussed by the Planning  
24 Commission and then by the City Council. He stated that the Council was generally in support  
25 of many of the proposed changes; however, they asked that the Commission consider the issue  
26 further. He said that the Council also asked for a better outreach to members of the public who  
27 might be interested in the changes to the Ordinance, and staff has made an attempt to advertise  
28 the hearing more extensively in contacting many people personally. He said that staff is  
29 requesting that the Commissioners provide a discussion regarding possible further changes to the  
30 Ordinance.

31  
32 Senior Planner Jester summarized the staff report and stated that the Council asked that staff  
33 focus on reevaluating the protected and replacement tree size. She indicated that notice of the  
34 hearing has been sent to people who have expressed interest. She commented that the trend in  
35 the City is changing from small homes with big trees to new larger homes with small trees,  
36 which is impacting the character of neighborhoods. She indicated that different trees have  
37 different growth habits and different characteristics, and it is difficult to arrive at a simple  
38 formula that covers all trees. She indicated that this is just a discussion item, and we are looking  
39 for public input and Planning Commission direction, but no final action will take place tonight.  
40

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1 Senior Planner Jester commented that the regulations of the Bel Air Crest section of Bel Air  
2 encourages the retention of mature trees by requiring that existing trees be maintained or that  
3 new mature trees be planted. She indicated that one mature tree is required per 400 square feet  
4 in front yards in Bel Air Crest, and a 48-inch box tree is the minimum size of a replacement tree.  
5 She indicated that approval of a project will not be granted until the Homeowners' Association is  
6 satisfied that the intention of the regulation is met. She indicated that the regulations of the City  
7 of Pasadena protect landmark, specimen and native trees; requires that any tree that is removed  
8 the replacement must be an equal or larger canopy; and that all of the pruning is required to the  
9 International Society of Arborist (ISA) standards. She commented that landmark trees are  
10 specified as trees of historical or cultural significance and are entirely protected; specimen trees  
11 are specified as species that are included on a list that range in trunk size from 8 to 25 inches and  
12 are protected in front, side and rear yards; and native trees include 8 species including oak,  
13 walnut, and sycamore with a minimum trunk size of 8 inches and are protected in front, side and  
14 rear yards.

15  
16 Senior Planner Jester stated that the Council wanted further consideration given to staff's  
17 original proposal requiring trees with a trunk diameter of 6 to 12 inches to be replaced with a  
18 minimum 24 inch box and requiring trees with a trunk diameter of 12 inches or larger to be  
19 protected and replaced with a 36 inch box tree if determined necessary to be removed. She said  
20 that the Council also wanted staff to reconsider allowing an in-lieu fee for limited sites in place  
21 of replacing a tree because it would result in trees being removed and replaced in a different area  
22 which would impact the area where the tree was removed. She commented that staff also heard  
23 from the Council that they felt it was not as important to protect smaller trees with a diameter of  
24 less than 12 inches. She stated that an option for the Commission to consider to protect and  
25 maintain the canopy with existing and/or new trees, would be to provide at least one mature tree  
26 per lot for projects over 50 percent valuation; to review individual lots to determine appropriate  
27 replacement trees for the particular lot; and to not protect trees with trunks under 12 inches in  
28 diameter.

29  
30 In response to a question from Chairperson Savikas, Senior Planner Jester said that the  
31 Commission may want to consider a requirement for at least one tree for projects over 50 percent  
32 valuation of the existing structure even for lots with no existing trees.

33  
34 In response to a comment from Commissioner Simon, Senior Planner Jester commented that a  
35 definition for what is considered a mature tree is not proposed. She indicated that staff's sense  
36 from the input from the Council is that mature trees are those that have a significant canopy, and  
37 a trunk diameter of 12" or larger.

38  
39 **Tony Uno**, West Coast Arborists, said that determining whether a tree is mature depends on the  
40 species. He indicated that different species of trees may have a life span of between 25 and over  
41 100 years. He said that they tend to define maturity by trunk diameter rather than canopy size.

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1 He indicated that some trees will not put out large broad canopies but can grow extremely tall.  
2 He commented that replacing a mature tree with another mature tree is constrained by the types  
3 and sizes of trees that are available in the nursery.

4  
5 Chairperson Savikas opened the public hearing.

6  
7 **Mark Quigley**, a resident of the 700 block of 15<sup>th</sup> Street, stated that there is a problem with  
8 developers removing trees to accommodate new construction without consideration for the  
9 character of the neighborhood. He said that many large trees in the Tree Section are being cut  
10 down by developers. He indicated that three large eucalyptus trees were recently cut down by a  
11 developer in the side yard of a lot at 23<sup>rd</sup> and Laurel near to his with a permit that was granted  
12 without an application. He pointed out that he built a house on a corner lot without removing  
13 any trees. He indicated that developers are making a large profit with homes and have the  
14 resources to replace any trees that are removed. He said that oversight is necessary from the City  
15 to determine if any trees are removed illegally, and fines for removing any without a permit or  
16 illegitimately must be severe.

17  
18 **Kay Shirback**, a resident of the 1800 block of Agnes Road, said that speed is necessary to  
19 prevent the removal of a great many trees in the community. She commented that most of the  
20 large trees within the City may already be gone if the City waits to enact an Ordinance that is  
21 perfect. She indicated that currently there are not sufficient consequences to prevent developers  
22 from removing trees without a permit, and staff needs to be given more power to regulate  
23 developers. She also indicated that the regulations need to be simple to avoid complications in  
24 enforcement. She would support requiring a tree per amount of square footage in the front yard.  
25 She said that she is also concerned with concrete being placed up next to tree roots. She  
26 indicated that once the concrete is cracked, the tree is more likely to be removed than the  
27 concrete being replaced. She said that the roots of trees that grown onto adjacent properties also  
28 need to be protected.

29  
30 **Carol Wahlberg**, a property owner in the Tree Section, said that the Tree Section does not look  
31 the same as it did in the past because of the number of trees that have been removed. She  
32 commented that she is not certain that the direction of the Council that there be more public  
33 outreach has been met, and she is not aware of any big block advertising for this hearing in the  
34 local papers. She said that it is important to address the size of structures allowed particularly in  
35 the Tree Section. She said that the large structures are changing the character of the  
36 neighborhood and sacrificing open space and trees. She said that incentives should be given to  
37 encourage retention of open space.

38  
39 **Bernard Johnson**, a resident of the 600 block of 18<sup>th</sup> Street, said that all trees in the City need to  
40 be protected on public as well as private property. He commented that the Tree Ordinance is  
41 currently not being enforced, and many mature trees are being removed. He indicated that he



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1 feels trees with trunk diameters less than 12 inches do need to be protected. He commented that  
2 some trees never will grow to have a diameter over 12 inches and yet are mature trees. He stated  
3 that there are trees that are much too large for the site on small lots that take away the property  
4 rights of adjoining neighbors. He indicated that there needs to be a mechanism at the point the  
5 property is redeveloped for the adjoining neighbors to regain their property rights by removing  
6 the roots and branches intruding onto their property. He said that trees should also not be placed  
7 in areas where they will grow and eventually intrude onto the neighboring property. He said that  
8 he feels the Tree Ordinance should be expanded so that shade is provided by trees within parking  
9 lots. He said that a requirement could possibly be included that a certain percentage of the  
10 parking area be shaded in 15 years. He indicated that he has provided staff with “The Guide for  
11 Developing and Evaluating Tree Ordinances” which references 159 different tree ordinances for  
12 cities within California, and “Tree Guidelines for Southern California Communities” which lists  
13 many species of trees and their characteristics. He commented that he accessed both manuals  
14 from the internet. He indicated that trees should be measured in caliper size rather than box size.  
15 He suggested that a list be made of trees that should not be permitted on small lots or that should  
16 not be permitted because they are poisonous.

17  
18 In response to a question from Commissioner Lesser, **Mr. Johnson** indicated that the Ordinance  
19 could refer to “Tree Guidelines for Southern California Communities” as a more detailed guide  
20 to trees that would be permitted.

21  
22 Director Thompson pointed out that the Public Works Department is currently working on an  
23 item to evaluate trees within the public right-of-way, which is separate from the Tree Ordinance.

24  
25 Senior Planner Jester pointed out that public trees are protected and addressed in a separate  
26 section of the Code, and no one is permitted to remove or prune a public tree without a permit.

27  
28 In response to a question from Commissioner Simon, **Mr. Quigley** indicated that there are  
29 situations where trees should be removed where they are unhealthy or present a danger of falling.  
30 He commented that it is currently the discretion of the developer to determine that a tree must be  
31 removed on an emergency basis and then retroactively submit an application for a permit. He  
32 said that it is too easy for developers to take advantage of the loophole and remove healthy trees.  
33 He indicated that he does not believe trees should be removed during development simply  
34 because of aesthetics or preference in the design of homes. He indicated that his main concern is  
35 large trees being removed around the perimeter street-side and front of corner lots which changes  
36 the character of the neighborhood simply because it is easier for the developer.

37  
38 Chairperson Savikas closed the public hearing.

39  
40 Commissioner Schlager said that he would like to visit the Tree Section and Hill Section with the  
41 arborist to get a better sense of lot size and building size, as well as the canopy, height, diameter,

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1 and box size of trees in order to provide further direction to staff.

2

3 Commissioner Bohner said that the issue of establishing regulations is very complex because of  
4 the variables in the nature of trees such as in variety, maturity, canopy size, trunk size, height,  
5 and growth rate.

6

7 Chairperson Savikas commented that perhaps a list could be established of fast growing trees so  
8 that mature trees can be replaced with species that will become mature within a relatively short  
9 period.

10

11 Commissioner Schlager asked regarding whether there are possible encouragements the City  
12 could offer to developers to prevent them from cutting large trees in the side yard of lots.

13

14 Senior Planner Jester indicated that it would be possible to increase the box size that is required  
15 for a replacement which would significantly increase the cost of replacing a tree. She said that  
16 also the in-lieu fee can be imposed for the cost of adding trees at other locations if a replacement  
17 tree cannot fit in a space where a tree is removed.

18

19 Chairperson Savikas pointed out that the City Council did not express support for an in-lieu fee  
20 because it would result in trees being replaced in other areas rather than where they are removed,  
21 which would change the character of the neighborhood.

22

23 Commissioner Schlager commented that developers should be required to provide some type of  
24 compensation if they are cutting down trees and not providing a replacement.

25

26 Commissioner Bohner said that under the Ordinance that was passed developers can be fined for  
27 cutting down trees that are protected, and it is a matter of enforcing the conditions that are  
28 imposed.

29

30 Director Thompson indicated that the input from the residents who have spoken is that the  
31 priority should be on preservation of trees, particularly for the large eucalyptus trees within the  
32 Tree Section adjacent to the street side on corners, that are being cut down by developers. He  
33 indicated that with the conditions of the new Ordinance, staff would bring appeals in such cases  
34 where trees are interfering with development before the Commission.

35

36 Chairperson Savikas said that it would be appropriate for such appeals to be brought before the  
37 Commission to allow input from both the developer and public to be heard.

38

39 Director Thompson indicated that the Council felt that the new Ordinance as passed by the  
40 Commission was too broad and would take much more City resources than are available to  
41 implement. He said that staff is suggesting the possibility that smaller trees with less than 12”

**PLANNING COMMISSION MINUTES-EXCERPTS**

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1 diameter trunks not be protected. He indicated that staff is also suggesting that any new  
2 development require an evaluation of the property and that the City can require trees even if  
3 none were on the property previously.

4  
5 Chairperson Savikas commented that she supports having a list of trees from which to select an  
6 appropriate replacement tree. She suggested the possibility that homeowners who want a type of  
7 tree not on the list could apply for a Variance before the Commission. She said that the list  
8 could include many different types of trees in order to provide a variety to match different  
9 architectural styles.

10  
11 Senior Planner Jester commented that there is such a huge variety of lots in the City that it would  
12 be difficult for staff to be constrained by a list of acceptable trees. She said that there are lots in  
13 the City that are an acre in size where a very large eucalyptus or redwood tree would be  
14 appropriate; however, such trees may not be appropriate on smaller lots in the Tree and Hill  
15 Sections.

16  
17 Chairperson Savikas suggested possibly separating the types of trees that are permitted to  
18 different sections of the City. She stated that her understanding is that the Council is requesting  
19 some sort of guidelines for the types of replacement trees that would be permitted.

20  
21 Commissioner Bohner indicated that the Ordinance needs to be kept simple, and breaking it into  
22 five or six components becomes complex.

23  
24 Senior Planner Jester commented that there are other factors such as the existing street trees and  
25 neighbor's trees next to a particular property that would compete with a tree planted in the yard.

26  
27 Commissioner Bohner said that the issue is so complex that any Ordinance will not be perfect.  
28 He said that the guidance from the Council is that they do not want protection for smaller trees  
29 but want to preserve larger trees with trunk diameters over 12 inches in order to protect the tree  
30 canopy as much as possible. He commented that he likes the option of requiring that a tree  
31 which is removed be replaced with a tree that is as close in trunk diameter and species as  
32 possible. He said that he also would support the suggestion that staff have the ability to  
33 determine what they feel is appropriate for a property if it is completely redeveloped. He stated  
34 that such a regulation would preserve mature trees and ensure that replacement trees fit the  
35 neighborhood.

36  
37 Commissioner Schlager indicated that he does not feel he has sufficient information to provide  
38 further direction to staff.

39  
40 Chairperson Savikas stated that she likes the option of requiring a replacement tree per square  
41 footage of front yard area. She indicated that it is not possible for a replacement tree to be

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1 comparable in size to a mature tree, and a replacement needs to be considered that will grow  
2 similar to the original tree to achieve the same look. She said that a using a list of replacement  
3 trees would provide a guideline to meet specifications for replacements that as similar as  
4 possible to the original tree.

5  
6 **Mr. Uno** indicated that it would be possible to arrive at a list of replacement trees that would be  
7 compatible with the neighborhoods within the City. He commented that his company has  
8 contracts with about 120 cities within California to manage street and park trees, and they create  
9 lists of street trees as part of their services. He said that they could do a similar list of trees that  
10 would fit the soil conditions and climate of Manhattan Beach and would suit the smaller and  
11 larger sized lots.

12  
13 In response to a question from Commissioner Lesser, **Mr. Uno** indicated that the trunk diameter  
14 is preferable in measuring the size of trees because it is difficult to measure or gauge canopy  
15 size. He said that appraisals for the value of trees are typically made according to trunk  
16 diameter.

17  
18 Director Thompson indicated that staff will provide the Commissioners with a preferred tree list  
19 that will include a number of different types of trees. He said that based on the discussion, staff  
20 will consider language to include preserving larger trees but not smaller trees and evaluating new  
21 construction on a case by case basis with the goal of maintaining the overall tree canopy on the  
22 property and within the neighborhood.

23  
24 Senior Planner Jester commented that she would prefer that any list of trees not be included in  
25 the Ordinance but rather a separate document which is referenced in the Ordinance.

26  
27 In response to a comment from Commissioner Schlager, Senior Planner Jester said that she will  
28 e-mail him copies of the manuals provided by **Mr. Johnson**.

29  
30 A motion was MADE and SECONDED (Schlager/Simon) to continue the public hearing  
31 regarding Zoning Code Amendment to the Tree Preservation Regulations to the meeting of  
32 December 14, 2005.

- 33  
34  
35  
36 AYES: Bohner, Lesser, Schlager, Simon, Chairperson Savikas  
37 NOES: None  
38 ABSENT: None  
39 ABSTAIN: None  
40

**CITY OF MANHATTAN BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT**

**TO:** Planning Commission

**THROUGH:** Richard Thompson, Director of Community Development

**FROM:** Laurie B. Jester, Senior Planner

**DATE:** October 26, 2005

**SUBJECT:** City Council 2005-2007 Work Plan item: Zoning Code Amendment to the Tree Preservation regulations (Section 10.52.120 of the Zoning Code) to revise the Tree Preservation regulations. (City of Manhattan Beach)

**RECOMMENDATION**

Staff recommends that the Planning Commission **CONDUCT** the **PUBLIC HEARING, DISCUSS**, and **PROVIDE DIRECTION** for revisions to the Zoning Code related to the Tree Preservation Ordinance. At the Planning Commission meeting staff will provide a Powerpoint presentation with photographs of trees as they relate to the Tree Preservation regulations. The City Arborist will attend the meeting and be available to answer any questions.

**BACKGROUND:**

The City's Tree Preservation Ordinance was originally adopted in 1993 and at that time, the Ordinance applied only to the Tree Section. The Ordinance protects most trees with a 12" or greater trunk diameter located in the front yard. At that time the Ordinance was implemented more as a "removal and replacement" regulation than a "preservation" regulation.

In 2003, the Ordinance was expanded to apply to all of the residential zones in Area Districts I and II; the Beach Area is not covered by the Tree Ordinance. With the expansion of the Tree Ordinance, planning staff began implementing the regulation as a "preservation" regulation, not a "removal and replacement" regulation as previously implemented. After the adoption of the expanded Tree Ordinance, the City Council and Planning Commission held a joint meeting and at that meeting the City Council confirmed that the Ordinance was intended to preserve trees, and that Staff should continue to enforce the Ordinance accordingly.

In May 2005 the City Council heard the first two appeals of staff decisions on Tree Permits and at that time the Council requested that staff bring back a report on the status of the Tree Ordinance. In July 2005, the City Council adopted the 2005-2007 Work Plan which included this item as one of the top Work Plan priority items for the Department, reviewed a status report on the Tree Preservation regulations, and provided direction on revisions to the regulations.

On August 25, 2005 the Planning Commission conducted a public hearing, discussed the proposed Code Amendments and adopted Resolution No. PC 05-11, with a 5:0 vote. On September 20, 2005 staff presented the Planning Commission recommendation, including a draft

Ordinance to the City Council at a public hearing. At that meeting the City Council supported the majority of the Planning Commissions recommendations with a few modifications, and asked that staff and the Planning Commission study further the protected and replacement tree sizes. The attached August 25<sup>th</sup> Planning Commission staff report provides a complete description of the Tree Permit process.

**DISCUSSION:**

At the September 20<sup>th</sup> meeting the City Council requested that staff and the Planning Commission reevaluate the approach to the protected tree size and replacement tree size. The Council asked that individuals be contacted to provide input on the issue, and staff provided notice to a number of individuals that have expressed interest in the Tree Ordinance.

The Council indicated that they would like a reliable ordinance to protect the City’s overall, as well as each neighborhoods, tree canopy. Some Councilmember’s expressed frustration indicating that the ordinance was too difficult and complex to enforce and implement and an easier to implement approach should be explored. They agreed with staff that the issue that they and the community are perceiving is that currently we have small homes with large trees and these are being replaced with large homes with small trees, which is changing the character of neighborhoods. Some Councilmembers suggested that incentive programs to protect mature trees should be considered, and if mature trees are removed that they should be replaced with mature trees. It was also indicated by some that the smaller trees were not as critical to protect.

Staff is providing three options for the Planning Commission to review and consider. One is from the Bel Air Crest Custom Homes Association, the second is the City of Pasadena, and the third is the proposal presented by staff.

*Background- current regulations-Protected tree size and replacement size*

The City’s Tree Preservation Ordinance protects most trees with a 12” or greater trunk diameter located in the front yard. Trees that are removed are required to be replaced with a minimum of one 24” box tree. The number, size, species, and location of replacement trees are subject to review and approval by the Director of Community Development. At this time, based on City Council direction, the Ordinance is implemented as more of a “preservation” regulation, not a “removal and replacement” regulation. The intent of this section is the retention and preservation of trees while permitting the reasonable enjoyment of private property.

*Bel Air Crest Custom Homes Association*

One of the architects that works extensively in the City of Manhattan Beach is also very involved with the Bel Air Crest Custom Homes Association and suggested that staff review their landscape requirements. (Exhibit A) In this area of Bel Air trees are encouraged to be retained by the adopted tree regulations. The intent of the regulation is to either maintain the existing mature trees or if it is not feasible to do so then require new mature established trees.

In the front yard a minimum of one tree per 400 square feet of front yard and one per 500 square feet of rear yard is required. This discussion will focus on the front yard. The front yard area includes the entire yard between the front property line and the house, not just the required front

setback, and the driveway is included in the square footage. The lots in Bel Air Crest are generally much larger than those in Manhattan Beach.

Existing, replacement, or new trees may be used in order to meet the criteria. If only one tree is required then it may be a 48” box, if two then 1-48” and 1-60”, if three then 1-48”, 1-60” and 1-48”. With the fourth tree it goes back to the 48” box requirement, then repeats. A 36” box tree, which is fairly commonly used, counts as a 24” box. If a tree in the required box size does not meet the height and/or spread (canopy) requirements then a larger size box tree will be required. Larger box sizes are encouraged and during the final inspection if the intent of the regulations are not being met then larger or more trees can be required. If a certain tree species has a natural growth habit that is taller and/or narrower then allowances are made if the intent is being met. Landscape plans are required to be submitted prior to the start of construction and a \$10,000 deposit is required to protect against damage and noncompliance.

Within the front yard the following standards apply.

<b>Bel Air Crest Custom Homes Association landscape requirements</b>			
<b>Front yard 1 tree/400 SF</b>			
<b>Size- box</b>	<b>Percentage</b>	<b>Height-feet</b>	<b>Spread (Canopy)-feet</b>
24”	25%	8-10’	3-4’
36”	Can be substituted for a 24” box	9-11’	4-5’
48”	50%	12-14’	8-10’
60”	25%	14-16’	10-12’
72”	As required	16-17’	14-16’

*City of Pasadena*

Pasadena regulations cover private as well public property trees (Exhibit B). Trees that are identified as “Landmark”, “Specimen”, and “Native” trees are protected on private property. Individual Landmark and Specimen trees are specifically identified and then approved by the City Council. The list of specimen trees includes over 100 different varieties of trees with trunk sizes from 8” to 25” minimum in diameter, while Palm trees on the specimen list are protected based on height. Specimen trees are protected in the front, side and rear yard. Landmark trees are those that have particular historical or cultural significance and must be identified through the same process that is used to establish Landmark homes. All trees that have been identified as Landmark trees are protected, not matter where they are located on a property. Native trees that are protected include Oaks, Walnuts, California Bays, Alders, Cottonwoods, Willows, Buckeyes, and Sycamores with a trunk diameter of at least 8 inches, located in the front, side or rear yard. Specific findings must be made in order to remove a Landmark, Specimen or Native tree, such as the tree being unhealthy, not removing the tree would constitute a taking, or the new landscape design would result in a greater tree canopy coverage than that which is removed.

Trees are required to be protected during construction. Permits are required for pruning Landmark trees, and all pruning must conform to the International Society of Arboriculture

standards. Tree Protection Guidelines and the Specimen Tree list are adopted by resolution of the City Council.

*City of Manhattan Beach Standards*

The City Council recommended that staff explore protecting trees with less than a 12” trunk diameter, possibly using criteria based on a ratio of trunk caliper, tree height and canopy spread. The Council agreed with staffs suggestion to look at the size of replacement trees in relationship to the size of the trees that are being removed, again possibly using a ratio criteria. Staff discussed a number of options with the City Arborist, and the Public Works Maintenance Superintendent , who is responsible for the City street and park trees, and staff researched various cities Codes on tree preservation. A ratio system would need to be very detailed and relate to individual tree species which staff believes would be much to complex for the public as well as staff.

In August the Planning Commission supported staffs recommendation that trees with a 6 to 12 inch trunk diameter generally be allowed to be removed, however they would be required to be replaced with a 24 inch box size tree. Trees with a trunk diameter of 12 inches or greater would be protected consistent with current regulations, and if removed would be required to be replaced with a minimum 36 inch box tree. Trees with less than a 6 inch trunk diameter would not be protected and could be removed without a permit. (Section G)

There may be difficulty on some properties to replace all the trees that are removed when a new home is being constructed if there are several trees on the property. Sometime the driveway and the walkways take up a significant amount of area in the front yard and there only is room for one or two new replacement trees, particularly if one or more mature trees are being retained. The Planning Commission also recommended in August that if it is determined that it is not feasible to physically fit new replacement trees on a particular site, then the applicant would be required to pay a fee to the City’s Tree Canopy Restoration Fund in lieu of planting all of the required replacement trees. (Section G) The fund is used to evaluate the health of trees and plant new trees throughout the City to compensate for the loss and to help re-establish and enhance the tree canopy throughout the City in the future. This in-lieu fee was discussed by the City Council in September and there were some concerns with it’s application, and ensuring that the replacement trees would be within the same neighborhood so that the canopy within a particular area would be maintained.

*Other revisions approved in concept by City Council*

The following is a summary of the revisions to the Tree Ordinance as directed by the City Council on September 20<sup>th</sup>. The proposed revisions will clarify the City’s Tree Ordinance requirements and make it easier to enforce as requested by the City Council.

*Emergency Removal*

The Exemptions section of the Code (Section 10.52.120 H. 1.) currently allows removal of trees in cases of emergency. This section requires that a Tree Permit application then be submitted within five working days after removal of a tree. The revision would require approval by the Director of Community Development prior to removal.



### *Trees on Adjacent Properties*

There are two sections of the Code that address trees on adjacent properties that conflict. These two Sections (10.52.120 D and 10.52.120 H. 4) will be revised so that adjacent property trees are reasonably protected. Any pruning of roots or branches on adjacent properties that could potentially damage the health of trees is not permitted. Pruning will not require a permit, however if the pruning damages the health of the tree then it becomes a civil matter between the two property owners.

### *Trees Exempt from Protection*

Section 10.52.120 H. 2 exempts deciduous fruit bearing trees and two Palm trees from the protection regulations. Staff had suggested revisions that would require no trees with a trunk diameter of 12 inches or greater would be exempt from the ordinance. With this revision Staff anticipates that fruit and Palm tree removal requests would be approved and a replacement tree would be required; where under the current regulations no permit or replacement is required. However, there was not a City Council consensus on this proposed revision.

### *Street Side yard trees*

The Tree Ordinance only protects trees in the 20 foot front yard setback. On corner lots the front setback is located adjacent to the shortest property line, so there is a long streetside setback in which the trees are not protected. These streetside trees will be protected by the Ordinance, unless there is new construction near the streetside setback and it is not possible to protect and retain tree then they can be removed with approval of a Tree Permit. Any removed tree is required to be replaced with a minimum 24-inch box size tree (Sections D. 1 and G.).

### *Violations and Penalties*

Section 10.52.120 J. establishes standards for violations of the Tree Preservation standards. As an addition to this section an administrative fine, Section K., will be added for any violation of the tree preservation regulations. A fee resolution will be brought back to the City Council at a later date.

### *Right-of- Way Improvements*

Public Works and Planning staff currently work together to look at alternative designs and materials in situations where right-of-way improvements may impact trees. Required public improvements take priority over preserving trees, however alternative designs will be used to preserve trees where feasible, and the revisions (Section D. 6.) codify these current practices.

### *Purpose*

The purpose section will be expanded to discuss the design of residences being required to consider and accommodate existing protected trees when feasible, and that the preservation of trees increases property values, provides cooling shade and beauty, and minimizes spread of disease to healthy trees. (Section A). Staff would also suggest that a statement be added that trees would be required to be pruned to International Society of Arboriculture (ISA) standards, but no permit would be required for pruning.

*Miscellaneous revisions and abuse of trees*

A few language changes for consistency with current procedures and internal language consistency will be provided. These include revisions related to the arborist report, the tree plan, and replacement trees. Additionally, the abuse or mutilation of trees can severely damage or kill a tree so new language has been added into Section 10.52.120 B.2., so that damage of trees is a violation of the regulations, consistent with the public tree requirements.

**CONCLUSION:**

Staff requests that the Commission hold the public hearing, review and discuss the various options and provide direction to staff. Staff will then return to the Planning Commission with a draft Resolution, if requested with the Planning Commissions recommendations which will then be forwarded to the City Council to consider, or staff will return to the Commission with further information is requested.

- Attachments: A. Bel Air Crest Custom Homes Association Landscape Development Standards- Revised Addendum #3, dated May 2, 2001
- B. City of Pasadena Chapter 8.52 "City Trees and Tree Protection Ordinance"- Ordinance No. 6896
- C. City Council staff report, minutes, and attachments (duplicates deleted)- September 20, 2005



# Bel Air Crest

**TO:** BEL AIR CREST CUSTOM HOMES ASSOCIATION MEMBERS  
**FROM:** CUSTOM HOMES ASSOCIATION BOARD OF DIRECTORS  
**RE:** REVISED ADDENDUM #3  
**DATE:** MAY 2, 2001

At the meetings held on February 22 and April 11, 2001 revisions to Addendum #3 regarding tree sizes and plan submittal were approved by the Bel Air Crest Custom Homes Board of Directors and Architectural Control Committee.

All lots currently under construction have 30 days to submit landscape plans which show conformance with the Addendum #3 Revision.

All lots that have not yet submitted architectural or landscape plans must provide front hardscape/softscape plans and adherence to the Addendum #3 Revision prior to the start of any construction.

In addition, the \$10,000.00 Construction Compliance Deposit will be used for both protection against damage and against noncompliance.

### **Addendum #3**

Front Yard (1 tree / 300 sq ft)

1/3 60" box

1/3 48" box

1/3 36" box

Rear yard (1 tree / 400 sq ft)

1/3 48" box

1/3 36" box

1/3 24" box

### **Addendum #3 Revision**

Front Yard (1 tree / 400 sq ft)

1/4 60" box

1/2 48" box

1/4 24" box

Rear yard (1 tree / 500 sq ft)

1/4 48" box

1/4 36" box

1/2 24" box

The following tree specifications shall be added to, and made a part of, the Bel Air Crest Custom Homes Architectural and Landscape Guidelines:

FRONT YARD

A minimum of one (1) tree per 300 square feet (20' x 15') must be planted within all front yard landscaping, driveway area included.

- One third of trees shall be 60" box or larger, one third shall be 48" box or larger and one third shall be 36" box or larger.

- Minimum standards:

<u>Size</u>	<u>Height</u>	<u>Spread</u>
24" box	8 - 10'	3 - 4'
36" box	9 - 11'	4 - 5'
48" box	12 - 14'	8 - 10'
60" box	14 - 16'	10 - 12'
72" box	16 - 17'	14 - 16'

REAR YARD

A minimum of one (1) tree per 400 square feet (20' x 20') must be planted within rear yard, pool/spa area included.

- One third of trees shall be 48" box or larger, one third shall be 36" box or larger and one third shall be 24" box or larger.
- See above for minimum standards.

Introduced by Councilmember Tyler

ORDINANCE NO. 6896

AN ORDINANCE OF THE CITY OF PASADENA AMENDING  
CHAPTER 8.52 OF THE PASADENA MUNICIPAL CODE,  
ENTITLED "CITY TREES AND TREE PROTECTION ORDINANCE"  
AND AMENDING RELATED SECTIONS OF TITLE 17 AND CHAPTER 1.25.

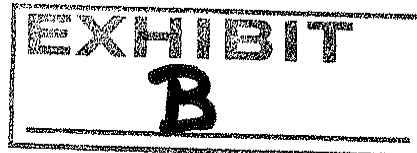
The People of the City of Pasadena ordain as follows:

SECTION 1. This ordinance, due to its length and the corresponding costs of publication, will be published by title and summary as permitted by Section 508 of the Charter. The approved summary of this ordinance reads as follows:

"SUMMARY

The purpose of this proposed ordinance is to recognize the substantial economic, environmental and aesthetic importance of trees within the community. The goal of the proposed tree protection ordinance is to preserve and grow Pasadena's canopy cover by protecting landmark, native and specimen trees on specified areas of private property and expanding the protection of street trees and trees on public property.

New sections are added to define 'public trees' and 'street trees' as well as 'landmark,' 'native' and 'specimen' trees. A definition of 'hazardous' is provided which allows trees to be removed without a permit under certain defined circumstances. Definitions for 'injure' and 'pruning' are provided with respect to actions affecting a tree's physical condition. A definition of 'location' is provided to allow determination of where trees are protected. A definition of



'multi-trunk' is provided to determine the size of certain trees.

A designation process for landmark trees is created which is the same process as for the designation of other city landmarks. A list of designated landmark trees will be on file with the department of public works and transportation and the planning and development department, and these trees will be afforded special protection in certain specified circumstances. The city council will also adopt, by resolution, the characteristics of protected specimen trees which are then afforded automatic protection under the ordinance.

Native trees, defined as trees of specific types of oak, walnut and sycamore with a trunk diameter of at least 8 inches at 4 ½ feet above natural grade are automatically afforded certain protections under the ordinance.

Tree protection guidelines will provide all of the specific standards with respect to protection of trees under this ordinance. These guidelines will become effective on acceptance by resolution of the city council and will be updated as warranted.

New restrictions on tree work and removal are created, requiring permits unless excepted by this chapter. No permit will be required for pruning trees on private property, except for landmark trees. There is an exception created which allows removal of hazardous trees and trees that must be removed for a number of public purposes, including the East Side Storm Drain Project, and an exception recognized for projects and permits approved as of the effective date of this ordinance. Standard application, appeal and call up

procedures for permit related decisions under the zoning code are incorporated by reference into this ordinance. Related sections of the Zoning Code are amended to incorporate the explicit protections of the tree protection ordinance into the ongoing planning and permitting process.

No permits will be given for work on public trees, and all work on public trees will be performed by the city. Any person desiring special maintenance or removal of a public tree shall make a written request to the city manager and pay the costs of service according to rates set by resolution of the city council if the request is granted. Unless excepted, the following will be unlawful acts under this ordinance: (A) to prune, injure or to remove any public tree; (B) to injure, or to remove without a permit, any native tree over 8 inches in diameter located in the established front yard, required side yard, established corner yard or required rear yard in any single-family residential or RM-12 multifamily residential zoned lot; (C) to prune, injure, or to remove without a permit, any landmark tree; (D) to injure, or to remove without a permit, any specimen tree located in the established front yard, required side yard, established corner yard or required rear yard in any lot which is zoned as single family residential or RM-12 multifamily; (E) to injure or to remove without a permit any native tree or any specimen tree in zones other than single-family residential and RM-12 multifamily residential.

No permit which will result in injury to or removal of a landmark, native or specimen tree will be issued unless one of the

following findings is made: (1) there is a public benefit or public health safety or welfare benefit to the injury or removal that outweighs the protection of the tree; or (2) the present condition of the tree is such that it is not reasonably likely to survive; or (3) there is an objective feature of the tree that makes the tree not suitable for the protections of this chapter; or (4) there would be a substantial hardship to a private property owner in the enjoyment and use of real property if the injury or removal is not permitted; or (5) to not permit injury to or removal of a tree would constitute a taking of the underlying real property; or (6) the project includes a landscape design plan which will result in a tree canopy coverage of greater significance than the one removed. In addition, procedures required by the landmark process must be followed prior to issuing of any permit to remove a landmark tree. Permits for pruning landmark trees require a showing that proper pruning standards will be observed. Relocation of protected trees will be treated as a removal.

The tools of compliance orders and administrative citations are provided to enforce the provisions of the ordinance, and civil and criminal penalties are specified for violation of the ordinance.

This is a summary of the ordinance for the purpose of general notice and orientation only and does not itself constitute legal provisions or the law. The full text of this ordinance will become law and interested and affected persons may rely on the full text alone."



SECTION 2. Chapter 8.52 of the Pasadena Municipal Code is amended by amending to read, in its entirety:

"Chapter 8.52

CITY TREES AND TREE PROTECTION ORDINANCE

Sections:

- 8.52.010 Short title.
- 8.52.015 Purposes of ordinance.
- 8.52.020 Definitions.
- 8.52.025 Applicability.
- 8.52.030 City Manager responsibilities.
- 8.52.032 Tree protection guidelines.
- 8.52.040 Consultation policy.
- 8.52.050 Design commission.
- 8.52.060 Protection policy.
- 8.52.065 Designation of landmark trees.
- 8.52.066 Designation of native and specimen trees.
- 8.52.070 Private property tree removal and landmark tree pruning permits - Applications.
- 8.52.075 Private property tree removal and landmark tree pruning permits - Issuance.
- 8.52.076 Work on public trees.
- 8.52.080 Exemptions: No permit required for certain pruning and removal.
- 8.52.085 Prohibited acts.
- 8.52.090 Sidewalk and street repair.
- 8.52.100 Hazards -- Private property.
- 8.52.110 Protection of trees during improvements.
- 8.52.120 Attachments to street trees.
- 8.52.140 Interference.
- 8.52.150 Notice of public tree removal.
- 8.52.155 Prosecution of violations.
- 8.52.160 Penalties and administrative proceedings.
- 8.52.165 Remedies not exclusive.

8.52.010 Short title.

This chapter shall be known as the 'city trees and tree protection ordinance.'

8.52.015 Purposes of ordinance.

Pasadena is graced by the presence of thousands of mature trees that contribute long-term aesthetic, environmental, and economic

benefits to the city. Aesthetically, trees offer dimensions in the form of color, shape, texture, scale and variety. Mature trees are often integral components of many historic sites and their presence contributes to the site's cultural and historic significance.

Environmental benefits derived by trees include the filtering of air pollutants; increasing atmospheric oxygen levels; stabilizing soils; reducing heat convection; decreasing wind speed; and reducing the negative effects of solar glare. The biological diversity of wildlife and plant communities is enhanced by the favorable conditions created by trees.

The economic benefits derived from trees include increased property values, and additional revenue generated by businesses, visitors and new residents attracted to the urban forest image of the city. Trees are a major capital asset to the city and like any valuable asset they require appropriate care and protection.

Therefore, it is the purpose of this ordinance to:

A. Preserve and grow Pasadena's canopy cover by protecting landmark, native and specimen trees on specified areas of private property and expanding the protection of street trees and trees on public property.

B. Safeguard the City's urban forest by providing for the regulation of the protection, planting, maintenance and removal of trees in the city.

C. Protect the visual and aesthetic character of the city.

D. Improve and enhance property values by conserving and adding to the distinctive and unique aesthetic character of the many areas of Pasadena.

E. Improve the quality of life for residents, visitors and wildlife.

F. Create favorable conditions for the protection of designated landmark, native and specimen trees, for the benefit of current and future residents of Pasadena.

G. Maintain and enhance the general health, safety and welfare of the city and its residents by assisting in counteracting air pollution and in minimizing soil erosion and other related environmental damage.

H. Protect and maintain healthy trees in the land use planning processes as set forth herein.

I. Establish procedures and practices for fulfilling the purposes of this city tree and tree protection ordinance.

8.52.020 Definitions.

For the purposes of this chapter, the following terms are defined as follows:

A. 'City' shall mean the city of Pasadena.

B. 'City manager' means the city manager and such representative as he or she may designate in writing.

C. 'Established corner yard' means the area between the side property line and the principal structure on a lot.

D. 'Established front yard' means the area between the front property line and the principal structure on a lot.

E. 'Hazard' or 'hazardous' means a tree, or part of a tree, that has a high potential for failure and falling on a nearby object because of dead or dying branches, roots or trunk.

F. 'Injure' means any act or omission which substantially affects or seriously jeopardizes the health of a living tree, in the determination of the city manager.

G. 'Landmark tree' means a tree designated as a landmark under chapter 2.75 of this code as a tree of historic or cultural significance and of importance to the community due to any of the following factors: It is one of the largest or oldest trees of the species located in the city; it has historical significance due to an association with a historic building, site, street, person or event; or it is a defining landmark or significant outstanding feature of a neighborhood.

H. 'Located' or 'location' of a tree means that place where any portion of the trunk of a tree is found at natural grade.

I. 'Maintain' or 'maintenance' means pruning, trimming, spraying, fertilizing, watering, treating for disease or injury or any other similar act which promotes growth, health, beauty and life of trees.

J. 'Master street tree plan' means the comprehensive street tree plan approved by the city council, which lists the official

street tree to be planted or replaced for all streets or sections of streets within the city.

K. 'Median' or 'traffic island' means a raised area within a street not used for vehicular traffic.

L. 'Multi-trunk' means any tree with multiple trunks attributed to a single tree. Each trunk shall be measured at a height of 4 ½ feet above natural grade, and the combined diameters of the trunks shall be used to determine the tree's size for the purposes of this ordinance.

M. 'Native tree' means any tree with a trunk more than 8 inches in diameter at a height of 4 ½ feet above natural grade that is one of the following species: *Quercus agrifolia* (Coast live oak), *Quercus engelmannii* (Engelmann oak), *Quercus chrysolepis* (Canyon oak), *Platanus racemosa* (California sycamore), *Juglans californica* (California walnut), *Quercus berberidifolia* (Scrub oak), *Quercus lobata* (Valley oak), *Umbellularia californica* (California bay), *Populus fremontii* (Cottonwood), *Alnus rhombifolia* (California alder), *Populus trichocarpa* (Black cottonwood), *Salix lasiolepis* (Arroyo willow), and *Aesculus californica* (California buckeye).

N. 'Official street tree' means an approved species of street tree designated in the master street tree plan.

O. 'Parkway' means an area between the property line and the face of the curb, or an area between the property line and the area where the face of the curb would ordinarily be located.

P. 'Property owner' means the person listed as the owner in fee simple of a lot or parcel with the office of county recorder or lawfully exercising the power of the property owner with respect to said lot or parcel.

Q. 'Pruning' means the removal of dead, dying, diseased, live interfering, and weak branches according to the most recent standards of the International Society of Arboriculture.

R. 'Public benefit' means a public purpose, service or use which affects residents as a community and not merely as particular individuals.

S. 'Public tree' means a tree located in a place or area under ownership or control of the city including but without limitation streets, parkways, open space, parkland and including city owned property under the operational control of another entity by virtue of a lease, license, operating or other agreement.

T. 'Specimen tree' means any tree meeting the criteria established by resolution of the city council by species and size of tree which is thereby presumed to possess distinctive form, size or age, and to be an outstanding specimen of a desirable species and to warrant the protections of this chapter.

U. 'Street' means any public right of way regardless of whether it is described as a street, avenue, road, boulevard, drive, lane, court, place, alley, or by any other such designation.

V. 'Street tree' means any public tree whose trunk is located primarily within any parkway, public sidewalk, street median, traffic

island or other right of way under the ownership or control of the city by easement, license, fee title or other permissive grant of use.

**8.52.025 Applicability.**

The provisions of this chapter providing protection for specific trees shall apply as follows, unless excepted by provisions of this chapter.

A. Native and specimen trees located in the established front yard, required side yard, established corner yard, or required rear yard of all property located in a single-family residential or RM-12 multifamily residential zone, and in all areas of all other zoning districts within the city.

B. Landmark trees located at all places within the city.

C. Public trees located at all places within the city.

**8.52.030 City Manager responsibilities.**

The City Manager shall:

A. By use of city employees, private contractors or authorized volunteers, plant, maintain and otherwise care for, or, if necessary, remove public trees.

B. Prepare an annual program for tree planting and tree care in public places of the city;

C. Recommend to the city council changes or additions to the master street tree plan as needed;

D. Inspect the planting, maintenance and removal of all public trees;

E. Develop maintenance standards as they relate to trees in public places.

F. Make determinations on public tree removal based upon tree reports prepared by certified arborists, other relevant facts, and upon established public tree removal criteria;

G. Review development and construction plans as they affect landmark, native, public and specimen trees;

H. Act as advisor to the design commission of the city;

I. Prepare and submit the tree protection guidelines, and the specimen tree list, and any revisions thereto to the city council for adoption by resolution;

J. Issue permits and make determinations specified under this chapter;

K. Maintain a comprehensive inventory of public trees; and

L. Act as the enforcement official who is designated to issue a compliance order or an administrative citation to enforce this chapter pursuant to Chapter 1.25 or 1.26, respectively, of this code.

**8.52.032 Tree protection guidelines.**

Tree protection guidelines are the standards and specifications for the protection of trees under this chapter. The tree protection guidelines, and any revision thereto, shall be effective as of the date of their adoption by resolution of the city council.



8.52.040 Consultation policy.

All departments, agencies and personnel of the city shall consult with the city manager prior to engaging in any action which would require the removal of, or which would otherwise substantially affect or seriously jeopardize the health of any existing public tree.

8.52.050 Design commission.

The design commission shall review, advise and make recommendations to the city council relating to the city's tree planting, maintenance and removal practices and proposed amendments to the master street tree plan.

8.52.060 Protection policy.

It shall be the policy of the city to protect and maintain mature and healthy trees. Special consideration shall be afforded public, landmark, native and specimen trees as set forth in this chapter.

8.52.065 Designation of landmark trees.

Any person or city agency may propose to the cultural heritage commission that a tree meets the criteria set forth in section 8.52.020 and should be designated as a landmark under chapter 2.75 and, thereby, as a landmark tree under this chapter 8.52.

8.52.066 Designation of native and specimen trees.

All trees meeting the definition of native or specimen trees in Section 8.52.020 are automatically subject to the protections of this chapter, as of the effective date of this ordinance.

8.52.070 Private property tree removal and landmark tree pruning permits -- Applications.

A. Where other discretionary approval is requested: Where a property owner wishes to remove a tree protected under this ordinance as part of a plan for which a discretionary approval under title 17 of this code is otherwise required, the application for discretionary approval shall also be deemed an application for a permit under this chapter to the decision maker for the discretionary approval. Any decision on the application for a permit shall be subject to the same procedures for appeal and call for review as a decision on the associated discretionary approval.

B. Where no discretionary approval is requested: Where a property owner wishes to remove a tree protected under this ordinance on private property, and no other discretionary approval is required under title 17 of this code, then an application shall be made to the city manager for a permit according to the standard application procedures and submittal requirements set forth in chapter 17.80 except that the decision shall be made in accordance with the time set forth in Section 8.52.075(B). A decision on an application shall be made according to the standards of this chapter and shall be subject to the same procedures for appeal and call for review set forth in chapter 17.104 as if it were a decision of the director within the meaning of that chapter. No noticed public hearing shall be required for an application under this section unless otherwise required by another section of this code or state or federal law.

C. Landmark tree pruning. Any property owner desiring to prune a landmark tree located on their property shall make an application to the City Manager on a form provided by the City to assure that the pruning

shall be conducted according to the most recent standards of the International Society of Arboriculture.

8.52.075 Private property tree removal and landmark tree pruning permits -- Issuance.

A. Any permit or approval which will result in injury to or removal of a landmark, native or specimen tree protected under this chapter shall be denied unless one of the following findings is made: (1) there is a public benefit as defined in Section 8.52.020(R), or a public health, safety or welfare benefit, to the injury or removal that outweighs the protection of the specific tree; or (2) the present condition of the tree is such that it is not reasonably likely to survive; or (3) there is an objective feature of the tree that makes the tree not suitable for the protections of this chapter; or (4) there would be a substantial hardship to a private property owner in the enjoyment and use of real property if the injury or removal is not permitted; or (5) to not permit injury to or removal of a tree would constitute a taking of the underlying real property; or (6) the project, as defined in Section 17.12.020, includes a landscape design plan which will result in a tree canopy coverage of greater significance than the tree canopy coverage being removed, within a reasonable time after completion of the project. In addition, for removal of a landmark tree, any such permit or approval shall be denied unless procedures specified for removal of landmarks in Chapter 2.75 are first followed.

B. An application shall be granted, denied, or granted conditionally on the date of the associated discretionary decision, or, if none, within 15 business days after a complete application is

made. The approval may be based on imposed conditions reasonably necessary to meet the standards of this chapter.

**8.52.076 Work on public trees.**

Public trees. No permits will be issued to any person or entity for pruning or removal of public trees, and all pruning and removal of public trees shall be undertaken by employees or contractors of the city pursuant to Section 8.52.080. Any person desiring to initiate special maintenance or removal of a public tree by the city, may make a written request to the city manager and pay the costs of service and replacement at rates set by resolution of the city council, should the request be granted. Any such request will be considered based on the provisions of this chapter, established public tree removal criteria, other ongoing public tree work and available resources.

**8.52.080 Exemptions -- No permit required for certain pruning and removal.**

A. No permit is required to prune a native or specimen tree on private property as long as the tree is not injured.

B. No permit is required to prune, injure or remove a tree that is not explicitly protected by this chapter.

C. Where immediate action is required for the protection of life or property, no permit is required to remove or to injure a landmark tree, native tree, public tree or specimen tree which has been determined to be hazardous, by the city manager, any police officer or any fire fighter, after inspection of the tree.

D. No permit is required for city employees or contractors of the city to do the following: to prune native, public or specimen trees under the direction of the city manager; to prune native, public

or specimen trees as required for compliance with statewide regulations applicable to trees around electrical lines; to injure or remove native, public or specimen trees as the city manager has determined is necessary or prudent for the public health, safety or welfare provided advance notice is given by the city manager to the city council unless advance notice is not feasible, in which case notice will be given promptly thereafter. All tree removal shall be otherwise consistent with adopted public tree removal criteria.

E. No permit is required to prune, injure or remove a tree on a project for which a variance, conditional use permit or design review approval has been obtained from the city prior to the effective date of this chapter or for a project for which a valid building permit has been lawfully issued by the city prior to the effective date of this ordinance.

F. No permit is required for any tree removal undertaken to cover the city-owned drainage channel known as the East Side Storm Drain as shown on Drawing No. 5096 on file in the offices of the city department of public works and transportation.

#### 8.52.085 Prohibited acts.

The following are prohibited acts under this chapter unless expressly exempted:

A. Landmark tree. To prune, injure, or to remove without a permit, a landmark tree located anywhere in the city.

B. Native tree. To injure, or to remove without a permit, any native tree located in the established front yard, required side yard, established corner yard, or required rear yard of all property located in a single-family residential or RM-12 multifamily

residential zone, and in all areas of all other zoning districts anywhere in the city.

C. Public tree. To prune, to injure or to remove a public tree located anywhere in the city.

D. Specimen tree. To injure, or to remove without a permit, any specimen tree located in the established front yard, required side yard, established corner yard, or required rear yard of all property located in a single-family residential or RM-12 multifamily residential zone, and in all areas of all other zoning districts anywhere in the city.

E. To plant a tree of a species other than the official street tree in a parkway, median or traffic island, and a violator shall be subject to a civil penalty.

F. To fail to adhere to the terms and conditions of any permit issued under this chapter.

G. To fail to adhere to the terms of any tree protection plan imposed as a condition of any discretionary land use approval or development agreement with the city.

**8.52.090 Sidewalk and street repair.**

The repair of sidewalks, curbs, gutters or streets may create a need to prune tree roots to the extent that the tree is damaged or becomes unstable. When this occurs, the city manager, whose decision shall be final, shall give consideration to the following in lieu of action that may damage, destabilize or cause the removal of a tree:

A. To not make such improvements;

B. To displace the sidewalk laterally away from the tree trunk, either locally for each tree, or uniformly along length of the street;

C. To displace the curb and gutter laterally into the paved roadway of the street, either locally, or uniformly along a length of the street, which in some cases may necessitate the prohibiting of street parking of vehicles at all times, provided such displacement does not create traffic hazard, or conditions adverse to proper street sweeping or drainage;

D. To defer repairs with temporary asphalt patch to eliminate hazard;

E. To widen the parkway;

F. To relocate the sidewalk or curb;

G. To eliminate the sidewalk on one side of the street;

H. To raise the sidewalk.

**8.52.100 Hazards -- Private property.**

It shall be unlawful and a violation of this chapter to allow any tree, shrub or plant located primarily on private property to create a hazard or to create danger or likelihood of harm to any public place, public area, parkway or street or to public health, safety or welfare.

**8.52.110 Protection of trees during improvements.**

During the construction, repair, alteration, relocation or removal of any building, structure or accessory structure in the city, no person in control of such work shall leave any landmark, native,

specimen or public tree without sufficient guards or protections to prevent injury to the landmark, native, specimen or public tree, in connection with such construction, repair, alteration, relocation or removal and it shall be unlawful and a violation of this chapter to do so.

**8.52.120 Attachments to street trees.**

No person shall, without the written permission of the city manager, attach or keep attached to any public tree, street tree, shrub or plant in any street, park or other public place of the city, or to the guard or stake intended for the protection thereof, any wire, rope, sign, nail or any other device whatsoever.

**8.52.140 Interference.**

No person shall interfere with any city employee or city contractor acting under this chapter.

**8.52.150 Notice of public tree removal.**

The city manager shall give at least 10 days written notice to abutting property owners prior to the removal of any public tree. No notice shall be required to be given, however, if the public tree has been determined to be hazardous under the standards in Section 8.52.080(C). In the event of a decision under this chapter for the removal of 3 or more public trees in an area, the city manager shall also notify the city council, the design commission and any neighborhood organizations located in such area which are known.



**8.52.155 Prosecution of violations.**

A violation of any provision of this chapter shall be prosecuted as a misdemeanor or infraction at the option of the city prosecutor and as further set forth in section 8.52.160 with respect to penalties and administrative proceedings.

**8.52.160 Penalties and administrative proceedings.**

A. Misdemeanors. Any person who violates any provision of this chapter and is convicted of a misdemeanor shall be punished by a fine of not more than \$1,000.00 or by imprisonment for a period of not more than 6 months or by both such fine and imprisonment.

B. Infractions. Any person who violates any provision of this chapter and is convicted of an infraction shall be punished by a fine of not more than \$250.00. Each person convicted may be deemed guilty of a separate offense for every day during any portion of which any violation is committed or permitted.

C. In addition to the penalty provisions of subsections A and B of this section, violations of Sections 8.52.085, 8.52.100, 8.52.110, 8.52.120 or 8.52.140 may be subject to the administrative proceedings set forth in chapters 1.25 and 1.26 of this code, including, but without limitation, civil penalties, late payment penalties, administrative fees, other related charges and, to the maximum extent permitted by law, tree replacement costs as established by resolution of the city council.

**8.52.165 Remedies not exclusive.**

To the maximum extent permitted by law, administrative remedies specified in this chapter are in addition to and do not supersede or

limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

SECTION 3. Section 17.20.010 is amended by adding a new subsection "G" as follows:

"G. Ensure the protection of landmark, specimen and native trees to the extent set forth in Chapter 8.52 of this code (City Trees and Tree Protection Ordinance)."

SECTION 4. Section 17.20.030 is amended as follows:

A. By amending the schedule entitled, "RS-1, RS-2, RS-4 AND RS-6 DISTRICTS: DEVELOPMENT STANDARDS" as shown in Exhibit 1, attached hereto and incorporated by this reference.

B. By amending the schedule entitled, "RS-1, RS-2, RS-4 AND RS-6 DISTRICTS: ADDITIONAL DEVELOPMENT STANDARDS" by adding the following:

"(T) No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 5. Section 17.22.010 is amended by adding a new subsection "H" as follows:

"H. Ensure the protection of landmark, specimen and native trees to the extent set forth in Chapter 8.52 of this code (City Trees and Tree Protection Ordinance)."

SECTION 6. Section 17.22.030 is amended as follows:

A. By amending the schedule entitled, "RM-12 DISTRICT: DEVELOPMENT STANDARDS" as shown in Exhibit 2, attached hereto and incorporated by this reference.

B. By amending the schedule entitled, "RM-12 DISTRICT: ADDITIONAL

DEVELOPMENT STANDARDS" by adding the following:

"(X) No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 7. Section 17.24.010 is amended by adding a new subsection "I" as follows:

"I. Ensure the protection of landmark, specimen and native trees to the extent set forth in Chapter 8.52 of this code (City Trees and Tree Protection Ordinance)."

SECTION 8. Section 17.24.030 is amended as follows:

A. By amending the schedule entitled, "RM-16, RM-32 AND RM-48 DISTRICTS: DEVELOPMENT STANDARDS" as shown in Exhibit 3, attached hereto and incorporated by this reference.

B. By amending the schedule entitled, "RM-16, RM-32 AND RM-48 DISTRICTS: ADDITIONAL DEVELOPMENT STANDARDS" by adding the following:

"(CC) No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 9. Section 17.28.010 is amended by adding a new subsection "J" as follows:

"J. Ensure the protection of landmark, specimen and native trees to the extent set forth in Chapter 8.52 of this code (City Trees and Tree Protection Ordinance)."

SECTION 10. Section 17.28.030 is amended as follows:

A. By amending the schedule entitled, "CO, CL AND CG DISTRICTS: DEVELOPMENT STANDARDS" as shown in Exhibit 4, attached hereto and incorporated by this reference.

B. By amending the schedule entitled, "CO, CL AND CG DISTRICTS: ADDITIONAL DEVELOPMENT STANDARDS" by adding the following:

"(R) No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 11. Section 17.32.010 is amended by adding a new subsection "G" as follows:

"G. Ensure the protection of landmark, specimen and native trees to the extent set forth in Chapter 8.52 of this code (City Trees and Tree Protection Ordinance)."

SECTION 12. Section 17.32.030 is amended as follows:

A. By amending the schedule entitled, "IG DISTRICT: DEVELOPMENT STANDARDS" as shown in Exhibit 5, attached hereto and incorporated by this reference.

B. By amending the schedule entitled, "IG DISTRICT: ADDITIONAL DEVELOPMENT STANDARDS" by adding the following:

"(O) No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 13. Section 17.33.020 is amended by adding a new subsection "N" as follows:

"N. Ensure the protection of landmark, specimen and native trees to the extent set forth in Chapter 8.52 of this code (City Trees and Tree Protection Ordinance)."

SECTION 14. Section 17.33.070 of said code entitled, "Development Standards" is amended as shown in Exhibit 6, attached hereto and incorporated by this reference.

SECTION 15. Section 17.33.080 (E) of said code is amended as follows: "Front and Corner yards. Projects shall comply with the setbacks shown on the map entitled "Central District (CD) Street Frontage Setback Map," dated March 2000, published herewith and incorporated by this reference. To ensure the protection and/or health of landmark, native, public and specimen trees, the design authority designated in Section 17.92.030 may require modification of the setback requirement for tree protection as set forth in chapter 8.52. Within that portion of CD-1 south of Green Street, the design commission may allow the front yard to be set back from the front property line for landscaping or outdoor dining. For residential projects, building projections into yards shall be permitted per the applicable residential standards. For nonresidential projects, building projections may encroach into a front or corner yard as follows:"

SECTION 16. Section 17.33.080 of said code entitled, "Additional Development Standards" is amended by adding the following:

"(U) No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 17. Section 17.36.010 is amended by adding a new subsection "D" as follows:

"D. Ensure the protection of landmark, specimen and native trees to the extent set forth in Chapter 8.52 of this code (City Trees and Tree Protection Ordinance)."

SECTION 18. Section 17.36.040 is amended as follows:

"Development standards shall be as specified by a conditional use permit; provided, that if the conditional use permit fails to regulate an element regulated by an abutting district, the regulations of the abutting district shall apply to each portion of an OS district. Prior to approval of the conditional use permit or master development plan, OS district properties shall be subject to the development standards of the most restrictive abutting base district. Developments consistent with an approved master plan as prescribed by Chapter 17.98 shall not be subject to conditional use permit review. City Construction projects shall meet the public art design standards of Chapter 17.78. No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 19. Section 17.40.010 is amended by adding a new subsection "D" as follows:

"D. Ensure the protection of landmark, specimen and native trees to the extent set forth in Chapter 8.52 of this code (City Trees and Tree Protection Ordinance)."

SECTION 20. Section 17.40.040 entitled, "Development Standards" is amended by the adding a new subsection D as follows:

"D. No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 21. Section 17.46.010 entitled, "Specific Purposes" is amended by adding a new subsection P as follows:

"P. No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 22. Section 17.46.060 of said code entitled, "Development Standards" is amended as shown in Exhibit 7, attached hereto and incorporated by this reference.

SECTION 23. Section 17.47.010 is amended by adding a new subsection DD as follows:

"DD. Ensure the protection of landmark, specimen and native trees to the extent set forth in Chapter 8.52 of this code (City Trees and Tree Protection Ordinance)."

SECTION 24. Section 17.47.080 of said code entitled, "Development Standards" is amended as shown in Exhibit 8, attached hereto and incorporated by this reference.

SECTION 25. Subsection "I" of Section 17.48.057 is amended to read as follows:

"(I) A tree protection plan shall be submitted that indicates the extent of vegetation removal for site preparation and development, and the location and species of individual trees of 4-inch caliper or more

at 4.5 feet above grade. Maximum effort should be exercised to retain existing trees on site. For trees to be removed, efforts shall be made to transplanting them on site. For each native tree or shrub larger than 4-inch caliper that is removed and not transplanted on site, a 15-gallon replacement tree shall be planted on the site. For trees in excess of 8-inch caliper, the replacement tree shall be 24-inch box or larger, or a combination of sizes to be approved by the zoning administrator. Use of native oaks is encouraged."

SECTION 26. PD-1 - EATON CANYON INDUSTRIAL PARK contained in APPENDIX B is amended by adding the following:

"13. No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 27. PD-2 - VILLA PARKE contained in Appendix B is amended by adding the following:

"U. No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 28. PD-3 - KINNELOA ANNEXATION contained in Appendix B is amended by adding the following:

"9. No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 29. PD-4 - MOUNTAIN STREET CLASSICS TOWNHOMES contained in Appendix B is amended by adding the following:



"H. No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 30. PD-5 - ALLESANDRO PLACE/FAIR OAKS contained in Appendix B is amended by adding the following:

"F. No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 31. PD-6 - EATON WASH contained in APPENDIX B is amended by adding the following:

"G. No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 32. PD-7 - SECO STREET contained in APPENDIX B is amended by adding the following

"I. No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 33. PD-8 - MARENGO AVENUE contained in APPENDIX B is amended by adding the following:

"K. No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 34. PD-9 - EL MIRADOR contained in APPENDIX B is amended by adding the following:

"P. No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 35. PD-10 - COLORADO/LAKE contained in APPENDIX B us amended by adding the following:

"N. No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 36. PD-11 - FOOTHILL BOULEVARD, CRAIG AVENUE AND WHITE STREET contained in APPENDIX B is amended by adding the following:

"C. No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 37. PD-12 - WALNUT-LOS ROBLES contained in APPENDIX B is amended by adding the following:

"X. No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 38. PD-13 - MARENGO-BELLEVUE contained in APPENDIX B is amended by adding the following:

"S. No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 39. PD-15 - HUNTINGTON HOTEL contained in APPENDIX B is amended by adding the following:

"36. No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 40. PD-16 (JET PROPULSION LABORATORY-Employee parking) contained in APPENDIX B is amended by adding the following:

"H. No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 41. PD-17 ROSE TOWNHOMES contained in APPENDIX B is amended by adding the following:

"KK. No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 42. PD-18 - COLORADO/EL NIDO contained in APPENDIX B is amended by adding the following:

"M. No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 43. PD-21 - MONTGOMERY ENGINEERING contained in APPENDIX B is amended by adding the following:

"37. No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 44. PD-22 - LINCOLN TRIANGLE TOWNHOUSES contained in APPENDIX B is amended by adding the following:

"13. No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 45. PD-24 - SOUTH LAKE AVENUE RETAIL DEVELOPMENT contained in APPENDIX B is amended by adding the following:

"11. No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 46. PD-25 - VISTA DEL ARROYO BUNGALOWS contained in Appendix B is amended by adding the following:

"13. No construction shall be permitted that results in the injury or removal of a landmark, native, or specimen tree as defined under Chapter 8.52 unless findings are made pursuant to Chapter 8.52."

SECTION 47. Section 1.25.020 is amended by changing the definition of 'Administrator,' only, to read as follows, with no other changes to that section:

"'Administrator' means the enforcement official who is duly authorized to enforce a provision of the Pasadena Municipal Code that is subject to this chapter."

SECTION 48. This ordinance shall take effect thirty days following its publication by title and summary.

Signed and approved this 6th day of May, 2002.



Bill Bogaard  
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its meeting held May 6, 2002, by the following vote:

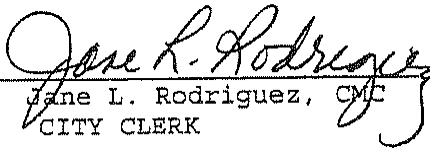
AYES: Councilmembers Haderlein, Streator, Tyler,  
Vice Mayor Little, Mayor Bogaard

NOES: None

ABSENT: Councilmembers Gordo, Holden, Madison

ABSTAIN: None

PUBLISHED: May 9, 2002  
Pasadena Journal



Jane L. Rodriguez, CMC  
CITY CLERK

APPROVED AS TO FORM: 4/25/02



Nicholas George Rodriguez  
Assistant City Attorney

# Tree Protection Guidelines

## **Purpose**

Tree protection guidelines are established for projects subject to Chapter 8.52 'City Trees and Tree Protection' and for projects for which compliance with the Tree Protection Guidelines is a condition of approval. Specifically, the guidelines seek to avoid negative impacts that may occur during construction such as:

- Mechanical injury to roots, trunks or branches
- Compaction of soil
- Changes to existing grade which may expose or suffocate roots

Definitions for standardized terms and diagrams are included in the guidelines.

## **A. General Requirements**

Applicants may be asked to place a construction bond in the amount of the assessed value of the tree as determined using the most recent version of the International Society of Arboriculture guide to plant appraisal. In addition, fees for three years of maintenance may be required. The bond will be returned to the applicant upon successful completion of the project and upon verification that the trees have not sustained damage during construction. If damage has been sustained during construction, the City Manager or designee may hold the bond for an additional period of time.

Violations to the Tree Protection Plan may result in fines assessed per day and imposed per violation, and the potential generation of a stop work order on the construction project.

The tree protection plan may include written recommendations for the health and long-term welfare of the trees during the pre-construction, demolition, construction, and post-construction development phases. Notes on the plans would include specifics on avoiding injury, damage treatment and inspections of protected trees.

## **B. Root Protection Zone**

Tree roots are generally located in the top 12–24 inches of soil and can extend to a distance exceeding the trees height and/or width. The roots located 3-5 feet from the trunk are often relatively inactive, and if cut, will cause a column of decay that can reach the top of the tree with time. The feeder roots of the tree can sustain damage during construction from lack of water, soil compaction or physical damage resulting from cutting. The following guidelines are designed to minimize damage to the root system of protected trees. These guidelines establish a "Root Protection Zone" to safeguard the health of protected trees.

Protective chain-link fencing with an access gate of minimal width should be installed at the Root Protection Zone of protected trees and approved in place by staff prior to the commencement of any construction, or demolition.

The protection zone should be irrigated sufficiently with clean potable water to keep the tree in good health and vigor before, during, and after

construction. This may mean deeply soaking the ground periodically.

No construction staging or disposal of construction materials or byproducts including but not limited to paint, plaster, or chemical solutions is allowed in the Root Protection Zone.

The Root Protection Zone should not be subjected to flooding incidental to the construction work.

All work conducted in the ground within the Root Protection Zone of any protected tree should be accomplished with hand tools, unless an air spade is utilized. Trenches in the Root Protection Zone should be tunneled, or completed with an air spade to avoid damage to small feeder roots within the root protection zone. Information regarding air spades is available from staff.

Where structural footings are required and major roots (over 3" in diameter) will be impacted, the engineer of record should submit acceptable footing design alternatives and or location alternatives to staff before proceeding with further plan review.

Where more than 50% of the root zone is impacted or roots greater than 3 inches in diameter are to be removed within four feet of the trunk, the engineer of record should submit acceptable design alternatives to staff for review.

Any required trenching should be routed in such a manner as to minimize root damage. Radial trenching (radial to the tree trunk) is preferred as it is less harmful than tangential trenching. Construction activity should be diverted from the Root Protection Zone. Cutting of roots should be avoided (i.e. place pipes and cables below uncut roots). Wherever possible and in accordance with applicable code requirements, the same trench should be used for multiple utilities.

"Natural" or pre-construction grade should be maintained in the Root Protection Zone. At no time during or after construction should soil be in contact with the trunk of the tree above the basal flair.

In areas where the grade around the protected tree will be lowered, some root cutting may be unavoidable. Cuts should be clean and made at right angles to the roots. When practical, cut roots back to a branching lateral root.

When removing existing pavement in the Root Protection Zone, avoid the use of heavy equipment, which will compact and damage the root system.

If staff requires mulch in the Root Protection Zone the mulch materials and location should be shown on the plan. Larger projects will require construction staging plans to indicate where materials will be stored and how the equipment will move in and around the property to minimize damage to the Root Protection Zone and tree canopies. Root damage and soil compaction may be mitigated in some cases by using plywood or mulch in the Root Protection Zone.

### **C. Pruning**

Pruning of all trees should be in accordance with industry standards (International Society of Arboriculture or ANZI 133.1).

Pruning of oaks should be limited to the removal of dead wood and the correction of potentially hazardous conditions, as evaluated by a qualified arborist. Excessive pruning is harmful to oaks. Removal or reduction of major structural limbs should be done only as required for actual building clearance or safety. If limbs must be removed, cuts should be made perpendicular to the branch, to limit the size of the cut face. The branch bark collar should be preserved (i. e. no "flush cuts"), and cuts should be made in such a way as to prevent the tearing of bark from the tree.

Pruning of trees other than oaks should be limited to the removal or reduction of major structural limbs and should be done only as required for actual building clearance or safety. If limbs must be removed, cuts should be made perpendicular to the branch, to limit the size of the cut face. The branch bark collar should be preserved (i. e. no "flush cuts"), and cuts should be made in such a way as to prevent the tearing of bark from the tree.

Landmark Trees must be pruned by or under the direction of a qualified arborist.

#### **D. Inspections**

1. Inspection of Protective Fencing: City staff may require inspection of fencing to verify placement and approval of materials prior to the commencement of construction.
2. Pre-construction meeting. City staff may require an on-site pre-construction meeting with the contractor and or applicant to discuss tree protection with the site supervisor, grading equipment contractors, and demolition crew.
3. Inspection of rough grading. City staff may require inspection to ensure protected trees will not be injured by compaction, cut or fill, drainage and trenching activities.
4. Special Activity in the Tree Protection Zone: City staff may require the direct on-site supervision of work in the tree protection zone.
5. Periodic Inspections: City staff may require inspections verifying adherence to tree protection measures during the on-going construction process. Allow a minimum of 48 hours for scheduling inspections.

#### **E. Definitions**

1. *Basal flair* or *root crown* means the tree trunk where it emerges from the root system and flairs out to create the base of the tree.
2. *Canopy* means the area of a tree that consists primarily of branches and leaves.
3. *Dripline* means the outermost area of the tree canopy (leafy area of tree).
4. *Certified Arborist* means an individual who has demonstrated knowledge



and competency through obtainment of the current International Society of Arboriculture arborist certification, or who is a member of the American Society of Consulting Arborists.

5. *Root Protection Zone* means the area within a circle with a radius equal to the greatest distance from the trunk to any overhanging foliage in the tree canopy.

RESOLUTION NO. 8248

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASADENA  
ADOPTING A REVISED SPECIMEN TREE LIST PERTAINING TO PASADENA  
MUNICIPAL CODE CHAPTER 8.52 (“CITY TREES AND TREE PROTECTION  
ORDINANCE”)

WHEREAS, Pasadena Municipal Code Chapter 8.52, City Trees and Tree Protection Ordinance, establishes specific protections for Specimen Trees, which are trees meeting the criteria established by resolution of the City Council and thereby presumed to possess distinctive form, size or age, and to be an outstanding specimen of a desirable species to warrant the protection of the ordinance; and

WHEREAS, Resolution 8099 adopted on April 15, 2002, designated a list of 63 Specimen Trees; and

WHEREAS, the Urban Forestry Advisory Committee recommended, on April 16, 2003, that the City Council add trees to the Specimen Tree List; and

WHEREAS, the protection measures will preserve and grow the canopy cover by safeguarding the City’s urban forest with protections set forth in Pasadena Municipal Code Chapter 8.52; and

WHEREAS, Resolution 8099 and the designated list of Specimen Trees therein is hereby revised and superceded by this Resolution.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City Council of the City of Pasadena hereby approves the Specimen Tree List, attached hereto as Exhibit A, as set forth in Pasadena Municipal Code Chapter 8.52.

Adopted at the regular meeting of the City Council on the 2nd

day of June, 2003, by the following vote:

AYES: Councilmembers Gordo, Haderlein, Holden, Little,  
Madison, Streater, Vice Mayor Tyler

NOES: None

ABSENT: Mayor Bogaard

ABSTAIN: None

  
JANE L. RODRIGUEZ, City Clerk

Approved as to form:



5/22/03

Nicholas G. Rodriguez  
ASSISTANT CITY ATTORNEY

Exhibit A

<b>GENUS</b>	<b>SPECIES</b>	<b>COMMON NAME</b>	<b>Size Requirement</b>
Acacia	baileyana	Purple Bailey Acacia	12"
Acacia	cultriformis	Knife Acacia	12"
Acer	macrophyllum	Bigleaf Maple	12"
Acer	buergeranum	Trident Maple	12"
Acer	negundo	Boxleaf Maple	12"
Acer	palmatum	Japanese Maple	12"
Aesculus	carnea	Red Horse Chestnut	12"
Aesculus	hippocastanum	Horse Chestnut Tree	12"
Agathis	robusta	Queensland Kauri	25"
Agonis	flexuosa	Peppermint Tree	12"
Albizia	julibrissin	Mimosa Tree	25"
Angophora	costata	Gum Myrtle	25"
Araucaria	heterophylla	Star Pine	20"
Araucaria	araucana	Monkey Puzzle Tree	25"
Araucaria	bidwillii	Bunya-Bunya Tree	25"
Araucaria	cunninghamii	Hoop Pine	25"
Arbutus	unedo	Strawberry Tree	12"
Archontophoenix	cunninghamiana	King Palm	20' tall (brown trunk)
Bauhinia	blakeana	Hong Kong Orchid Tree	12"
Bauhinia	candida	White Orchid Tree	12"
Bauhinia	variegata	Variegated Orchid Tree	12"
Brachychiton	acerifolius	Australian Flame Tree	25"
Brachychiton	discolor	Hat Tree	25"
Brahea	edulis	Guadalupe Palm	10' tall (brown trunk)
Brahea	armata	Mexican Blue Palm	10' tall (brown trunk)
Butia	capitata	Pindo Palm	10' tall (brown trunk)
Callistemon	viminalis	Weeping Bottlebrush	12"
Calocedrus	decurrens	Incense Cedar	12"
Calodendrum	capense	Cape Chestnut	12"
Camellia	sp.	Camellia	8"
Cassia	excelsa	Crown of Gold	12"
Casaurina	equisetifolia	Horsetail Tree	25"
Casaurina	cunninghamianan	River She-Oak	25"
Casaurina	strieta	Beefwood	25"
Catalpa	speciosa	Western Catalpa	25"
Cedrus	deodara	Deodar Cedar	25"
Cedrus	atlantica	Atlas Cedar	25"
Cercis	canadensis	Eastern Redbud	8"

<b>Cercis</b>	<b>occidentalis</b>	<b>Western Redbud</b>	<b>8"</b>
<b>Chamaerops</b>	<b>humilis</b>	<b>European Fan Palm</b>	<b>20' tall</b>
<b>Chitalpa</b>	<b>tashkentensis</b>	<b>Chitalpa</b>	<b>12"</b>
<b>Chorisia</b>	<b>insignis</b>	<b>White Floss Silk</b>	<b>25"</b>
<b>Chorisia</b>	<b>speciosa</b>	<b>Floss Silk</b>	<b>25"</b>
<b>Cinnamomum</b>	<b>camphora</b>	<b>Camphor</b>	<b>25"</b>
<b>Cocculus</b>	<b>laurifolius</b>	<b>Laurel Leafed Snail Seed</b>	<b>12"</b>
<b>Dombeya</b>	<b>cacumium</b>	<b>Dombeya</b>	<b>20"</b>
<b>Dracaena</b>	<b>draco</b>	<b>Dragon Tree</b>	<b>12"</b>
<b>Erythrina</b>	<b>caffra</b>	<b>Coral Tree</b>	<b>25"</b>
<b>Erythrina</b>	<b>coralloides</b>	<b>Naked Coral Tree</b>	<b>25"</b>
<b>Erythrina</b>	<b>crista-galli</b>	<b>Cockspur Coral Tree</b>	<b>12"</b>
<b>Eucalyptus</b>	<b>claudocalyx</b>	<b>Sugar Gum</b>	<b>20"</b>
<b>Eucalyptus</b>	<b>doltsopa</b>	<b>Mindinao Gum</b>	<b>20"</b>
<b>Eucalyptus</b>	<b>sideroxylon</b>	<b>Ironbark</b>	<b>20"</b>
<b>Eucalyptus</b>	<b>citriodora</b>	<b>Lemon Scented Gum</b>	<b>30"</b>
<b>Eucalyptus</b>	<b>ficifolia</b>	<b>Red Flowering Gum</b>	<b>25"</b>
<b>Eucalyptus</b>	<b>nicholii</b>	<b>Willow Leafed Peppermint</b>	<b>25"</b>
<b>Eucalyptus</b>	<b>leucoxylon</b>	<b>White Ironbark</b>	<b>25"</b>
<b>Eucalyptus</b>	<b>parviflora</b>	<b>Small Leaved Gum</b>	<b>25"</b>
<b>Ficus</b>	<b>macrophylla</b>	<b>Morton Bay Fig</b>	<b>30"</b>
<b>Ficus</b>	<b>microcarpa 'Nitida'</b>	<b>Indian Laurel Fig</b>	<b>30"</b>
<b>Fraxinus</b>	<b>oxycarpa</b>	<b>Raywood Ash</b>	<b>30"</b>
<b>Fremontodendron</b>	<b>californicum</b>	<b>Flannel Bush</b>	<b>12"</b>
<b>Geijera</b>	<b>parviflora</b>	<b>Australian Willow</b>	<b>12"</b>
<b>Ginkgo</b>	<b>biloba</b>	<b>Maidenhair Tree</b>	<b>25"</b>
<b>Grevillea</b>	<b>robusta</b>	<b>Silk Oak</b>	<b>20"</b>
<b>Heteromeles</b>	<b>arbutifolia</b>	<b>Toyon</b>	<b>10"</b>
<b>Jacaranda</b>	<b>mimosifolia</b>	<b>Jacaranda</b>	<b>12"</b>
<b>Juglans</b>	<b>regia</b>	<b>English Walnut</b>	<b>25"</b>
<b>Juglans</b>	<b>nigra</b>	<b>Black Walnut</b>	<b>25"</b>
<b>Koelreuteria</b>	<b>bipinnata</b>	<b>Chinese Flame Tree</b>	<b>15"</b>
<b>Lagerstroemia</b>	<b>indica</b>	<b>Crepe Myrtle</b>	<b>12"</b>
<b>Leptospermum</b>	<b>laevigatum</b>	<b>Australian Tea Tree</b>	<b>12"</b>
<b>Liriodendron</b>	<b>tulipifera</b>	<b>Tulip Tree</b>	<b>15"</b>
<b>Lithocarpus</b>	<b>densiflora</b>	<b>Tanbark Oak</b>	<b>25"</b>
<b>Livistona</b>	<b>chinensis</b>	<b>Chinese Fan Palm</b>	<b>15' tall</b>
<b>Livistona</b>	<b>australis</b>	<b>Australian Cabbage Palm</b>	<b>15' tall</b>
<b>Magnolia</b>	<b>grandiflora</b>	<b>Southern Magnolia</b>	<b>25"</b>
<b>Melaleuca</b>	<b>linariifolia</b>	<b>Flax Leafed Paperbark</b>	<b>25"</b>
<b>Melaleuca</b>	<b>quinquenervia</b>	<b>Cajeput Tree</b>	<b>25"</b>
<b>Michelia</b>	<b>doltsopa</b>	<b>No Common Name</b>	<b>12"</b>

<b>Nuxia</b>	<b>floribunda</b>	<b>Kite Tree</b>	<b>12"</b>
<b>Olea</b>	<b>europea</b>	<b>Olive</b>	<b>12"</b>
<b>Phoenix</b>	<b>reclinata</b>	<b>Senegal Date Palm</b>	<b>10 ' tall (brown trunk)</b>
<b>Pinus</b>	<b>halepensis</b>	<b>Aleppo Pine</b>	<b>20"</b>
<b>Pinus</b>	<b>canariensis</b>	<b>Canary Island Pine</b>	<b>25"</b>
<b>Pinus</b>	<b>pinea</b>	<b>Italian Stone Pine</b>	<b>25"</b>
<b>Pinus</b>	<b>torreyana</b>	<b>Torrey Island Pine</b>	<b>25"</b>
<b>Pittosporum</b>	<b>undulatum</b>	<b>Victorian Box</b>	<b>12"</b>
<b>Platanus</b>	<b>acerifolia</b>	<b>London Plane Tree</b>	<b>15"</b>
<b>Podocarpus</b>	<b>gracilior</b>	<b>Fern Pine</b>	<b>20"</b>
<b>Pseudotsuga</b>	<b>menziesii</b>	<b>Douglas Fir</b>	<b>25"</b>
<b>Quercus</b>	<b>kelloggii</b>	<b>California Black Oak</b>	<b>12"</b>
<b>Quercus</b>	<b>douglasii</b>	<b>Blue Oak</b>	<b>12"</b>
<b>Quercus</b>	<b>macrocarpa</b>	<b>Burr Oak</b>	<b>12"</b>
<b>Quercus</b>	<b>robur</b>	<b>English Oak</b>	<b>12"</b>
<b>Quercus</b>	<b>rubra</b>	<b>Red oak</b>	<b>12"</b>
<b>Quercus</b>	<b>suber</b>	<b>Cork Oak</b>	<b>12"</b>
<b>Quercus</b>	<b>virginiana</b>	<b>Southern Live Oak</b>	<b>12"</b>
<b>Schinus</b>	<b>molle</b>	<b>California Pepper</b>	<b>20"</b>
<b>Sequoia</b>	<b>sempervirens</b>	<b>Redwood</b>	<b>25"</b>
<b>Stenocarpus</b>	<b>sinuatus</b>	<b>Firewheel Tree</b>	<b>12"</b>
<b>Syzygium</b>	<b>paniculata</b>	<b>Eugenia</b>	<b>12"</b>
<b>Tabebuia</b>	<b>avellanadae</b>	<b>Lavendar Tabebuia</b>	<b>10"</b>
<b>Tabebuia</b>	<b>ipe</b>	<b>Pink Trumpet</b>	<b>10"</b>
<b>Trachycarpus</b>	<b>fortunei</b>	<b>Chinese Windmill Palm</b>	<b>15' tall</b>
<b>Tristania</b>	<b>conferta</b>	<b>Brisbane Box</b>	<b>20"</b>
<b>Ulmus</b>	<b>parvifolia</b>	<b>Chinese Elm</b>	<b>25"</b>
<b>Washingtonia</b>	<b>filifera</b>	<b>California Fan Palm</b>	<b>35' tall (brown trunk)</b>



Agenda Item #: \_\_\_\_\_

# Staff Report

## City of Manhattan Beach

**TO:** Honorable Mayor Fahey and Members of the City Council

**THROUGH:** Geoff Dolan, City Manager

**FROM:** Richard Thompson, Director of Community Development  
Laurie B. Jester, Senior Planner

**DATE:** September 20, 2005

**SUBJECT:** Consideration of City Council 2005-2007 Work Plan Item and Planning Commission Recommendation to Approve Zoning Code Amendments (MBMC Section 10.52.120) to revise the Tree Preservation regulations

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### **RECOMMENDATION:**

Staff recommends that the City Council **CONDUCT THE PUBLIC HEARING, WAIVE FURTHER READING AND INTRODUCE ORDINANCE NO. 2079.**

### **FISCAL IMPLICATION:**

There are no fiscal implications associated with the recommended action

### **BACKGROUND:**

The City's Tree Preservation Ordinance was originally adopted in 1993 and at that time, the Ordinance applied only to the Tree Section. The Ordinance protects most trees with a 12" or greater trunk diameter located in the front yard. At that time the Ordinance was implemented more as a "removal and replacement" regulation than a "preservation" regulation.

In 2003, the Ordinance was expanded to apply to all of the residential zones in Area Districts I and II; the Beach Area is not covered by the Tree Ordinance. With the expansion of the Tree Ordinance, planning staff began implementing the regulation as a "preservation" regulation, not a "removal and replacement" regulation as previously implemented. After the adoption of the expanded Tree Ordinance, the City Council and Planning Commission held a joint meeting and at that meeting the City Council confirmed that the Ordinance was intended to preserve trees, and that Staff should continue to enforce the Ordinance accordingly.

In May 2005 the City Council heard the first two appeals of staff decisions on Tree Permits and at that time the Council requested that staff bring back a report on the status of the Tree Ordinance. In July 2005, the City Council adopted the 2005-2007 Work Plan which included this item as one of the top Work Plan priority items for the Department, reviewed a status report on the Tree Preservation regulations, and provided direction on revisions to the regulations.

On August 25, 2005 the Planning Commission conducted a public hearing, discussed the proposed Code Amendments and adopted Resolution No. PC 05-11, with a 5:0 vote.

**DISCUSSION:**

The attached Planning Commission staff report provides a complete description of the Tree Permit process. The following is a summary of the revisions to the Tree Ordinance as recommended by the Planning Commission. The proposed revisions will clarify the City's Tree Ordinance requirements and make it easier to enforce as requested by the City Council.

*Emergency Removal*

The Exemptions section of the Code (Section 10.52.120 H. 1.) currently allows removal of trees in cases of emergency. This section requires that a Tree Permit application then be submitted within five working days after removal of a tree. The revision would require approval by the Director of Community Development prior to removal. The City Attorney is recommending this revision as this section is vague as to what constitutes an "emergency" and it is susceptible to abuse by those wishing to rid themselves of unwanted trees who cannot otherwise obtain a permit.

*Trees on Adjacent Properties*

There are two sections of the Code that address trees on adjacent properties that conflict. These two Sections (10.52.120 D and 10.52.120 H. 4) have been revised so that adjacent property trees are reasonably protected and any pruning of branches or roots that could potentially damage the health of trees is not allowed without submittal of a Tree Permit to evaluate potential impacts.

*Trees Exempt from Protection*

Section 10.52.120 H. 2 of the Tree Preservation regulations exempts deciduous fruit bearing trees, such as peaches, plums, nectarines, cherries, and apples, and two Palm trees, *Washingtonia robusta*, Mexican Fan Palm, and *Washingtonia filifera*, the California Fan Palm, from the protection regulations. The Planning Commission recommended that this section be modified so that no trees with a trunk diameter of 12 inches or greater are exempt from the ordinance. This gives staff the ability to evaluate each removal request on an individual basis and then make a determination if removal and replacement is appropriate.

*Protected tree size and replacement size*

The Planning Commission recommended that trees with a 6 to 12 inch trunk diameter generally be allowed to be removed, however they would be required to be replaced with a 24 inch box size tree. Trees with a trunk diameter of 12 inches or greater would be protected consistent with current regulations, and if removed would be required to be replaced with a minimum 36 inch box tree. Trees with less than a 6 inch trunk diameter would not be protected and could be removed without a permit. (Section G)

There may be difficulty on some properties to replace all the trees that are removed when a new home is being constructed if there are several trees on the property. Sometime the driveway and the walkways take up a significant amount of area in the front yard and there only is room for one or two new replacement trees, particularly if one or more mature trees are being retained. The Planning Commission therefore recommended that if it is determined that it is not feasible to physically fit new replacement trees on a particular site, then the applicant would be required to



pay a fee to the City's Tree Canopy Restoration Fund in lieu of planting all of the required replacement trees. (Section G) The fund is used to evaluate the health of trees and plant new trees throughout the City to compensate for the loss and to help re-establish and enhance the tree canopy throughout the City in the future. This in-lieu fee was not previously discussed by the City Council.

*Street Side yard trees*

The Tree Ordinance only protects trees in the 20 foot front yard setback. On corner lots the front setback is located adjacent to the shortest property line, so there is a long streetside setback in which the trees are not protected. The Planning Commission recommended requiring that these streetside trees not be required to be protected and retained, but require that they be replaced with a minimum 24 inch box size tree if they are removed (Sections D. 1 and G.).

*Violations and Penalties*

Section 10.52.120 J. establishes standards for violations of the Tree Preservation standards. The Planning Commission recommended as an addition to this section an administrative fine, Section K., be added for any violation of the tree preservation regulations.

*Right-of- Way Improvements*

Public Works and Planning staff currently work together to look at alternative designs and materials in situations where right-of-way improvements may impact trees. Required public improvements take priority over preserving trees, however alternative designs will be used to preserve trees where feasible. The Planning Commission recommended revisions (Section D. 6.) to codify these current practices. Public Works staff will be bringing an update and status report on public right-of-way trees to the City Council within the next several months.

*Purpose*

The Planning Commission recommended that the purpose section be expanded to discuss the design of residences being required to consider and accommodate existing protected trees when feasible, and that the preservation of trees increases property values, provides cooling shade and beauty, and minimizes spread of disease to healthy trees. (Section A)

*Miscellaneous revisions and abuse of trees*

These revisions were not considered by the City Council, however while in the process of reviewing and revising the Code, staff felt that it was important to address these items. The Planning Commission recommended a few language changes for consistency with current procedures and internal language consistency. These include revisions related to the arborist report, the tree plan, and replacement trees. Additionally, the abuse or mutilation of trees can severely damage or kill a tree so new language has been added into Section 10.52.120 B.2., so that damage of trees is a violation of the regulations, consistent with the public tree requirements.

*Planning Commission Discussion*

At the Commission meeting there were no speakers for the proposed amendments. The Commissions recommendations are basically consistent with the direction provided by the City Council. The Commission discussion generally related to questions to clarify existing procedures and to clarify the proposed language.

Regarding the Administrative Fines in Section K of the Ordinance, some of the Commission felt that the fines should be defined or have a range within the Ordinance and that there should be a formula for the fines that relates to the size of the tree. The consensus of the Commission was that fines need to be very high to discourage developers and others from illegally removing trees, and that there should be different fines for the intentional removal of trees by people that are aware of the regulations versus unintentional removal by those who are not familiar with the requirements. They felt that these higher fines would require a due process procedure. Revisions related to these recommendations have not been incorporated into the Ordinance as fines will be set separately by Resolution at a later date.

**CONCLUSION:**

Staff recommends that the City Council conduct the public hearing and introduce the Ordinance.

- Attachments:
- A. Draft City Council Ordinance No. 2079
  - B. Planning Commission Resolution No. PC 05-11
  - C. Planning Commission minute excerpts, staff report, and attachments – August 24, 2005

ORDINANCE NO. 2079

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, APPROVING AMENDMENTS TO THE CITY ZONING CODE (SECTION 10.52.120) TO REVISE THE TREE PRESERVATION REGULATIONS

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby makes the following findings:

- A. Pursuant to applicable law, the Planning Commission conducted a duly noticed public hearing on August 24, 2005 regarding the proposed Code Amendments related to revisions to the tree preservation regulations, and public testimony was invited and received.
- B. The public hearing held by the Planning Commission was advertised by a one-quarter page display ad published on August 11, 2005 in The Beach Reporter, a newspaper of general circulation in Manhattan Beach.
- C. Pursuant to applicable law, the City Council conducted a duly noticed public hearing on September 20, 2005 regarding the Planning Commission's recommendation regarding the proposed Code Amendments (Resolution PC 05-11) related to revisions to the tree preservation regulations, and public testimony was invited and received.
- D. The public hearing held by the City Council was advertised by a one-quarter page display ad published on September 1, 2005 in The Beach Reporter, a newspaper of general circulation in Manhattan Beach and notice was mailed to interested parties of record.
- E. The applicant for the subject project is the City of Manhattan Beach.
- F. The purpose of the proposed Amendments includes but is not limited to:
  - a. Continue to encourage the retention and preservation of trees while permitting the reasonable enjoyment of private property;
  - b. Provide internal consistency within the existing Tree Preservation regulations;
  - c. Ensure that the purpose as stated within the regulations is met;
  - d. Preservation and retention of trees for future generations;
  - e. Adequate size replacement trees in relationship to the size of trees that are removed; and,
  - f. Consistency with other Code provisions and current practices, including but not limited to street tree provisions.

The City Council also finds as follows:

- a. Removal of trees in certain zones requires a permit to be issued by the Director of Community Development;
  - b. An exemption to this requirement is provided for when an "emergency" exists;
  - c. Because this section is vague as to what constitutes an "emergency" it is susceptible to abuse by those wishing to rid themselves of unwanted trees who cannot otherwise obtain a permit.
  - d. It is therefore in the best interests of the general public health, safety and welfare with regard to the preservation of trees to amend this exemption to clarify when a tree may be removed for "emergency" reasons and to insure that public safety is the real reason.
- G. Pursuant to the California Environmental Quality Act (CEQA) and the Manhattan Beach CEQA Guidelines, the subject Amendments are exempt in that they are covered by the general rule that CEQA [Section 15061 (3)] only applies to projects which have the potential for causing a significant effect on the environment, and since it can be seen with certainty that there is no possibility that the

activity will have a significant effect on the environment, the activity is not subject to CEQA; and,

- H. The proposed amendments have been prepared in accordance with the provisions of Title 7, Division 1, Chapter 4, Section No. 65853, et seq., of the State of California Government Code.
- I. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- J. The proposed amendment to the Title 10 of the Municipal Code (Zoning Ordinance) is consistent with the following goals and policies of the Manhattan Beach General Plan as follows:

**Goal LU-2: Encourage the provision and retention of private landscaped open space.**

Policy LU-2.3: Protect existing mature trees throughout the City, and encourage their replacement with specimen trees whenever they are lost or removed.

**Goal LU-3: Achieve a strong, positive community aesthetic.**

**Goal CR-4: Preserve the existing landscape resources in the City, and encourage the provision of additional landscaping.**

Policy CR-4.1: Protect existing mature trees throughout the City and encourage their replacement with specimen trees whenever they are lost or removed.

Policy CR-4.3: Recognize that landscaping, and particularly trees, provide valuable protection against air pollution, noise, soil erosion, excessive heat, and water runoff, and that they promote a healthy environment.

Policy CR-4.4: Review the tree ordinance to consider its application citywide and to determine the need to strengthen tree preservation criteria.

Policy CR-4.5: Discourage the reduction of landscaped open space and especially the removal of trees from public and private land.

SECTION 2. The City Council of the City of Manhattan Beach hereby APPROVES the proposed amendment to Section 10.52.120 (Tree preservation and restoration in residential zones, Area Districts I and II) of the Manhattan Beach Municipal Code as follows:

**“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. The design of residences, including grading, driveways, walkways, patios, utilities and right-of-way improvements, shall consider and accommodate existing protected trees when feasible. The intent of this section is the retention and preservation of trees while permitting the reasonable enjoyment of private property.

B. General Requirements.

1. Except as provided in subsection G (Exemptions), no person shall directly or indirectly remove or cause to be removed, 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, the trunk of which is located at least partially within the required front or streetside yard of a site, with a trunk diameter of six inches (6") or

multiple trunks totaling six inches (6") 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 or replacement of a protected tree.
3. A "tree plan" shall mean a plot plan (scale 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 yard
  - 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, 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 trees located in the streetside yard with a trunk diameter of six inches (6") or multiple trunks totaling six inches (6") in diameter or greater, and all trees located in the front yard with a six (6") inch to less than twelve (12") inch trunk diameter at a height of four and one-half feet (4.5') from existing grade, may be removed with prior approval of a tree permit provided they are replaced in accordance with the provisions of this Section.

2. All trees located in the front yard with a twelve (12") inch or greater trunk diameter at a height of four and one-half feet (4.5') from existing grade, shall be protected and may be only be removed with prior approval of a tree permit provided they are replaced in accordance with the provisions of this Section.

3. 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.

4. Care shall be exercised for trees to be preserved so that no damage occurs to said trees. 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.

5. 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.

6. No 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 2 inches in diameter should occur within the drip line of the tree as measured at ground level. Required public right-of-way improvements shall take priority over tree preservation, however alternative designs and materials, including but not limited to permeable surfaces and planter areas with irrigation, shall be considered and implemented as feasible. Where some root removal is necessary as approved by the City the tree crown may require thinning to prevent wind damage.

7. No fill material shall be placed within the drip line of any tree.

8. 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 one 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 ~~or~~ an arborist's report.

3. 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 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.

G. Replacement Trees. Required replacement trees shall be minimum twenty-four inch (24") boxed trees for front yard trees with a six (6") inch to less than twelve (12") inch trunk diameter and all

streetside yard trees, and a minimum thirty-six inch (36") boxed trees for front yard trees with a twelve (12") inch or greater trunk diameter, of an appropriate species and must be planted prior to final inspection. Actual sizes, species, location, and quantities of replacement trees are subject to Community Development Director approval. In no case shall replacement tree quantities result in less than one 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 the required replacement tree(s), then an in-lieu fee to be deposited in the City's Tree Canopy Restoration Fund, or a similar fund,, equivalent to the amount of the actually estimated cost of the tree(s) including installation, may be required to be paid..

H. 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. 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.

4. Cutting of tree branches and roots extending across property lines into adjacent property, to the extent that the pruning complies with the International Society of Arboriculture (ISA) standards and does not damage or potentially damage the health and structure of the tree(s).

I. Non-liability of City. Nothing in this Ordinance 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.

J. 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."

K. 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 of Manhattan Beach.

5. In the event that a civil action is filed regarding any provision of this subsection "K" the City shall be entitled to attorney fees if it prevails.

SECTION 3. Pursuant to Government Code Section 66499.37, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this Ordinance and the City Council is served within 120 days of the date of this Ordinance.

SECTION 4. If any sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each sentence, clause or phrase thereof irrespective of the fact that any one or more sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

SECTION 5. Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other Ordinance of the City, to the extent that they are inconsistent with this Ordinance, and no further, are hereby repealed.

SECTION 6. This Ordinance shall go into effect and be in full force and operation from and after thirty days after its final passage and adoption.

SECTION 7. The City Clerk shall cause this Ordinance or a summary thereof to be published and, if appropriate posted, as provided by law. Any summary shall be published and a certified copy of the full text of this Ordinance posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall cause a summary to be published with the names of those City Council members voting for and against this Ordinance and shall post in the Office of the City Clerk a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against the Ordinance.

PASSED, APPROVED and ADOPTED this 4th day of October, 2005.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Mayor, City of Manhattan Beach, California

ATTEST:

\_\_\_\_\_  
City Clerk

**RESOLUTION NO. PC 05-11**

**RESOLUTION OF THE PLANNING COMMISSION  
OF THE CITY OF MANHATTAN BEACH  
RECOMMENDING APPROVAL OF AMENDMENTS  
TO THE CITY ZONING CODE (SECTION 10.52.120)  
TO REVISE THE TREE PRESERVATION  
REGULATIONS**

**THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH  
DOES HEREBY RESOLVE AS FOLLOWS:**

**WHEREAS**, on June 24, 2005, the City Council held a special session and developed the 2005-2007 Work Plan, and;

**WHEREAS**, on July 5, 2005, the City Council amended and formally adopted the 2005-2007 Work Plan, and;

**WHEREAS**, on July 26, 2005 the City Council and Planning Commission held a joint Work Plan meeting, and provided direction to revise the Tree Ordinance as one of the top priorities for the Department, and;

**WHEREAS**, pursuant to applicable law, the Planning Commission of the City of Manhattan Beach conducted a public hearing on August 24, 2005, on the proposed Code Amendments related to revisions to the Tree Preservation regulation, and;

**WHEREAS**, the public hearing was advertised pursuant to applicable law, testimony was invited and received, and;

**WHEREAS**, public noticing included a one-quarter page display ad in a newspaper of general circulation (Beach Reporter), and;

**WHEREAS**, the applicant for the subject project is the City of Manhattan Beach; and,

**WHEREAS**, pursuant to the California Environmental Quality Act (CEQA) and the Manhattan Beach CEQA Guidelines, the subject Amendments are exempt in that they are covered by the general rule that CEQA [Section 15061 (3)] only applies to projects which have the potential for causing a significant effect on the environment, and since it can be seen with certainty that there is no possibility that the activity will have a significant effect on the environment, the activity is not subject to CEQA; and,

**WHEREAS**, the proposed amendments have been prepared in accordance with the provisions of Title 7, Division 1, Chapter 4, Section No. 65853, et seq., of the State of California Government Code.

**WHEREAS**, the Planning Commission finds that the project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the



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Fish and Game Code; and,

**WHEREAS**, the Planning Commission made the following findings with regard to the proposed changes:

1. The proposed amendments are consistent with the City of Manhattan Beach General Plan.

**Goal LU-2: Encourage the provision and retention of private landscaped open space.**

Policy LU-2.3: Protect existing mature trees throughout the City, and encourage their replacement with specimen trees whenever they are lost or removed.

**Goal LU-3: Achieve a strong, positive community aesthetic.**

**Goal CR-4: Preserve the existing landscape resources in the City, and encourage the provision of additional landscaping.**

Policy CR-4.1: Protect existing mature trees throughout the City and encourage their replacement with specimen trees whenever they are lost or removed.

Policy CR-4.3: Recognize that landscaping, and particularly trees, provide valuable protection against air pollution, noise, soil erosion, excessive heat, and water runoff, and that they promote a healthy environment.

Policy CR-4.4: Review the tree ordinance to consider its application citywide and to determine the need to strengthen tree preservation criteria.

Policy CR-4.5: Discourage the reduction of landscaped open space and especially the removal of trees from public and private land.

2. The purpose of the proposed amendments include, but are not limited to, the following:
  - A. Continue to encourage the retention and preservation of trees while permitting the reasonable enjoyment of private property;
  - B. Provide internal consistency within the existing Tree Preservation regulations;
  - C. Ensure that the purpose as stated within the regulations is met;
  - D. Preservation and retention of trees for future generations;
  - E. Adequate size replacement trees in relationship to the size of trees that are removed; and,
  - F. Consistency with other Code provisions and current practices, including but not limited to street tree provisions.

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3. The Planning Commission also finds as follows:
  - A. Removal of trees in certain zones requires a permit to be issued by the Director of Community Development;
  - B. An exemption to this requirement is provided for when an “emergency” exists;
  - C. Because this section is vague as to what constitutes an “emergency” it is susceptible to abuse by those wishing to rid themselves of unwanted trees who cannot otherwise obtain a permit.
  - D. It is therefore in the best interests of the general public health, safety and welfare with regard to the preservation of trees to amend this exemption to clarify when a tree may be removed for “emergency” reasons and to insure that public safety is the real reason.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of Manhattan Beach hereby recommends **APPROVAL** of the proposed amendments to the Manhattan Beach Municipal Code (Section 10.52.120-Tree preservation and restoration in residential zones, Area Districts I and II) as follows:

### **“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. The design of residences, including grading, driveways, walkways, patios, utilities and right-of-way improvements, shall consider and accommodate existing protected trees when feasible. The intent of this section is the retention and preservation of trees while permitting the reasonable enjoyment of private property.

#### **B. General Requirements.**

1. Except as provided in subsection G (Exemptions), no person shall directly or indirectly remove or cause to be removed, 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 or streetside yard of a site, with a trunk diameter of six inches (6") ~~twelve inches (12")~~ or multiple trunks totaling six inches (6") ~~twelve inches (12")~~ in diameter or greater at a height of four and one-half feet (4.5') from existing grade; and any replacement

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tree required pursuant to this section.

2. A "tree permit" is a permit required for the removal or replacement of a protected tree.

3. A "tree plan" shall mean a plot plan (scale 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 yard

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, 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 trees located in the streetside yard with a trunk diameter of six inches (6") or multiple trunks totaling six inches (6") in diameter or greater, and all trees located in the front yard with a six (6") inch to less than twelve (12") inch trunk diameter at a height of four and one-half feet (4.5') from existing grade, may be removed with prior approval of a tree permit provided they are replaced in accordance with the provisions of this Section.*

2. *All trees located in the front yard with a twelve (12") inch or greater trunk diameter at a height of four and one-half feet (4.5') from existing grade, shall be protected and may be only be removed with prior approval of a tree permit provided they are replaced in accordance with the provisions of this Section.*

3. 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.

4. Care shall be exercised for trees to be preserved so that no damage occurs to said trees. 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.

5. 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.

6. No 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 2 inches in diameter* should occur within the drip line of the tree as measured at ground level. *Required public right-of-way improvements shall take priority over tree preservation, however alternative designs and materials, including but not limited to permeable surfaces and planter areas with irrigation, shall be considered and implemented as feasible.* Where some root removal is necessary as approved by the City the tree crown may require thinning to prevent wind damage.

7. No fill material shall be placed within the drip line of any tree.

8. 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 one 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 may* be required for a Tree Permit.

2. Tree Permit applications shall include a Tree Plan, and written proof of

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neighbor notification pursuant to applicable permit instructions and may also include ~~or~~ an arborist's report, or verification of a potential safety risk.

3. 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 may require a Tree Permit 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.

G. **Replacement Trees.** Required replacement trees shall be minimum twenty-four inch (24") boxed trees for front yard trees with a six (6") inch to less than twelve (12") inch trunk diameter and all streetside yard trees, and a minimum thirty-six inch (36") boxed trees for front yard trees with a twelve (12") inch or greater trunk diameter, of an appropriate species and must be planted prior to final inspection. Actual sizes, species, location, and quantities of replacement trees are subject to Community Development Director approval. In no case shall replacement tree quantities result in less than one protected tree per lot or thirty feet (30') of site frontage storage-If the Director of Community Development determines that there is not adequate room on the property for the required replacement tree(s), then an in-lieu fee to be deposited in the City's Tree Canopy Restoration Fund, or a similar fund., equivalent to the amount of the actually estimated cost of the tree(s) including installation, may be required to be paid..

H. **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.

~~2. Removal of deciduous, fruit-bearing trees, Washingtonia robusta, or Washingtonia filifera.~~

3. 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.

4. Cutting of tree branches and roots extending across property lines into adjacent property, to the extent that the pruning complies with the International Society of Arboriculture (ISA) standards and does not damage or potentially damage the health and structure of the tree(s).

I. **Non-liability of City.** Nothing in this Ordinance 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.

J. **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:

## RESOLUTION NO. PC 05-11

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.”

*K. 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 of Manhattan Beach.*

*5. In the event that a civil action is filed regarding any provision of this subsection “K” the City shall be entitled to attorney fees if it prevails.*

**RESOLUTION NO. PC 05-11**

**SECTION 3.** Pursuant to Government Code Section 66499.37, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution.

**SECTION 4.** If any sentence, clause, or phrase of this resolution is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this resolution. The Planning Commission hereby declares that it would have passed this resolution and each sentence, clause or phrase thereof irrespective of the fact that any one or more sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

**SECTION 5.** Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other resolution of the City, to the extent that they are inconsistent with this resolution, and no further, are hereby repealed.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of August 24, 2005 and that said Resolution was adopted by the following votes:

AYES: Chair Savikas, Vice-Chairman Simon,  
Commissioners Schlager, Bohner, and Lesser  
NOES: None  
ABSENT: None  
ABSTAIN: None

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**RICHARD THOMPSON**  
Secretary to the Planning Commission

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**SARAH BOESCHEN**  
Recording Secretary

**CITY OF MANHATTAN BEACH**  
**MINUTES OF THE REGULAR MEETING OF THE PLANNING COMMISSION**  
**AUGUST 24, 2005**

1  
2 **05/0824.2 Zoning CODE AMENDMENT to the Tree Preservation Regulations (Section**  
3 **10.52.120) and Related Code Sections, to Revise the Tree Preservation**  
4 **Regulations**  
5

6 Director Thompson indicated that the issue is a work plan item, and the Planning Commission  
7 will be involved in regulating trees on private property.  
8

9 Senior Planner Jester summarized the staff report. She stated that the original Ordinance was  
10 originally adopted in 1993 and was expanded in 2003 to apply to all of Area Districts I and II.  
11 She pointed out that Area Districts III and IV, which include the beach areas, are excluded. She  
12 commented that the City Council indicated in July of 2003 that they consider the Ordinance to  
13 apply to the preservation rather than a removal and replacement of trees. She commented that  
14 there were two appeals of staff's decision on Tree Permits earlier in 2005. She stated that staff  
15 provided the Council with a status report, and the issue was placed on the work plan.  
16

17 Senior Planner Jester stated that the purpose of the Ordinance is to preserve the City's scenic  
18 beauty; prevent erosion; protect against flooding; counteract pollutants; and to maintain climatic  
19 and ecologic balance. She indicated that the intent is to retain and preserve existing trees;  
20 however, there is a balance of permitting the reasonable enjoyment of private property. She  
21 commented that the current regulations protect trees in front yards that are 12 inches or larger in  
22 trunk diameter measured 4 ½ feet above ground. She commented that any replacement trees are  
23 also protected. She indicated that there currently are exemptions for deciduous fruit bearing trees  
24 and the Washingtonia species of palm trees. She pointed out that there are some species of trees  
25 that produce a large canopy but have a narrow trunk diameter that are not protected under the  
26 Ordinance.  
27

28 Senior Planner Jester stated that staff works with architects contractors on preserving existing  
29 trees to ensure that the root system out to the drip line is protected; grading and paving is limited;  
30 utility locations are considered; and right of way improvements are considered. She stated that as  
31 part of the Tree Permit Application, people are required to submit photographs of the tree; a site  
32 plan; a survey; reasoning for the removal request; and information regarding the type of tree  
33 proposed for replacement. She commented that the City's consulting arborist will sometimes  
34 help with site inspections and recommendations. She indicated that staff will recommend  
35 removal if a tree is determined to be unhealthy or hazardous. She commented that staff will also  
36 allow removal and replacement in instances where a tree greatly impacts development on a site,  
37 such as a tree directly in the center of a narrow lot. She stated that during the permit review  
38 process, staff considers the health of the subject tree; the growth habits; past pruning; location of  
39 the tree on site; the type of species; any damage that the tree has caused to private property; any  
40 damage that the tree has caused to public property; and view protection if located along a walk-  
41 street. She said that decisions regarding Tree Permits are made by the Community Development

**PLANNING COMMISSION MINUTES**

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1 Director, are appealable to the Planning Commission, and are received and filed by the City  
2 Council.

3  
4 In response to a question from Chairperson Savikas, Senior Planner Jester indicated that  
5 replacement trees are considered on a case by case basis.

6  
7 Senior Planner Jester indicated that the Code currently includes a provision for emergency  
8 removal by which a permit is granted after a tree is removed, and the Ordinance is proposed to be  
9 changed to require a Tree Permit prior to any removal. She commented that staff does not  
10 foresee instances where a tree must be removed immediately or else it will create major damage,  
11 and staff wants to prevent abuse of the emergency provision.

12  
13 Director Thompson said that staff has not experienced a situation where there was not sufficient  
14 time before a tree falls for staff to inspect a tree and make a determination that it needs to be  
15 removed. He said that there have been instances where people have asked for removal of a tree  
16 on an emergency basis and staff went to the site and granted approval quickly. He said that the  
17 proposed language helps to prevent developers from abusing the emergency provision.

18  
19 Senior Planner Jester indicated that deciduous fruit bearing trees and Washingtonia Palms  
20 (California and Mexican fan palms) are currently exempt from the Tree Ordinance. She stated  
21 that staff is proposing no exemptions and that trees be reviewed on an individual basis. She  
22 commented that the largest issue with fruit bearing trees and palms is rodents, and many of them  
23 have very small trunk diameters. She commented that in many instances palm trees are  
24 relocated. She pointed out that trees that are currently exempt do not require a replacement, and  
25 all trees that are removed would require a replacement with none being exempt as proposed.

26  
27 Senior Planner Jester stated that trees with a 12 inch or greater trunk diameter are currently  
28 protected under the Ordinance, and any trees that are removed require replacement with a  
29 minimum 24-inch box tree. She stated that the new regulations would include that trees with a 6-  
30 12 inch trunk diameter may be removed but must be replaced with a 24 inch box tree. She  
31 indicated that with a 12 inch trunk and larger diameter would still be protected consistent with  
32 the current regulations and must be replaced with a 36 inch box tree if approved to be replaced.  
33 She commented that staff is recommending that the Commission consider allowing the applicant  
34 to pay a fee to the City's Tree Canopy Restoration Fund in lieu of planting required replacement  
35 trees if it is determined that it is not feasible to physically fit replacement trees on a site. She said  
36 that the people who illegally remove trees are required to pay the amount at which the removed  
37 tree is appraised, and the difference between the appraisal amount and the cost of the replacement  
38 tree is put into the fund. She indicated that the fund is used to plant trees in parks and parkways  
39 and to evaluate the health of trees in the City.

40



**PLANNING COMMISSION MINUTES**

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1 Commissioner Lesser asked whether the new provision would discourage homeowners from  
2 planting trees because they do not want the City to regulate their landscaping, particularly the  
3 new requirement that smaller trees between 6 and 12 inches must be replaced.

4  
5 Senior Planner Jester said that the type of and location of replacement trees are typically the  
6 decision of the property owner, and there are very few instances where staff has made a decision  
7 that a particular tree would not be feasible in a certain location. She said that generally people  
8 want to upgrade their properties and have trees; however there are some instances where the  
9 homeowner is unhappy with the appearance or location of an existing tree.

10  
11 Senior Planner Jester stated that trees on the long street side setback of corner lots outside of the  
12 designated front yard setback are currently not protected, and staff is recommending replacement  
13 of such trees be required with a minimum 24 inch box tree. She stated that the City Attorney has  
14 suggested that administrative fines be imposed for violations.

15  
16 In response to a question from Commissioner Bohner, Senior Planner Jester stated that the Public  
17 Works Department often identifies trees that are being removed in violation of the Ordinance.  
18 She indicated that violations are also identified if surveys done for a project show a tree and there  
19 is no tree on site when the property is inspected. She indicated that neighbors also occasionally  
20 will inform staff of violations.

21  
22 In response to a question from Commissioner Lesser, Senior Planner Jester said that staff does  
23 not feel there is an issue with enforcement of the proposed new standards of requiring a  
24 replacement for smaller trees. She stated that staff has a great deal of outreach with contractors  
25 and architects.

26  
27 In response to a question from Commissioner Bohner, Senior Planner Jester stated that the  
28 general consensus of the public response is in support of the Tree Ordinance. She said that there  
29 have been some comments that it is over-regulating; however, they have generally been from  
30 people who feel that the City should not control the size, height and setbacks on private property.  
31 She indicated that the largest issue staff has with developers is with existing trees interfering with  
32 their desired design for a property.

33  
34 Senior Planner Jester indicated that the purpose section of the Ordinance is proposed to be  
35 expanded to include that the design of residences should consider existing trees and that tree  
36 preservation increases property values, provides cooling, shade, and beauty, and minimizes  
37 spread of diseases by removing unhealthy trees. She indicated that language is also being added  
38 which parallels the Public Works Street Tree Section that intentional damage neglect, or abuse of  
39 trees is a violation of the Ordinance. She commented that staff has suggested to the Council that  
40 pruning standards be established because trees can be severely damaged or can die if pruned to

## PLANNING COMMISSION MINUTES

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1 severely and not to correct standards; however the Council felt it was too extreme.

2  
3 Director Thompson commented that the City does not have the staff to enforce standards for  
4 pruning trees, and it would be extremely difficult for staff to make the determination whether  
5 pruning was done incorrectly.

6  
7 Commissioner Simon commented that he has a concern with Item D(6) on page 4 of the  
8 Resolution which is proposed to be revised from the original Ordinance to read: “No  
9 construction, including structures, paving, and walls, that disrupts the root system on private as  
10 well as public property shall be permitted without prior approval by the Community  
11 Development Director.” He indicated that his understanding is that covering a root system can  
12 disrupt it, and a property owner adding bricks to their front yard setback would require approval  
13 under the new guidelines if adjacent a protected tree. He commented that his understanding is  
14 that the new regulations would allow trees to be cut down within the streetside setback of corner  
15 lots but would prohibit trees in the same areas from being damaged by covering the root systems,  
16 which seems inconsistent.

17  
18 In response to a question from Commissioner Simon, Senior Planner Jester indicated that the  
19 suggestion of adding the wording to include public property was to tie in public improvements  
20 with private property. She commented that there typically are not requests to pave the entire  
21 front setback. She commented that paving typically does require approval, and the proposed  
22 language is consistent with Public Works requirements that restricts paving over tree roots in the  
23 public right of way.

24  
25 Chairperson Savikas opened the public hearing.

26  
27 There being no-one wishing to speak regarding the item, Chairperson Savikas closed the public  
28 hearing.

29  
30 Commissioner Lesser stated that he is troubled with certain aspects and the overall impact with  
31 some of the proposed regulations. He stated that some trees planted by a prior owner are not  
32 appropriate for a particular location even after they reach a certain size. He said that he is not  
33 certain that under the proposed revisions would provide adequate consideration for requests to  
34 remove trees that continually interfere with drains and plumbing.

35  
36 Senior Planner Jester commented that ficus tree roots are extremely destructive root systems to  
37 sewers, sidewalks, and structures. She indicated that it was decided not to list them as exempt  
38 because that would mean their removal would not require a replacement. She indicated that she  
39 does not foresee an instance where replacement of a ficus for a different type of tree would not be  
40 granted.

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1  
2 Commissioner Lesser asked if it would be difficult under the new guidelines to be granted  
3 approval for removal of a tree interfering with the foundation of a home if the tree was within the  
4 front setback.

5  
6 Senior Planner Jester stated that trees that are causing or are very likely to cause structural  
7 damage will be granted approval for removal. She said that approval is not granted for requests  
8 to remove trees because the roots are cracking sidewalks, expanding into lawns, or because the  
9 property owner wishes to eliminate falling leaves into their yard.

10  
11 Commissioner Lesser commented that he was approached by a member of the community who  
12 expressed a concern regarding the new regulations of the City government overseeing what is  
13 done to their property, particularly with the proposed new requirement that trees with a trunk  
14 diameter of 6 to 12 inches must be replaced. He stated that he is comfortable with enforcement  
15 of the proposed Ordinance by the current staff and Director; however, he has a concern with the  
16 enforcement of the Ordinance in the future.

17  
18 Director Thompson stated that requests for trees to be removed because of intrusion into sewers  
19 and waterlines does not by itself justify removal of a tree. He said that staff also considers the  
20 number of trees in the front yard and takes a practical approach in making decisions in applying  
21 the Ordinance. He pointed out that there are also appeal rights to a decision that is made by the  
22 Community Development Director.

23  
24 Senior Planner Jester said that staff takes into consideration instances where there are too many  
25 trees on a property and they are not all able to grow and thrive because of overcrowding.

26  
27 Commissioner Schlager stated that staff's report is knowledgeable, and preservation the  
28 Ordinance moves the City towards the goal of tree preservation.

29  
30 Commissioner Bohner stated that the requested changes are reasonable. He commented that  
31 there should be some oversight of people declaring after a tree has been removed that it had  
32 created an emergency situation, and requiring someone from the City to oversee such situations is  
33 not an overly burdensome requirement. He commented that the request to expand the type of  
34 diameter of the trees and the nature of the trees that apply to the Ordinance is reasonable. He  
35 said that there are sufficient checks on the discretion of the staff in denying requests to remove a  
36 tree. He commented that the proposed changes to the Ordinance is a positive step forward in  
37 preserving trees.

38  
39 Commissioner Simon stated that he would support the idea of allowing the applicant to pay a fee  
40 to the City's Tree Canopy Restoration Fund in lieu of planting replacement trees when

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1 determined to be appropriate.

2

3 Chairperson Savikas asked regarding the risk to homeowners of tripping hazards because damage  
4 to walkways from roots if the City denies removal of trees.

5

6 In response to a question from Chairperson Savikas, Senior Planner Jester stated that there are  
7 different standards for public walkways and walkways on private property. She indicated that it  
8 is easier to remove or repair a walkway and there are more options for types of paving materials  
9 on private property than on public property.

10

11 Chairperson Savikas suggested applying a standard formula for fines.

12

13 Commissioner Bohner said that he is concerned with due process with not having some type of  
14 formula quantified for fines. He said that there is an issue with not articulating the methodology  
15 is in imposing a fine.

16

17 Director Thompson commented that people who violate the standards are the developers rather  
18 than homeowners. He said that staff is not certain of establishing a standard that would prevent  
19 intentional offenders from committing the same offense in the future except for the ability of the  
20 City Attorney to file criminal charges, which is provided for in the proposed language. He  
21 indicated that criminal charges would be more of a threat than imposing a fine on developers  
22 who are repeat offenders. He indicated that staff will relay that the Commission had concerns  
23 that the methodology for imposing the fine is not well articulated and should be more clearly  
24 defined. He said that staff will also consider the issue further with the City Attorney.

25

26 Commissioner Schlager commented that he feels a fine of possibly \$10,000.00 to \$25,000.00  
27 should be imposed to discourage people from intentionally violating the Ordinance.

28

29 Commissioner Bohner said that he would like for a formula for a fine to be articulated in the  
30 Ordinance in some fashion. He said that he would be comfortable with providing direction to the  
31 City Attorney to incorporate the appropriate language.

32

33 Director Thompson commented that most developers do comply. He said that it could be  
34 forwarded to the Council if the consensus is for imposing a fine.

35

36 Senior Planner Jester pointed out that some trees are removed in violation by homeowners who  
37 are genuinely unaware of the regulations, which is a very different situation from a developer  
38 who intentionally violates the Ordinance.

39

40 Chairperson Savikas suggested that the City Attorney draft language which addresses the

**PLANNING COMMISSION MINUTES**

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1 violations which are intentional from developers and unintentional from property owners.

2  
3 A motion was MADE and SECONDED (Schlager/Bohner) to **ADOPT** the draft Resolution  
4 recommending the City Council approve Zoning CODE AMENDMENT to the Tree Preservation  
5 Regulations (Section 10.52.120) and Related Code Sections, with the recommendations that  
6 applicants be able to pay a fee to the City’s Tree Canopy Restoration Fund in lieu of planting  
7 required replacement when determined to be appropriate; and that the City Attorney be directed  
8 to review whether there is sufficient due process of procedures with regard to fining those who  
9 show intent in removing trees.

- 10
- 11 AYES: Bohner, Lesser, Schlager, Simon, Chairperson Savikas
- 12 NOES: None
- 13 ABSENT: None
- 14 ABSTAIN: None
- 15

16 Director Thompson explained the 15-day appeal period and stated that the item and  
17 Commission’s recommendations will be forwarded to the City Council as a public hearing at a  
18 future date

19  
20 **DIRECTOR’S ITEMS** None

21  
22 **PLANNING COMMISSION ITEMS**

23  
24 Chairperson Savikas the Second Annual Manhattan Beach Mayors’ Golf Tournament is Monday,  
25 October 10 at Candlewood Country Club. She commented that the phone number for further  
26 information is (310) 344-0697.

27  
28 **TENTATIVE AGENDA: September 14, 2005**

29  
30 **Use Permit for a Proposed Commercial Project at 222 North Sepulveda**

31  
32 **ADJOURNMENT**

33  
34 The meeting of the Planning Commission was **ADJOURNED** at 8:15p.m. in the City Council  
35 Chambers, City Hall, 1400 Highland Avenue, to Wednesday, September 14, 2005, at 6:30 p.m.  
36 in the same chambers.

37  
38  
39 \_\_\_\_\_  
40 RICHARD THOMPSON  
Secretary to the Planning Commission

\_\_\_\_\_  
SARAH BOESCHEN  
Recording Secretary

**CITY OF MANHATTAN BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT**

**TO:** Planning Commission

**THROUGH:** Richard Thompson, Director of Community Development

**FROM:** Laurie B. Jester, Senior Planner

**DATE:** August 24, 2005

**SUBJECT:** City Council 2005-2007 Work Plan item: Zoning Code Amendment to the Tree Preservation regulations (Section 10.52.120 of the Zoning Code) and related Code sections, to revise the Tree Preservation regulations. (City of Manhattan Beach)

**RECOMMENDATION**

Staff recommends that the Planning Commission **CONDUCT** the **PUBLIC HEARING, DISCUSS**, and **ADOPT** a Resolution (Exhibit A) recommending to the City Council approval of revisions to the Zoning Code related to the Tree Preservation Ordinance. At the Planning Commission meeting staff will provide a Powerpoint presentation with photographs of trees as they relate to the Tree Preservation regulations.

**BACKGROUND:**

The City's Tree Preservation Ordinance was originally adopted August 19, 1993 (Ordinance No. 1884), and is included as Section 10.52.120 of the Zoning Code (Exhibit B). At that time, the Ordinance applied only to the Tree Section, generally bounded by Rosecrans Avenue, Blanche Road, Valley Drive and Sepulveda Boulevard. The Ordinance protects all trees, except deciduous fruit-bearing trees and Washingtonia species palms, with a 12" or greater trunk diameter located in the front yard. At that time the Ordinance was implemented more as a "removal and replacement" regulation than a "preservation" regulation.

On May 6, 2003, the Ordinance was expanded (Ordinance No. 2045) to apply to all of the residential zones in Area Districts I and II; the Beach Area is not covered by the Tree Ordinance (Exhibit C). The Purpose Section states that "Tree Preservation is necessary for the health and welfare of the citizens of the City of Manhattan Beach in order to conserve scenic beauty, prevent the erosion of topsoil, protect against flood hazards, counteract pollutants in the air, and generally maintain the climatic and ecological balance of the area. The intent of this section is the retention and preservation of trees while permitting the reasonable enjoyment of private property." With the expansion of the Tree Ordinance, planning staff began implementing the regulation as a "preservation" regulation, not a "removal and replacement" regulation as previously implemented.

After the adoption of the expanded Tree Ordinance, the City Council and Planning Commission held a joint meeting on July 22, 2003 to discuss a variety of planning issues, including the Tree

Ordinance. At that meeting the City Council confirmed that the Ordinance was intended to preserve trees, and that Staff should continue to enforce the Ordinance accordingly.

On May 3, 2005 the City Council heard the first two appeals of staff decisions on Tree Permits and at that time the Council requested that staff bring back a report on the status of the Tree Ordinance.

On June 24, 2005, the City Council held a special session and developed the 2005-2007 Work Plan which was then amended and formally adopted on July 5, 2005 and included this Work Plan item related to revisions of the Tree Ordinance. At the July 5<sup>th</sup> meeting a status report and review of the Tree Ordinance was also considered by the City Council and the Council provided direction on revisions to the regulations. On July 26, 2005 the City Council and Planning Commission held a joint meeting and the City Council provided direction to revise the Tree Ordinance as one of the top Work Plan priorities for the Department.

## **DISCUSSION:**

### ***Tree Permit Process***

Staff works with architects, developers and contractors during the design of a home, including the design of grading, walkways, patios, utilities and right-of-way improvements, and throughout construction to ensure that new construction considers and protects existing trees that are protected under the Ordinance. The Code requires that the root system within the dripline of the tree be protected during construction as this is critical to maintaining the health of the tree. The attached July 5<sup>th</sup> City Council staff report (Exhibit D) provides a complete description of the Tree Permit process.

Applications for a tree permit typically include notification signatures from neighbors and/or an arborist's written recommendation that the tree should be removed. Decisions on Tree Permits are made by the Director of Community Development, with input from the Public Works Department and city arborist when necessary, and the Directors decision is appealable to the Planning Commission. The Planning Commissions decision on an appeal is then placed on the City Council consent agenda as a receive and file item unless it is pulled for discussion.

Tree permits for dead or unhealthy trees typically require little review or concern. Proposed tree removals related to construction projects involve more review, and staff encourages retention of protected trees in the design process. If no alternatives are available to preserve the tree, then Staff typically approves the application. Any tree that is removed is required to be replaced with a minimum 24 inch box size tree. The Code states that the size, quantity and species of replacement trees are subject to approval of the Director of Community Development. Replacement trees are required to be installed prior to the issuance of a building final on a project. If there is no construction associated with the tree removal, typically replacement is required within a 1-3 month time frame.

Staff does not approve removal of trees if they are only causing minor damage to a property or for aesthetic, leaf litter, or sap concerns. If a tree is causing structural damage to a home and there are no reasonable options to address the situation, then staff will approve removal. Trees on

private or public property that constitute a danger to the improvements or people in the public right-of-way are addressed by the public tree regulations (Chapter 7.32) and are required to be removed. Trees on walkstreets in the encroachment area, where the public property is used for private gardens and patios, are regulated by Chapter 7.36. These regulations limit landscaping to 42 inches maximum in height to protect views and if valid complaints are received then existing trees are required to be trimmed or removed. New trees and landscaping over 42 inches in height are not allowed in the encroachment area.

When trees are removed illegally, staff follows through with Code Enforcement and the City Attorney as necessary, and works with property owners and developers to ensure that trees are replaced with large specimen box size trees. A “Tree Canopy Restoration Fund” has been established so that when trees are removed illegally and fines are assessed, the fines are deposited into this fund. The fund may then be used to evaluate the health of trees and plant new trees throughout the City to compensate for the loss and to help re-establish and enhance the tree canopy throughout the City in the future.

### ***Proposed Ordinance Revisions***

At the July 5<sup>th</sup> City Council meeting the Council directed staff to revise the Tree Ordinance to address the following issues. Planning staff worked with the City Attorney, the Public Works Department, and the city arborist to develop the revisions. The revised Code language is included as red-line strikeout text in the attached draft Resolution (Exhibit A).

### ***Emergency Removal***

The Exemptions section of the Code (Section 10.52.120 H. 1.) currently allows removal of trees in cases of emergency caused by hazardous or dangerous conditions of a tree, requiring immediate action for the safety of life or property. This section requires that a Tree Permit application then be submitted within five working days after removal of a tree. The revised language requiring approval by the Director of Community Development prior to removal. The City Attorney is recommending this revision as this section is vague as to what constitutes an “emergency” and it is susceptible to abuse by those wishing to rid themselves of unwanted trees who cannot otherwise obtain a permit.

### ***Trees on Adjacent Properties***

There are two sections of the Code that address trees on adjacent properties that conflict. In one Section (10.52.120 D), trees that are on adjacent properties that could potentially be impacted by construction are required to be protected. In the Exemption Section (10.52.120 H. 4), the cutting of tree branches and root extending across property lines onto adjacent properties are exempt from the regulations. City Council agreed with staff that adjacent property trees should be reasonably protected and any pruning of branches or roots that could potentially damage the health of trees should not be allowed or a Tree Permit could be required to evaluate potential impacts.

### ***Trees Exempt from Protection***

Section 10.52.120 H. 2 of the Tree Preservation regulations exempts deciduous fruit bearing trees, such as peaches, plums, nectarines, cherries, and apples, and two Palm trees, *Washingtonia robusta*, Mexican Fan Palm, and *Washingtonia filifera*, the California Fan



Palm, from the protection regulations. This section has been modified so that no trees with a trunk diameter of 12 inches or greater are exempt from the ordinance. This gives staff the ability to evaluate each removal request on an individual basis and then make a determination if removal and replacement is appropriate.

***Protected tree size and replacement size***

The City Council also recommended that staff explore protecting trees with less than a 12” trunk diameter, possibly using criteria based on a ratio of trunk caliper, tree height and canopy spread. The Council also agreed with staffs suggestion to look at the size of replacement trees in relationship to the size of the trees that are being removed, again possibly using a ratio criteria. Staff discussed a number of options with the City Arborist ,and the Public Works Maintenance Superintendent , who is responsible for the City street and park trees, and staff researched various cities Codes on tree preservation. A ratio system would need to be very detailed and relate to individual tree species which staff believes would be much to complex for the public as well as staff.

As the goal of the tree preservation ordinance is the retention and preservation of trees, staff believes that smaller trees as well as existing larger trees should be protected. All trees provide a benefit by improving the aesthetics of the City, helping to clean the air, provide shade, and reduce glare and heat. When trees are removed and not replaced then these benefits are lost. If a tree is not protected under the ordinance then it can removed without a Tree Permit and is not required to be replaced. The smaller trees are the future, and staff believes that it is important to protect these smaller trees as well as the existing larger trees, to benefit the future as well as protect what we currently enjoy.

Therefore, staff would recommend that trees with a 6 to 12 inch trunk diameter generally be allowed to be removed, however they would be required to be replaced with a 24 inch box size tree. Trees with a trunk diameter of 12 inches or greater would be protected consistent with current regulations, and if removed would be required to be replaced with a minimum 36 inch box tree. Trees with less than a 6 inch trunk diameter would not be protected and could be removed without a permit.

It may be difficult on some properties to replace all the trees that are removed when a new home is being constructed if there are several trees on the property. Sometime the driveway and the walkways take up a significant amount of area in the front yard and there only be room for one or two new replacement trees, particularly if one or more mature trees are being retained.

Staff would suggest that the Planning Commission consider allowing a different approach in lieu of replacement trees, if it is determined that it is not feasible to physically fit new replacement trees on a particular site. The applicant could be required to pay a fee to the city’s Tree Canopy Restoration Fund in lieu of planting all of the required replacement trees. As previously discussed, the fund is used to evaluate the health of trees and plant new trees throughout the City to compensate for the loss and to help re-establish and enhance the tree canopy throughout the City in the future. This provision has not been incorporated into the

revised regulations as it was not considered by the City Council, however staff would like the Commission to discuss this point and provide direction.

### ***Street Side yard trees***

The Tree Ordinance only protects trees in the 20 foot front yard setback. On corner lots the front setback is located adjacent to the shortest property line, so there is a long streetside setback in which the trees are not protected. Often these side setbacks have several large trees, particularly in the Tree Section. This sideyard setback is only three to five feet wide, and large trees, including the trunk, canopy and root systems, located in the streetside yard can encompass the entire sideyard and extend into the allowed building footprint area and the right-of way.

Protecting trees in this very narrow sideyard setback would impact the design and potentially the buildable floor area of homes. The Council directed staff to revise the regulations to not require that these streetside trees be protected, but require that they be replaced if they are removed. Staff suggests that these trees be replaced with a minimum 24 inch box size tree, and draft language is included within the attached draft resolution.

### ***Violations and Penalties***

Section 10.52.120 establishes standards for violations of the Tree Preservation standards. In addition to this section, staff and the City Attorney recommended to the City Council an administrative fine (Section 10.52.120 K.) for any violation of the tree preservation regulations. The Council supported this recommendation and the revisions as drafted by the City Attorney are included.

### ***Right-of- Way Improvements***

Excessive grading and paving in the dripline of tree can be detrimental to the root system of trees and potentially severely impact the health of a tree. Improvements in the right-of-way, such as retaining walls, parking pads and paving can be detrimental to private property trees. This is particularly an issue in areas were previously there was an open landscaped area which allows air, water and nutrients through to the tree roots which is essential for the health of the tree.

Public Works and Planning staff work together to look at alternative designs and materials in situations where right-of-way improvements may impact trees. Required public improvements take priority over preserving trees, however alternative designs will be used to preserve trees where feasible. Language has been added to the revised regulations to codify these current practices, as directed by the City Council.

### ***Purpose***

The purpose section has been expanded to discuss the design of residences, including grading, walkways, patios, utilities and right-of-way improvements, being required to consider and accommodate existing protected trees when feasible. The Purpose section of the street tree regulations (Section 7.32.010) provides other standards that have also been

incorporated into the Tree Preservation standards for private property, such as increase property values, provide cooling shade and beauty, and minimize spread of disease to healthy trees.

***Miscellaneous revisions and abuse of trees***

These revisions were not considered by the City Council, however while in the process of reviewing and revising the Code, staff felt that it was important to address these items. A few language changes that have been made throughout the regulations for consistency with current procedures and internal language consistency. These include revisions related to the arborist report, the tree plan, and replacement trees.

Additionally, the abuse or mutilation of trees can severely damage or kill a tree. The street tree regulations (Section 7.32.060) provides criteria for illegal abuse of trees, portions of which staff felt were appropriate to incorporate into the private property tree regulation, so new language has been added into Section 10.52.120 B.2 of the draft Resolution.

***Pruning***

There are no standards for pruning and improper pruning techniques can severely damage or kill a tree. Staff had suggested to the City Council that pruning should be required to be in accordance with the International Society of Arborists (ISA) standards. The City Council was not supportive of pruning criteria and therefore these standards have not been incorporated into the revisions.

**CONCLUSION:**

Staff requests that the Commission hold the public hearing and adopt the Resolution provided as Exhibit A, recommending to the City Council approval of the Code amendments.

- Attachments: A. Draft Planning Commission Resolution No. PC 05-XX  
B. Section 10.52.120-Tree preservation and restoration in residential zones, Area Districts I and II  
C. Map of area covered by Tree Ordinance- Area Districts I and II  
D. City Council staff report, minutes, and attachments (duplicates deleted)- July 5, 2005

**RESOLUTION NO. PC 05-XX**

**RESOLUTION OF THE PLANNING COMMISSION  
OF THE CITY OF MANHATTAN BEACH  
RECOMMENDING APPROVAL OF AMENDMENTS  
TO THE CITY ZONING CODE (SECTION 10.52.120)  
TO REVISE THE TREE PRESERVATION  
REGULATIONS**

**THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH  
DOES HEREBY RESOLVE AS FOLLOWS:**

**WHEREAS**, on June 24, 2005, the City Council held a special session and developed the 2005-2007 Work Plan, and;

**WHEREAS**, on July 5, 2005, the City Council amended and formally adopted the 2005-2007 Work Plan, and;

**WHEREAS**, on July 26, 2005 the City Council and Planning Commission held a joint Work Plan meeting, and provided direction to revise the Tree Ordinance as one of the top priorities for the Department, and;

**WHEREAS**, pursuant to applicable law, the Planning Commission of the City of Manhattan Beach conducted a public hearing on August 24, 2005, on the proposed Code Amendments related to revisions to the Tree Preservation regulation, and;

**WHEREAS**, the public hearing was advertised pursuant to applicable law, testimony was invited and received, and;

**WHEREAS**, public noticing included a one-quarter page display ad in a newspaper of general circulation (Beach Reporter), and;

**WHEREAS**, the applicant for the subject project is the City of Manhattan Beach; and,

**WHEREAS**, pursuant to the California Environmental Quality Act (CEQA) and the Manhattan Beach CEQA Guidelines, the subject Amendments are exempt in that they are covered by the general rule that CEQA [Section 15061 (3)] only applies to projects which have the potential for causing a significant effect on the environment, and since it can be seen with certainty that there is no possibility that the activity will have a significant effect on the environment, the activity is not subject to CEQA; and,

**WHEREAS**, the proposed amendments have been prepared in accordance with the provisions of Title 7, Division 1, Chapter 4, Section No. 65853, et seq., of the State of California Government Code.

**WHEREAS**, the Planning Commission finds that the project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the

## RESOLUTION NO. PC 05-XX

Fish and Game Code; and,

**WHEREAS**, the Planning Commission made the following findings with regard to the proposed changes:

1. The proposed amendments are consistent with the City of Manhattan Beach General Plan.

**Goal LU-2: Encourage the provision and retention of private landscaped open space.**

Policy LU-2.3: Protect existing mature trees throughout the City, and encourage their replacement with specimen trees whenever they are lost or removed.

**Goal LU-3: Achieve a strong, positive community aesthetic.**

**Goal CR-4: Preserve the existing landscape resources in the City, and encourage the provision of additional landscaping.**

Policy CR-4.1: Protect existing mature trees throughout the City and encourage their replacement with specimen trees whenever they are lost or removed.

Policy CR-4.3: Recognize that landscaping, and particularly trees, provide valuable protection against air pollution, noise, soil erosion, excessive heat, and water runoff, and that they promote a healthy environment.

Policy CR-4.4: Review the tree ordinance to consider its application citywide and to determine the need to strengthen tree preservation criteria.

Policy CR-4.5: Discourage the reduction of landscaped open space and especially the removal of trees from public and private land.

2. The purpose of the proposed amendments include, but are not limited to, the following:
  - A. Continue to encourage the retention and preservation of trees while permitting the reasonable enjoyment of private property;
  - B. Provide internal consistency within the existing Tree Preservation regulations;
  - C. Ensure that the purpose as stated within the regulations is met;
  - D. Preservation and retention of trees for future generations;
  - E. Adequate size replacement trees in relationship to the size of trees that are removed; and,
  - F. Consistency with other Code provisions and current practices, including but not limited to street tree provisions.

## RESOLUTION NO. PC 05-XX

3. The Planning Commission also finds as follows:
  - A. Removal of trees in certain zones requires a permit to be issued by the Director of Community Development;
  - B. An exemption to this requirement is provided for when an “emergency” exists;
  - C. Because this section is vague as to what constitutes an “emergency” it is susceptible to abuse by those wishing to rid themselves of unwanted trees who cannot otherwise obtain a permit.
  - D. It is therefore in the best interests of the general public health, safety and welfare with regard to the preservation of trees to amend this exemption to clarify when a tree may be removed for “emergency” reasons and to insure that public safety is the real reason.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of Manhattan Beach hereby recommends **APPROVAL** of the proposed amendments to the Manhattan Beach Municipal Code (Section 10.52.120-Tree preservation and restoration in residential zones, Area Districts I and II) as follows:

### **“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. The design of residences, including grading, driveways, walkways, patios, utilities and right-of-way improvements, shall consider and accommodate existing protected trees when feasible. The intent of this section is the retention and preservation of trees while permitting the reasonable enjoyment of private property.

#### **B. General Requirements.**

1. Except as provided in subsection G (Exemptions), no person shall directly or indirectly remove or cause to be removed, 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 or streetside yard of a site, with a trunk diameter of six inches (6") ~~twelve inches (12")~~ or multiple trunks totaling six inches (6") ~~twelve inches (12")~~ in diameter or greater at a height of four and one-half feet (4.5') from existing grade; and any replacement

## RESOLUTION NO. PC 05-XX

tree required pursuant to this section.

2. A "tree permit" is a permit required for the removal or replacement of a protected tree.

3. A "tree plan" shall mean a plot plan (scale 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 yard

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, 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 trees located in the streetside yard with a trunk diameter of six inches (6") or multiple trunks totaling six inches (6") in diameter or greater, and all trees located in the front yard with a six (6") inch to less than twelve (12") inch trunk diameter at a height of four and one-half feet (4.5') from existing grade, may be removed with prior approval of a tree permit provided they are replaced in accordance with the provisions of this Section.*

2. *All trees located in the front yard with a twelve (12") inch or greater trunk diameter at a height of four and one-half feet (4.5') from existing grade, shall be protected and may be only be removed with prior approval of a tree permit provided they are replaced in accordance with the provisions of this Section.*

3. 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.

4. Care shall be exercised for trees to be preserved so that no damage occurs to said trees. 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.

5. 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.

6. No 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 2 inches in diameter* should occur within the drip line of the tree as measured at ground level. *Required public right-of-way improvements shall take priority over tree preservation, however alternative designs and materials, including but not limited to permeable surfaces and planter areas with irrigation, shall be considered and implemented as feasible.* Where some root removal is necessary as approved by the City the tree crown may require thinning to prevent wind damage.

7. No fill material shall be placed within the drip line of any tree.

8. 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 one 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 may* be required for a Tree Permit.

2. Tree Permit applications shall include a Tree Plan, and written proof of

## RESOLUTION NO. PC 05-XX

neighbor notification pursuant to applicable permit instructions *and may also include* ~~or~~ an arborist's *report, or verification of a potential safety risk.*

3. 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 may* require a Tree *Permit 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.*

G. **Replacement Trees.** Required replacement trees shall be minimum twenty-four inch (24") boxed trees *for front yard trees with a six (6") inch to less than twelve (12") inch trunk diameter and all streetside yard trees, and a minimum thirty-six inch (36") boxed trees for front yard trees with a twelve (12") inch or greater trunk diameter.* of an appropriate species and must be planted prior to final inspection. Actual sizes, species, *location,* and quantities of replacement trees are subject to Community Development Director approval. In no case shall replacement tree quantities result in less than one protected tree per lot or thirty feet (30') of site *frontage storage.*

H. **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.*

~~2. Removal of deciduous, fruit-bearing trees, Washingtonia robusta, or Washingtonia filifera.~~

3. 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.

4. Cutting of tree branches and roots extending across property lines into adjacent property, *to the extent that the pruning complies with the International Society of Arboriculture (ISA) standards and does not damage or potentially damage the health and structure of the tree(s).*

I. **Non-liability of City.** Nothing in this Ordinance 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.

J. **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



## RESOLUTION NO. PC 05-XX

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.”

*K. 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 of Manhattan Beach.*

*5. In the event that a civil action is filed regarding any provision of this subsection “K” the City shall be entitled to attorney fees if it prevails.*

**SECTION 3.** Pursuant to Government Code Section 66499.37, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to

**RESOLUTION NO. PC 05-XX**

determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution.

**SECTION 4.** If any sentence, clause, or phrase of this resolution is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this resolution. The Planning Commission hereby declares that it would have passed this resolution and each sentence, clause or phrase thereof irrespective of the fact that any one or more sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

**SECTION 5.** Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other resolution of the City, to the extent that they are inconsistent with this resolution, and no further, are hereby repealed.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of August 24, 2005 and that said Resolution was adopted by the following votes:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

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**RICHARD THOMPSON**  
Secretary to the Planning Commission

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**SARAH BOESCHEN**  
Recording Secretary

**Chapter 10.52**  
**SITE REGULATIONS--RESIDENTIAL DISTRICTS**

**Section 10.52.120 Tree preservation and restoration in residential zones, Area District II west of Sepulveda Boulevard.**

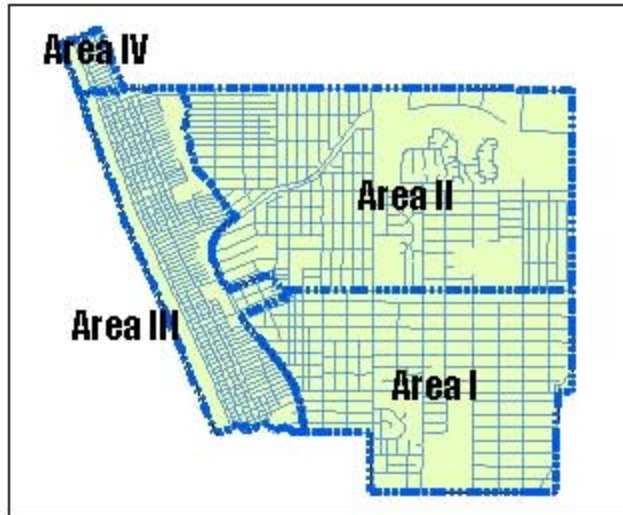
- A. **Purpose.** Tree preservation is necessary for the health and welfare of the citizens of the City of Manhattan Beach in order to conserve scenic beauty, prevent erosion of topsoil, protect against flood hazards, counteract pollutants in the air, and generally maintain the climatic and ecological balance of the area. The intent of this section is the retention and preservation of trees while permitting the reasonable enjoyment of private property.
- B. **General Requirements.** Except as provided in subsection G (Exemptions), no person shall directly or indirectly remove or cause to be removed any protected tree as herein defined, within the limits herein defined, without first obtaining a permit to do so in accordance with the procedures set forth in this section.
- C. **Definitions.**
1. "Protected tree" shall mean any species of tree, (excluding deciduous fruit-bearing trees, Washingtonia species) with a diameter of twelve (12) inches or multiple trunks totaling twelve (12) inches in diameter at a height of 4.5 feet from existing grade and located in the front yard.
  2. A "tree permit" is a permit required for the removal or replacement of a protected tree.
  3. A "tree plan" shall mean a plot plan (scale 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 yard
    - c. size (diameter and height) and specie of each tree
    - d. location of drip line for each tree
    - e. designation of tree(s) to be removed, saved, and/or replaced
    - f. proposed location, size and type of replacement tree(s)
    - g. photos of all trees in front yard.
- D. **Tree Permit Applications - without Building Permit.**
1. Any person desiring to remove one or more protected trees shall obtain a Tree Permit from the Community Development Department. A fee, as specified in the City's Fee Resolution, may be required for a Tree Permit.
  2. Tree Permit applications shall include a Tree Plan.
  3. The Community Development Director, when approving tree plans, shall determine the adequacy and appropriateness of the proposed plan.
- E. **Tree Permit (with Building Permit).**
1. Application for any Building Permit must include a Tree Plan as defined above.
  2. Application for a Tree Permit shall be required if the proposed project may impact existing trees in the front yard of the subject property even though removal is not planned.
  3. The Community Development Director may waive the requirement for a Tree Plan, both where the construction activity is determined to be minor in nature (minor building or site modification), and/or where the proposed activity will not significantly modify the ground area within the drip line or the area immediately surrounding the drip line of any protected tree.
- F. **Preservation of Trees During Grading and Construction Operations.**
1. Trees required to be retained by permit shall be protected during demolition, grading, and construction operations by methods subject to the approval of the Community Development

## Manhattan Beach Municipal Code

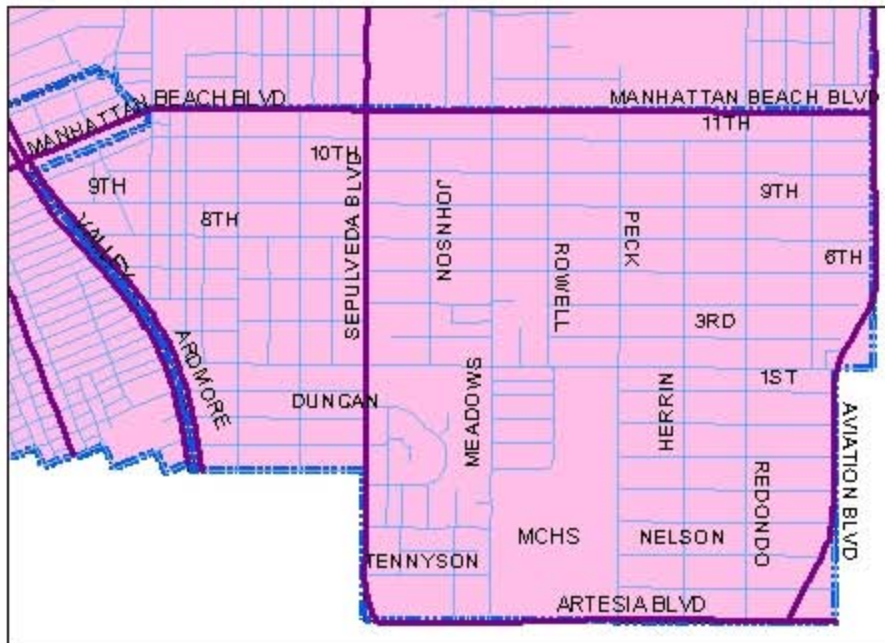
- Director.
2. Care shall be exercised for trees to be preserved so that no damage occurs to said trees. All construction shall preserve and protect the health of trees:
    - a. Remaining in place
    - b. Being relocated
    - c. Planted to replace those removed
    - d. Adjacent to the subject property.
  3. 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.
  4. No construction, including structure and walls, that disrupts the root system shall be permitted without prior approval by the Community Development Director. As a guideline, no cutting of roots 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.
  5. No fill material shall be placed within the drip line of any tree.
  6. The Community Development Department may impose special measures determined necessary to preserve and protect the health of trees to remain on site.
  7. Minimum tree replacement ratio shall be 1:1.
  8. Replacement trees shall be a minimum 24" boxed tree of an approved species and must be planted before final inspection and permit issuance.
- G. Exemptions.** This ordinance does not apply to the following:
1. Removal in case of 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). A subsequent application for a Tree Permit shall be filed within five working days.
  2. Removal of deciduous, fruit-bearing trees, *Washingtonia robusta*, or *Washingtonia filifera*.
  3. 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.
  4. Tree branches and tree roots extending across property lines into adjacent property.
- H. Non-liability of City.** Nothing in this Ordinance 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.
- I. 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 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.

(Ord. No. 1884, Enacted, 08/19/93)

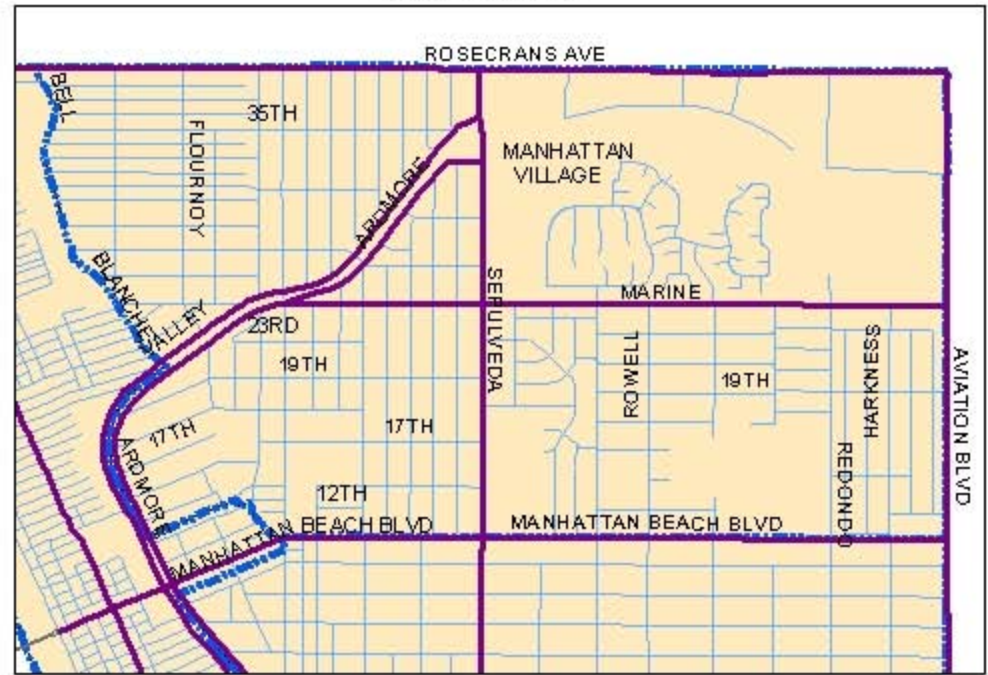
# City of Manhattan Beach Tree Preservation Ordinance



**Area District I**



**Area District II**



       Area District Boundary  
       Major City Streets  
 Section 10.52.120 M.B.M.C. Tree Preservation Ordinance  
 Applicable to Residentially Zoned Properties in Area Districts  
 I and II.



Agenda Item #: \_\_\_\_\_

# Staff Report

## City of Manhattan Beach

**TO:** Honorable Mayor Fahey and Members of the City Council

**THROUGH:** Geoff Dolan, City Manager

**FROM:** Richard Thompson, Director of Community Development  
Laurie B. Jester, Senior Planner

**DATE:** July 5, 2005

**SUBJECT:** Status Report and Review of the City's Tree Preservation Ordinance

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**RECOMMENDATION:**

Staff recommends that the City Council **DISCUSS AND PROVIDE DIRECTION.**

**FISCAL IMPLICATION:**

There are no fiscal implications associated with the recommended action

**BACKGROUND:**

The City's Tree Preservation Ordinance was originally adopted August 19, 1993 (Ordinance No. 1884), and is included as Section 10.52.120 of the Zoning Code (Exhibit A). At that time, the Ordinance applied only to the Tree Section, generally bounded by Rosecrans Avenue, Blanche Road, Valley Drive and Sepulveda Boulevard. The Ordinance protects all trees, except deciduous fruit-bearing trees and Washingtonia species palms, with a 12" or greater trunk diameter located in the front yard. At that time the Ordinance was implemented more as a "removal and replacement" regulation than a "preservation" regulation.

On May 6, 2003, the Ordinance was expanded (Ordinance No. 2045) to apply to all of the residential zones in Area Districts I and II; the Beach Area is not covered by the Tree Ordinance (Exhibit B). The Purpose Section states that "Tree Preservation is necessary for the health and welfare of the citizens of the City of Manhattan Beach in order to conserve scenic beauty, prevent the erosion of topsoil, protect against flood hazards, counteract pollutants in the air, and generally maintain the climatic and ecological balance of the area. The intent of this section is the retention and preservation of trees while permitting the reasonable enjoyment of private property." With the expansion of the Tree Ordinance, planning staff began implementing the regulation as a "preservation" regulation, not a "removal and replacement" regulation as previously implemented.

After the adoption of the expanded Tree Ordinance, the City Council and Planning Commission held a joint meeting on July 22, 2003 to discuss a variety of planning issues, including the Tree Ordinance. At that meeting the City Council confirmed that the Ordinance was intended to

preserve trees, and that Staff should continue to enforce the Ordinance accordingly.

On May 3, 2005 the City Council heard the first two appeals of staff decisions on Tree Permits and at that time the Council requested that staff bring back a report on the status of the Tree Ordinance.

**DISCUSSION:**

***Tree Permit Process***

Staff works with architects, developers and contractors during the design of a home, including the design of grading, walkways, patios, utilities and right-of-way improvements, and throughout construction to ensure that new construction considers and protects existing trees that are protected under the Ordinance. The Code requires that the root system within the dripline of the tree be protected during construction as this is critical to maintaining the health of the tree. Staff regularly informs the construction community through newsletters and meetings of the Tree Ordinance requirements.

Different species of trees have different root systems, (i.e. shallow, spreading, deep), as well as different sensitivity to having their roots disturbed. The cutting of large diameter roots (2 inches or greater) can have serious impacts on both the health of trees and their structural stability. Large tree roots provide structural stability as well as they are arterials that act as conduits providing water and nutrients to the feeder roots at the end. Limiting paving in the area of the root system of a tree is critical to allow air, water, and nutrients through which is essential for the health of the tree.

Staff inspects and photographs existing protected private property trees, as well as trees in the public right-of-way, when plans are initially submitted to plan check, as well as when property owners call and request an inspection. Occasionally, the City's consulting arborist is utilized to assess the health of trees and make recommendations for preservation if appropriate. Planning and Public Works staff inspects approximately 20 to 25 residential sites per month with private and public property tree issues. Each request takes an average of 1-4 hours to process, although the time associated with tree permit appeals is much greater.

Applications for a tree permit typically include notification signatures from neighbors and/or an arborist's written recommendation that the tree should be removed. Decisions on Tree Permits are made by the Director of Community Development, with input from the Public Works Department and city arborist when necessary, and the Directors decision is appealable to the Planning Commission. The Planning Commissions decision on an appeal is then placed on the City Council consent agenda as a receive and file item unless it is pulled for discussion.

Tree permits for dead or unhealthy trees typically require little review or concern. Proposed tree removals related to construction projects involve more review, and staff encourages retention of protected trees in the design process. If no alternatives are available to preserve the tree, for example a large tree in the middle of a narrow lot making driveway access very difficult, then Staff typically approves the application. Any tree that is removed is required to be replaced with a minimum 24 inch box size tree. The Code states that the size, quantity and species of replacement trees are subject to approval of the Director of Community Development. If a large tree is removed then typically a larger size box tree and/or more than one replacement tree may

be required, depending on the individual situation. Staff uses the approved Street Tree List (Exhibit C) as a guide for replacement trees, however this list is not all inclusive and property owners are encouraged to discuss other possible replacement trees with local nurseries and staff. Replacement trees are required to be installed prior to the issuance of a building final on a project. If there is no construction associated with the tree removal, typically replacement is required within a 1-3 month time frame.

Staff does not approve removal of trees if they are only causing minor damage to a property such as roots in a sewer line or on a lawn, cracks in garden walls, walkways, or driveways, and aesthetic, leaf litter, or sap concerns. If a tree is causing structural damage to a home and there are no reasonable options to address the situation, then staff will approve removal. Trees on private or public property that constitute a danger to the improvements or people in the public right-of-way are addressed by the public tree regulations, Section 7.32.070 (Exhibit D), and are required to be removed. Trees on walkstreets in the encroachment area, where the public property is used for private gardens and patios, are regulated by Chapter 7.36. These regulations limit landscaping to 42 inches maximum in height to protect views and if valid complaints are received then existing trees are required to be trimmed or removed. New trees and landscaping over 42 inches in height are not allowed in the encroachment area.

In some instances trees may be relocated within the front yard to accommodate new construction. Remaining trees are required to be protected by chain link fencing during the construction process. The Community Development Director may also impose special measures as necessary to preserve and protect trees that remain.

When trees are removed illegally, staff follows through with Code Enforcement and works with property owners and developers to ensure that trees are replaced with large specimen box size trees. Staff also consults with the City Attorney to ensure that the goals of the Tree Ordinance are met. If necessary the City Prosecutor works with staff and files misdemeanor complaints. A "Tree Canopy Restoration Fund" has been established so that when trees are removed illegally and fines are assessed, the fines are deposited into this fund. The fund may then be used to plant new trees throughout the City to compensate for the loss and to help re-establish and enhance the tree canopy throughout the City in the future.

### ***Possible Ordinance Revisions***

There are a few areas of the Tree Ordinance that staff would suggest revising as follows.

#### ***Emergency Removal***

The Exemptions section of the Code (Section 10.52.120 H. 1.) currently allows removal of trees in cases of emergency caused by hazardous or dangerous conditions of a tree, requiring immediate action for the safety of life or property. This section requires that a Tree Permit application then be submitted within five working days after removal of a tree. Staff would recommend requiring approval by the Director of Community Development prior to removal. The City Attorney is recommending this revision as this section is vague as to what constitutes an "emergency" and it is susceptible to abuse by those wishing to rid themselves of unwanted trees who cannot otherwise obtain a permit. Attached is a Draft Ordinance (Exhibit E) with the proposed language changes from the City Attorney.



### *Trees on Adjacent Properties*

There are two sections of the Code that address trees on adjacent properties that conflict. In one Section (10.52.120 D), trees that are on adjacent properties that could potentially be impacted by construction are required to be protected. In the Exemption Section (10.52.120 H. 4), the cutting of tree branches and root extending across property lines onto adjacent properties are exempt from the regulations. Staff believes that adjacent property trees should be reasonably protected and any pruning of branches or roots that could potentially damage the health of trees should not be allowed or a Tree Permit could be required to evaluate potential impacts.

### *Trees Exempt from Protection*

Section 10.52.120 H. 2 of the Tree Preservation regulations exempts deciduous fruit bearing trees, such as peaches, plums, nectarines, cherries, and apples, and two Palm trees, *Washingtonia robusta*, Mexican Fan Palm (Exhibit F), and *Washingtonia filifera*, the California Fan Palm (Exhibit G), from the protection regulations. Staff would suggest that this section be modified so that no trees with a trunk diameter of 12 inches or greater are exempt from the ordinance. This would give staff the ability to evaluate each removal request on an individual basis and then make a determination if removal and replacement is appropriate. All trees provide a benefit by improving the aesthetics of the City, helping to clean the air, provide shade, and reduce glare and heat. When trees are removed and not replaced then these benefits are lost. If a tree is not protected under the ordinance then it can be removed without a Tree Permit and is not required to be replaced.

### *Pruning and Abuse of Trees*

There are no standards for pruning and improper pruning techniques can severely damage or kill a tree. Pruning should be required to be in accordance with the International Society of Arborists (ISA) standards. Additionally, cutting into a tree, poisoning a tree or paving over the entire root system can severely damage or kill a tree. The abuse or mutilation of trees section of the street tree regulations (Section 7.32.060) provides criteria for illegal abuse of trees, portions of which would be appropriate to incorporate into the Tree Preservation standards.

### *Violations and Penalties*

Section 10.52.120 establishes standards for violations of the Tree Preservation standards. Staff and the City Attorney would recommend an administrative fine for illegal removal of trees, poisoning of trees, and severe pruning of trees that is not in conformance with ISA standards, and other abuse and neglect of trees that leads to the demise of a tree.

### *Purpose*

The purpose section could be expanded to discuss the design of residences, including grading, walkways, patios, utilities and right-of-way improvements, being required to consider and accommodate existing protected trees when feasible. The Purpose section of the street tree regulations (Section 7.32.010) provides other standards that would also be appropriate to incorporate into the Tree Preservation standards for private property, such as increase property values, provide cooling shade and beauty, and minimize spread of disease to healthy trees.

### *Right-of- Way Improvements*

Excessive grading and paving in the dripline of tree can be detrimental to the root system of trees and potentially severely impact the health of a tree. Improvements in the right-of-way, such as

retaining walls, parking pads and paving can be detrimental to private property trees. This is particularly an issue in areas where previously there was an open landscaped area which allows air, water and nutrients through to the tree roots which is essential for the health of the tree. Public Works and Planning staff work together to look at alternative designs and materials in situations where right-of-way improvements may impact trees. Structural soil, which is a combination of soil and stone particles with a stabilizing and binding agent, can be used in some situations instead of standard base material. This material provides air and water pockets within the soil which is essential for healthy roots, and can be compacted to meet structural design standards yet still allow sustainable root growth. Grasscrete has been used in numerous locations throughout the City and allows air, water and nutrients to the tree roots, while providing a very strong driving and parking surface. Additionally, grasscrete does not crack like a typical driveway if there are surface roots as it is somewhat a flexible surface, although it could buckle and not be perfectly level. Planter areas with irrigation adjacent to trees are also beneficial to again allow air, water and nutrients to the tree roots.

*Street Side yard trees*

The Tree Ordinance only protects trees in the 20 foot front yard setback. On corner lots the front setback is located adjacent to the shortest property line, so there is a long streetside setback in which the trees are not protected. Staff is addressing this issue as it has been suggested by a number of residents in the Tree Section that the Tree Ordinance should be expanded to include streetside setbacks.

Often these side setbacks have several large trees, particularly in the Tree Section. This sideyard setback is only three to five feet wide, and large trees located in the streetside yard can encompass the entire sideyard and extend into the allowed building footprint area and the right-of way. Additionally, the root system and extent of the dripline of the trees also usually extends into the building footprint area and the right-of way. Protecting trees in this very narrow sideyard setback would impact the design of homes in that “notching” of houses around trees would be necessary and there would potentially be a reduction in the buildable floor area of homes. Staff would caution against expanding the Tree Ordinance to protect trees in the streetside setback for these reasons.

**CONCLUSION:**

If the City Council directs staff to revise the Tree Ordinance, then staff will present a report to the Planning Commission at a noticed public hearing. The recommendations from the Planning Commission will then be forwarded to the City Council for final review and action.

- Attachments: A. Section 10.52.120-Tree preservation and restoration in residential zones, Area Districts I and II  
B. Map of area covered by Tree Ordinance- Area Districts I and II  
C. Street Tree List  
D. Chapter 7.32- Tree, Shrub and Plant Regulations  
E. Draft Ordinance- Emergency Exemptions from tree preservation regulations  
F. Photograph of Mexican Fan Palm- *Washingtonia robusta*  
G. Photograph of California Fan Palm- *Washingtonia filifera*

## CITY OF MANHATTAN BEACH STREET TREE LIST

### ZONE I

### SEA COAST ZONE

Bounded on the north by Rosecrans Avenue and 39th Streets  
Bounded on the south by Longfellow, Francisco, Homer, and 1st Streets  
Bounded on the east by Valley Drive, Blanche Road, and Bell Avenue

Minimum  
Planting Width

4 feet	Melaleuca Leucadendra	Cajeput tree
2 feet	Melaleuca Nesophila	Pink Melaleuca
4 feet	Metrosideros Tomentosa	New Zealand Christmas Tree
4 feet	Myoporum Laetum	
2 feet	Nerium Oleander "White"	Oleander
5 feet	Olea Europaea "Swan Hill"	Olive
3 feet	Pittosporum Crassifolium	Karo

### ZONE II

### IMMEDIATE ZONE

Bounded on the north by Rosecrans Avenue  
Bounded on the south by Boundary Place  
Bounded on the east by Sepulveda Boulevard  
Bounded on the west by Bell Avenue, Blanche Road, and Ardmore Avenue

2 feet	Callistemon Citrinus	Lemon Bottlebrush
6 feet	Cupania Anacardioides	Carrotwood
5 feet	Eucalyptus Ficifolia	Red-flowering Gum
6 feet	Eucalyptus Rudis	Desert Gum
4 feet	Eucalyptus Sideroxylon	Red Ironbark
4 feet	Melaleuca Leucadendra	Cajeput tree
4 feet	Metrosideros Tomentosa	New Zealand Christmas Tree
3 feet	Pittosporum Crassifolium	Karo
4 feet	Tristania Conferta	Brisbane Box
2 feet	Melaleuca Nesophila	Pink Melaleuca

### ZONE III

### INLAND BOX

Bounded on the north by Rosecrans Avenue  
Bounded on the south by Artesia Boulevard  
Bounded on the east by Aviation Boulevard  
Bounded on the west by Sepulveda Boulevard

6 feet	Agonis Flexuosa	Peppermint tree
2 feet	Callistemon Citrinus	Lemon Bottlebrush
6 feet	Calodendrum Capense	Cape Chestnut
6 feet	Ceratonina Siliqua	Carob
6 feet	Cupania Anacardioides	Carrotwood
5 feet	Eucalyptus Ficifolia	Red-flowering Gum
6 feet	Eucalyptus Polyanthemus	Silver Dollar Gum
6 feet	Eucalyptus Rudis	Desert Gum
4 feet	Eucalyptus Sideroxylon	Red Ironbark
6 feet	Fraxinus Uhdei "Tomlinson"	Tomlinson Ash
6 feet	Ginkgo Biloba (male only)	Maidenhair
4 feet	Ilex Altheclarensis "Wilsoni"	Wilson Holly
4 feet	Melaleuca Leucadendra	Cajeput tree
8 feet	Pinus Canariensis	Canary Island Pine
4 feet	Tristania Conferta	Brisbane Box

## Chapter 7.32 TREE, SHRUB AND PLANT REGULATIONS

[Section 7.32.010 Purpose.](#)

[Section 7.32.020 Definitions.](#)

[Section 7.32.030 Enforcement.](#)

[Section 7.32.040 Permits.](#)

[Section 7.32.050 Maintenance.](#)

[Section 7.32.060 Abuse or mutilation of trees.](#)

[Section 7.32.070 Public nuisance.](#)

[Section 7.32.080 General provisions.](#)

[Section 7.32.090 Street tree planting guide.](#)

[Section 7.32.100 Protection of trees.](#)

### **Section 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 to minimize trouble in sewer and water mains, broken sidewalks, storm drains, etc.;
- I. Minimize interference with street and traffic lighting;
- J. Minimize the spread of disease to healthy trees;
- K. Minimize danger of falling trees and limbs onto streets, sidewalks and private property;
- L. Minimize accumulation of leaves and debris which cause unnecessary labor in cleaning the sidewalks, streets and storm drains; and
- M. Select trees of longevity and suitable to the environment.

### **Section 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. "City" shall mean the City of Manhattan Beach.
- B. "Public Works Director" shall mean the Public Works Director of the City of Manhattan Beach or his authorized agent.
- C. "Street or highway" shall include all lands lying between the so-called property lines on either side of all public streets, roads, boulevards and alleys.
- D. "Street trees" shall mean trees or shrubs in public places along City streets, roads, boulevards and alleys.
- E. "Trees and shrubs" shall include all woody vegetation now or hereafter growing, planted or to be planted on any public place or area.

## **Chapter 7.32 TREE, SHRUB AND PLANT REGULATIONS**

F. "Parkway" shall mean that portion of the street, or highway other than the roadway or sidewalk.

G. "Public place or area" shall include all those streets and highways within the City and all other properties owned by the City of Manhattan Beach.

### **Section 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 public places, and the supervision of all trees planted or growing in such places.

### **Section 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, cut, trim, deface, injure, or replace any tree or shrub in, upon or along any public street or other public place of 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 five (5) 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.

D. It shall be unlawful and is hereby prohibited for any person, firm, corporation 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.

E. The Public Works Director may issue a permit for the removal of a street tree where it is in nonconformance with the street tree 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 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. 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.

(§ 26, Ord. 1458, eff. June 17, 1976)

### **Section 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

## **Chapter 7.32 TREE, SHRUB AND PLANT REGULATIONS**

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 or dangerous to life or property.

### **Section 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 plantings, grass, flowers, shrubs, or trees planted upon or in any public place or area in the City; and
- 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.

### **Section 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 with the use of any street, parkway, sidewalk or public place of the City such that in the opinion of the Public Works Director endangers the life, health, safety or property of the public.

## **Chapter 7.32 TREE, SHRUB AND PLANT REGULATIONS**

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 on public property which constitute a public nuisance shall be removed, replaced or trimmed at the expense of the adjoining property owner as ordered by the Director of Public Works. If a tree on public property is ordered replaced under this section, the City shall pay the cost of the replacement tree, as established by the Council under separate resolution.

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 Section 9.64.030 through 9.64.130 of this Code shall be utilized. Said sections are incorporated herein by reference and made a part of this chapter.

(as amended by § 1, Ord. 1247, eff. August 5, 1971; § 1, Ord. 1290, eff. August 4, 1972; § 27, Ord. 1458, eff. June 17, 1976)

### **Section 7.32.080 General provisions.**

A. Species or varieties of street trees:

1. 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. 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 street trees:

1. All planting should be in good horticultural practice as determined by the Public Works Director.

2. All planting on unpaved streets 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; and

4. The recommended size shall normally be that designated as fifteen (15) gallon size (accepted trade sizing); the minimum size acceptable shall be a five (5) gallon size.

C. Trimming and removal:

1. The property owner shall normally assume responsibility for trimming, topping or dehorning, pruning, and removing trees growing on any public place or area.

2. 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 the 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.

D. Spraying:

1. Suitable precaution shall be taken to protect and warn the public that spraying is being done.

## **Chapter 7.32 TREE, SHRUB AND PLANT REGULATIONS**

### **Section 7.32.090 Street tree planting guide.**

Those street trees now existing may remain until by old age or 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 (A)(1) of Section 7.32.080.

### **Section 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 if the Public Works Director determines that this protection has not been provided.

(§ 3, Ord. 1202, eff. February 19, 1970)

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# DRAFT 7-5-05

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, AMENDING SECTION 10.52.120 OF CHAPTER 10.52 OF TITLE 10 OF THE MANHATTAN BEACH MUNICIPAL CODE EXEMPTIONS TO THE TREE REMOVAL PERMIT REQUIREMENT

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council of the City of Manhattan Beach hereby finds as follows:

- A. Removal of trees in certain zones requires a permit to be issued by the Director of Community Development;
- B. An exemption to this requirement is provided for when an "emergency" exists;
- C. Because this section is vague as to what constitutes an "emergency" it is susceptible to abuse by those wishing to rid themselves of unwanted trees who cannot otherwise obtain a permit.
- D. It is therefore in the best interests of the general public health, safety and welfare with regard to the preservation of trees to amend this exemption to clarify when a tree may be removed for "emergency" reasons and to insure that public safety is the real reason.

SECTION 2. Section 10.52.120 of Chapter 10.52 of Title 10 of the Manhattan Beach Municipal Code is hereby amended in its entirety to read as follows:

**"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 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. The intent of this section is the retention and preservation of trees while permitting the reasonable enjoyment of private property.

B. General Requirements. Except as provided in subsection G (Exemptions), no person shall directly or indirectly remove or cause to be removed 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.

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 of a site, with a trunk diameter of twelve inches (12") or multiple trunks totaling twelve inches (12") in diameter 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 or replacement of a protected tree.

3. A "tree plan" shall mean a plot plan (scale 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 yard
- 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, and/or replaced
- f. proposed location, size and type of replacement tree(s)
- g. photos of all trees in front yard.

**D. Preservation of Trees During Grading and Construction Operations.**

1. 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.

2. Care shall be exercised for trees to be preserved so that no damage occurs to said trees. 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.

3. 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.

4. No construction, including structure and walls, that disrupts the root system shall be permitted without prior approval by the Community Development Director. As a guideline, no cutting of roots 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.

5. No fill material shall be placed within the drip line of any tree.

6. 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 one or more protected trees shall obtain a Tree Permit from the Community Development Department. A fee, as specified in the City's Fee Resolution, may 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 or an arborist's verification of a potential safety risk.

3. 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 may require a Tree Plan as defined above.

2. A Tree Permit shall be required if the proposed project may impact existing trees in the front yard of the subject property even though removal is not planned.

G. Replacement Trees. Required replacement trees shall be minimum twenty-four inch (24") boxed trees of an appropriate species and must be planted prior to final inspection. Actual sizes, species, and quantities of replacement trees are subject to Community Development Director approval. In no case shall replacement tree quantities result in less than one protected tree per lot or thirty feet (30') of site storage.

**H. 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

## DRAFT 7-5-05

Ord. \_\_\_\_\_

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 deciduous, fruit-bearing trees, *Washingtonia robusta*, or *Washingtonia filifera*.

3. 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.

4. Cutting of tree branches and roots extending across property lines into adjacent property.

I. Non-liability of City. Nothing in this Ordinance 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.

J. 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.”

SECTION 3. All other provisions of Manhattan Beach Municipal Code shall remain unchanged and continue in full force and effect.

SECTION 4. Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other ordinances of the City, to the extent that they are inconsistent with this ordinance, and no further, are hereby repealed.

SECTION 5. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 6. This ordinance shall go into effect and be in full force and operation from and after thirty days after its final passage and adoption.

SECTION 7. The City Clerk shall cause this Ordinance or a summary thereof to be published and, if appropriate posted, as provided by law. Any summary shall be published and a certified copy of the full text of this Ordinance posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall cause a summary to be published with the names of those City Council members voting for and against this Ordinance and shall post in the Office of the City Clerk a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against the Ordinance.

PASSED, APPROVED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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Ord. \_\_\_\_

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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Mayor, City of Manhattan Beach, California

ATTEST:

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City Clerk



**Mexican Fan  
Palm-  
Washingtonia  
robusta**



**California Fan  
Palm-  
Washingtonia  
filifera**

**CITY OF MANHATTAN BEACH  
MINUTES OF THE CITY COUNCIL  
REGULAR MEETING OF  
JULY 5, 2005**

The Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 5<sup>th</sup> day of July, 2005, at the hour of 6:33 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City.

**PLEDGE TO FLAG**

Fire Chief Dennis Groat led the pledge of allegiance.

**ROLL CALL**

Present: Tell, Aldinger, Montgomery, Ward and Mayor Fahey.  
Absent: None.  
Clerk: Tamura.

**CEREMONIAL ITEMS**

05/0705.1 Consideration of a Resolution to Rename the City of Manhattan Beach 6-Man Beach Volleyball Tournament the "Charlie Saikley 6-Man Beach Volleyball Tournament"

Mayor Fahey, on behalf of the City Council, presented Rosa Lee Saikley with a copy of the Resolution and thanked the Saikley family for allowing the City to participate in remembering Charlie Saikley.

Mrs. Saikley thanked the City of Manhattan Beach for honoring her husband and keeping his memory alive.

**MOTION:** Councilmember Aldinger moved to adopt Resolution No. 5991 renaming the Manhattan Beach 6-man Volleyball Tournament the "Charlie Saikley 6-Man Beach Volleyball Tournament." The motion was seconded by Councilmember Montgomery and passed by the following unanimous vote:

Ayes: Tell, Aldinger, Montgomery, Ward and Mayor Fahey.  
Noes: None.  
Absent: None.  
Abstain: None.

**RESOLUTION NO. 5991**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY  
OF MANHATTAN BEACH, CALIFORNIA, RENAMING  
THE MANHATTAN BEACH 6-MAN BEACH  
VOLLEYBALL TOURNAMENT THE "CHARLIE SAIKLEY  
6-MAN BEACH VOLLEYBALL TOURNAMENT"**

*Run-Off in Compliance with the Santa Monica Bay Beaches Bacteria Total Maximum Daily Load (TMDL) Regulations*

Item No. 14 was pulled from the "CONSENT CALENDAR". Please refer to "ITEMS REMOVED FROM THE CONSENT CALENDAR."

**BOARDS AND COMMISSIONS**

**Cultural Arts Commission**

05/0705.15 *Consideration of Draft Minutes, Cultural Arts Commission Meeting of June 14, 2005*

The Council received and filed the subject draft minutes.

**COMMUNITY ANNOUNCEMENTS**

05/0705.19 *Mayor Fahey Re Concerts in the Park*

Mayor Fahey announced that *Concerts in the Park* take place on Sundays throughout the summer at Polliwog Park and encouraged everyone to attend.

**PUBLIC HEARINGS**

None.

**GENERAL BUSINESS**

05/0705.16 *Status Report and Review of the City's Tree Preservation Ordinance*

City Manager Geoff Dolan explained that this report would include a review of the provisions of the current Tree Preservation Ordinance and how it is administered, focusing primarily on private property trees. He noted that staff is looking for direction from Council regarding possible modifications to the Ordinance or changes on how it could be administered differently. He introduced Senior Planner Laurie Jester, who gave a PowerPoint presentation on the proposed Tree Preservation Ordinance.

Senior Planner Jester reviewed that Council gave direction to staff to come back with a report on the status of the Tree Ordinance after its first appeal in May of 2005. She explained that the original Ordinance, adopted in 1993, applied only to the Tree Section and then, in 2003, was expanded to the entire City except the Beach Area, and included the adoption of goals and policies related to the preservation of trees during the General Plan review process. She explained that a few months later, at a Joint City Council/Planning Commission Meeting, staff asked Council for guidance on how to implement the Ordinance, noting that with the expansion, it was perceived as more of a preservation Ordinance than a removal and replacement Ordinance. She noted that the regulations are incorporated in the Zoning Code and explained that the purposes include conserving scenic beauty, prevention of erosion, protection against flooding, counteracting pollutants, maintaining climatic and ecological balance, as well as preserving trees necessary for the health and welfare of the citizens of Manhattan Beach. Senior Planner Jester emphasized that the intent of the Ordinance is the retention and preservation of trees while permitting reasonable enjoyment of private property and stated that it is important to staff to maintain that balance. She clarified that the regulations only protect and preserve trees in a front yard that have a 12-inch or greater trunk diameter, measured 4-1/2 feet above the ground and stressed that tree replacement is required if a tree is removed. She reviewed the various exemptions to the preservation Ordinance including

City Council Meeting Minutes of July 5, 2005



trees less than 12 inches in diameter.

In response to Mayor Fahey's inquiry regarding the reasons specific trees are exempt and whether it would be worthwhile to review the exemptions, Senior Planner Jester stated that following review of several years of reports and minutes, staff did not find a decisive reason for the exemptions, however, they would be willing to look at the exemptions if directed by Council.

Senior Planner Jester reported that staff provides education regarding the preservation Ordinance to architects and contractors via a newsletter and quarterly meetings. She explained how staff inspects and photographs trees when plans come in for plan check; noted that, if necessary, the City arborist is consulted regarding removal of trees; that if the trees are determined to be unhealthy or hazardous or limits development, City staff may approve the application; and that if it is an unsure situation, the City's consulting arborist is contacted. She provided several examples of designs to accommodate trees while allowing access to a project and reviewed the replacement criteria. She explained what details staff looks for during the tree permit process; that walk streets have a different set of criteria; that decisions are made by the Director of Community Development; and that they can be appealed to the Planning Commission and received and filed by the City Council.

In response to Councilmember Ward's inquiry as to whether there is a requirement that trees must be replaced by the same type of tree that was removed, Senior Planner Jester stated that there is no specific requirement and that the City provides a list of trees from which residents can use as a guideline to choose their replacement tree.

Senior Planner Jester explained that the City occasionally uses the Code Enforcement Process, in concert with the City Attorney, when a tree is removed without a permit; that citations and fines have been issued for these types of violations; and that funds from these fines are put in a "Tree Canopy Restoration Fund" to replace trees in public areas. Senior Planner Jester and Council reviewed possible Code revisions and discussed whether they should be referred to the Planning Commission for consideration.

Councilmember Tell expressed concern regarding the City "taking on" the responsibility of preserving trees; stated that he prefers having a Tree Preservation Ordinance as opposed to a View Preservation Ordinance; and asked about the thought process the previous Council went through in deciding what the criteria would be.

Mayor Fahey stated that, at the time the Ordinance was adopted, Council did not go into detail regarding neighboring properties and roots affecting neighbor's lots; and that these things are a result of the implementation of the Ordinance.

Senior Planner Jester explained that, in 1993 when the Ordinance was originally adopted, Council looked at 8, 10 and 12 inch trees. When the Ordinance was expanded in 2003, the language stayed the same and it was a philosophical decision to implement it as a Preservation Ordinance.

Council discussed the reasoning behind requiring a certain size of tree and that because the approach has changed philosophically, more staff time is being required for this issue, even though the substantive part of the Ordinance has not changed.

In response to Mayor Fahey's inquiry regarding the procedure to be followed if administrative fines were imposed, City Attorney Robert Wadden stated that they could be imposed by the Community Development Director and subject to appeal to either the City Manager or an outside

hearing officer and that the amount could be specified or set by Resolution.

Councilmember Tell noted that it is important for Council to decide what it wishes to accomplish with the Ordinance; the purpose of exemptions from the Ordinance; the reason for the 12-inch diameter as a guideline; and whether Council wishes to try to preserve trees that contribute to the community and neighborhood and ensure that replacement trees are mature trees.

**The following individuals spoke on this item:**

- **Karol Wahlberg, No Address Provided**
- **Mark Radville, No Address Provided**

Councilmember Aldinger stated that his purpose in voting for the expansion of the original preservation Ordinance was because the aesthetics were being changed citywide and it was important to ensure that mature trees are kept in town.

Mayor Fahey agreed that the Ordinance was expanded beyond the tree section in an effort to maintain character in the communities without losing mature trees. She pointed out that the purpose as currently stated includes “the retention and preservation of trees while permitting the reasonable enjoyment of private property” and agreed that the balance is difficult to maintain. She stated that while staff is doing an excellent job of implementing the Ordinance, perhaps asking developers to build homes around a tree or to build their house around the roots of a neighbor’s tree is going too far and that a fair balance needs to be “struck”.

Councilmember Ward agreed with Mayor Fahey’s concerns of going “too far”, especially with regard to dictating pruning guidelines. He pointed out that Planning Commission and City Council discussions have always included the 24-inch box replacement tree and said this is a great opportunity to review the situation, either by doubling the size of the box or increasing the size of the diameter of the replacement tree. He stated that he is not willing to extend the rules to corner lots, noting that the current Ordinance works well but change could affect the ability to develop corner lots. He also questioned the logic behind the specific tree exemptions and suggested that they be reviewed.

Maintenance Superintendent Juan Price explained that the original intent of the exemption of fruit trees was to reduce rodent population, litter, stains on cars and sidewalks, and “trip hazards”. He noted that some palm trees cause rodent problems and further indicated that fruit trees and/or some palm trees are not on the approved list of trees for replacement.

In response to Councilmember Montgomery’s comment regarding box size and tree size, Maintenance Superintendent Price noted that there is no direct correlation between the box size and the trunk size, therefore suggested that the box size be changed to caliber size.

In response to Councilmember Tell’s inquiry regarding how the age of a tree is determined, Maintenance Superintendent Price stated that the only “fool-proof” way of determining age is by boring into the trunk of the tree. He added that just because a tree is old and large, does not necessarily mean it is a good tree and that regulations in other cities vary from very restrictive to non-existent.

Councilmember Montgomery stated that he is in favor of fruit tree exemptions as well as protecting trees on the street side.

City Manager Dolan pointed out that if street side yard trees are protected, it makes it

exceedingly difficult to develop these lots and suggested that the Planning Commission review the impact of this type of protection.

Councilmember Aldinger stated that the reason this matter is before Council is because of the two recent appeals. He said he is not in favor of relaxing the Tree Preservation Ordinance and complimented staff for doing a great job considering the number of applications they have processed.

**Mayor Fahey approved the following individuals to speak a second time on this item:**

- **Mark Radville, No Address Provided**
- **Karol Wahlberg, No Address Provided**

In response to Councilmember Tell's inquiry regarding disclosure requirements regarding tree protection for the sale of property, City Attorney Wadden stated that most of the requirements are in the Ordinance itself and are common to every property.

City Manager Dolan pointed out that the City already requires sellers to obtain a current building report and that this disclosure could be added as a component of the report, which would put the new owner on notice of any specific requirements for that property.

Council reviewed each component and provided the following direction to staff to have the Planning Commission review the following possible Amendments to the Ordinance:

Emergency Removal: There should be a separate emergency application to be decided administratively prior to the tree being removed, not after removal as currently allowed.

Protected Trees and Replacement Tree Size: Reconsider the definition of the trees to be preserved (consider caliper, canopy and height) and the replacement size in relationship to the size of the tree removed, as well as whether replacement is to be based on the size of a box, the diameter of the tree and/or tree canopy.

Street Side Yards: Review and consider replacement trees in side yards, but not preservation. It was noted that this proposal is a result of a meeting with residents, who proposed balancing this with the homeowners' rights and the rights to preserve the value of the property.

Administrative Fines: Review and consider setting up a schedule, determining who would have discretion to impose, etc.

Pruning: Leave as is, no standards or permits required for pruning.

Purpose: Add further language.

Trees on Adjacent Properties: Council noted that there are conflicting provisions in the Code - an issue of protecting neighbors trees versus allowing pruning of branches and roots across property lines. It was agreed that there are some trees that should be preserved and further discussion is needed regarding whether the root system of the neighbor's trees must be preserved. A reasonable balance should be the goal.

In response to Councilmember Aldinger's concern that Council set a precedent when it acted on the appeal last month, City Manager Dolan explained that the action of Council was to direct staff to do whatever could reasonably be done to preserve the tree, but, if it was not possible, the tree could be removed and replaced.

Mayor Fahey pointed out that this is a “reasonableness” test, which is an appropriate action.

Councilmember Tell emphasized that the current Code has two conflicting provisions that have been addressed on an individual basis, but need to be reconciled.

*Right of Way Improvement:* This is a staff request to codify what is currently being done, which the council supported.

City Manager Dolan thanked Council for their direction, noting that the Community Development staff devotes significant time to this issue and it is helpful to understand the intention of Council.

*05/0705.17 Presentation of Proposed Downtown Hanging Plants Improvements*

City Manager Dolan introduced Maintenance Superintendent Juan Price and reviewed Council’s request for staff to design ways of hanging plants from light standards as part of the downtown improvement. He suggested that Council take a break to view the three different designs, which had been hung outside of City Hall and to provide direction to staff regarding which, if any, of the designs they would like to use in the downtown improvement project.

**RECESS AND RECONVENE**

At 8:02 p.m. the Council recessed and reconvened at 8:10 p.m. with all Councilmembers present.

Councilmember Ward described the three different designs: an emblem of the sun, a surfboard and waves along the sand; a triangular hanging with a mermaid chasing three dolphins; and a platform-like element with the Pier Roundhouse at the end and a wave crashing over the top of the Roundhouse.

City Manager Dolan reiterated Council’s desire to place planters at a few intersections in the downtown area for the remainder of the summer, determine maintenance requirements and public reception, and perhaps consider expansion of the program if it is successful. He noted that this is a budget item and funds are available.

Council discussed the various designs and provided comments and input regarding their preferences of the three designs, agreeing that the mermaid design was not appropriate; that the sun/surf/surfboard could also be designed without the surfboard as well as with a solid surfboard; and that the wave at the end of the Pier Roundhouse should be smaller and “break” under the pier.

**The following individual spoke on this item:**

- **Carol Rowe, Downtown Business and Professional Association**

Mayor Fahey suggested, and Council concurred, that staff be allowed discretion in using all of the designs, with the exception of the mermaid, and provided direction that the planters be installed only at the main intersections at this time.

*05/0705.18 Consideration of the City Council’s 2005-2007 Work Plan*

City Manager Dolan explained that Council holds an annual Work Plan Meeting to develop a set of goals and objectives for staff and the Council to work on in the coming year. He noted that this year’s plan spans two years and reviewed 32 different high priority items, as listed in the staff report, that have not yet been prioritized. Referring to the significant list of

Councilmember Montgomery added that the dates for the Fair are October 1 – 2, 2005; that volunteers are needed for the 10-k race course; and that those interested can e-mail him at [rmontgomery@citymb.info](mailto:rmontgomery@citymb.info) for contact information.

Councilmember Montgomery also commented that the Neighborhood Watch organization will be selling emergency backpacks at the Fair.

### **PUBLIC HEARINGS**

05/0920.13 Consideration of Planning Commission Recommendation to Approve Zoning and Local Coastal Program Code Amendments (MBMC Section 10.64.170/Coastal A.64.170) to Revise Parking Lot Lighting Regulations

Senior Planner Rosie Lackow addressed Council with a PowerPoint presentation reviewing the background of parking lot lighting regulations. She explained that requests by inland commercial developments that are replacing their current lighting and requesting taller lights brought up the need to address this issue, which is somewhat confusing. She reviewed the current parking lot lighting Code and pointed out that Manhattan Beach has the most restrictive criteria for inland development parking lot lighting from among all the cities surveyed. She discussed the technical aspects of designing parking lot lighting and the proposed revisions including: illumination levels; glare prevention; lamp types; the photometric plan; enhanced lighting; and presented several pictures of different types of lighting around the City.

In response to questions from Council, Senior Planner Lackow explained that this Ordinance will indirectly address the number of poles that will be necessary; that neighbors within 500 feet of properties requiring a Use Permit would be notified and have an opportunity to speak at a public meeting; and that she believes that owners will keep on top of maintenance for efficiency reasons.

Mayor Fahey opened the Public Hearing at 7:10 p.m.

Hearing no requests to speak, Mayor Fahey closed the Public Hearing at 7:11 p.m.

**MOTION:** Councilmember Aldinger moved to waiver further reading and introduce Ordinance No. 2078 approving Zoning and Local Coastal Program Code Amendments. The motion was seconded by Councilmember Tell and approved by the following unanimous roll call vote:

Ayes: Tell, Aldinger, Montgomery and Mayor Fahey.  
Noes: None.  
Absent: Ward.  
Abstain: None.

### **ORDINANCE NO. 2078**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, APPROVING AMENDMENTS TO THE CITY ZONING CODE (SECTION 10.64.170) AND LOCAL COASTAL PROGRAM ZONING CODE (SECTION A.64.170) REGARDING PARKING LOT LIGHTING REGULATIONS**

05/0920.14 Consideration of City Council 2005-2007 Work Plan Item and Planning  
City Council Meeting Minutes of September 20, 2005

Commission Recommendation to Approve Zoning Code Amendments (MBMC Section 10.52.120) to Revise the Tree Preservation Regulations

Senior Planner Laurie Jester addressed Council with a PowerPoint presentation reviewing that the City adopted the original Tree Preservation Ordinance in 1993, covering the Tree Section only, and then expanded the Ordinance, to be more of a “removal and replacement” regulation, in 2003 to cover all of residential areas of District I. She reported that the City had its first two appeals of the Tree Ordinance this year; that as part of the Council’s 2005 Work Plan, Council gave direction to revise the regulations to make them easier to enforce; and that the Planning Commission held a Public Hearing on the Ordinance. She explained that trees with a 12-inch or greater trunk diameter, in front yards, are protected and gave several examples of which trees are exempt. She reviewed the proposed Code revisions including emergency removal; trees on adjacent properties; protected and replacement tree sizes; street side yard trees; and violations and penalties.

Council held a brief discussion with Senior Planner Jester regarding the Tree Canopy Restoration Fund portion of the Ordinance, establishing that if trees had to be removed, for various reasons, and only a portion of the number removed was able to be replaced, a resident would pay an in-lieu fee equal to the cost of replacing that number of trees.

Mayor Fahey opened the Public Hearing at 7:27 p.m.

**Karol Wahlberg, Manhattan Beach Resident**, declared that she never saw the public notice in the newspaper advertising the Planning Commission Public Hearing and that she believes that there may be others who would like to give input on this matter. Remarking that she believes it is too late for preservation, she urged Council to take more aggressive steps such as offering incentives to those who add greenery and do not build out their lots. She expressed concern that an opportunity will be missed if this Ordinance is pushed through; suggested the City take a step back; and that staff get together with a group of residents to interact and discuss the issue.

Sharing that he helped to write the original Tree Ordinance in 1993, **Jack Feinberg, No Address Provided**, commented that he would welcome any suggestions that would help to slow down the decline of trees. He stated that he believes that the proposed revisions are well thought out; that it will be difficult to enforce different fines for different people; and emphasized that in most areas of the law, ignorance is no excuse.

**Bernard Johnson, No Address Provided**, suggested that the Ordinance should contain language specifying that replacement trees should be placed in an area that will not encroach on neighboring properties, once they are mature; that it should identify which species of trees are not permitted; and that it should list the caliber size of trees rather than the box size. He also voiced his concern that the proposed Ordinance has language requiring a permit and an arborist to determine whether cutting of limbs and/or roots will be allowed when a neighbor’s tree encroaches on someone else’s property.

Commenting that she lived in the Tree Section for 10 years and witnessed numerous trees being cut down, mostly by developers, to make room for garages, **Martha Andreani, Downtown Manhattan Beach**, urged Council to consider **Ms. Wahlberg’s** suggestion for a more proactive stance on tree preservation.

Mayor Fahey closed the Public Hearing at 7:37 p.m.

Council held a lengthy discussion with Senior Planner Jester regarding emergency removals; the proposed Ordinance as it applies to trees encroaching on neighboring properties; replacement

trees; trees not permitted in the City; caliber size of trees; street side yard trees; in-lieu of fees; and tree canopy restoration.

City Attorney Robert Wadden clarified that the intention of administrative fines was so that criminal charges would not have to be filed on those individuals willing to make good on their violation of the Ordinance. He added that staff envisioned a fine with a minimum and maximum range depending upon the egregiousness of the action, number of trees removed, etc., and emphasized that every case will be different.

Remarking that he is in general agreement with what has been proposed, Councilmember Aldinger stated that he is pleased that the aspect of people taking out trees and then applying for a permit has been taken out of the Ordinance. He acknowledged that he is troubled by how to determine the egregiousness of someone removing trees and with the tree box size detail, he is pleased with City Attorney Wadden's explanation of the fines and that staff will watch over the replacement tree size process. He added that if a problem arises, the issue can always be brought back before the Council for modifications.

Councilmember Tell stated that he was in support of the emergency removal and fine sections of the Ordinance, however, voiced his disappointment that some aspects go too far and others don't go far enough. He stressed that while he understands that the objective is to protect the future, he was under the impression that the Ordinance would preserve mature trees and that he would like to have been given a better definition of what a mature tree is. He emphasized that focusing on tree trunk size only adds more regulations and makes the Ordinance more difficult to enforce. He spoke of sending the item back to the Planning Commission for additional public input in order to try and accomplish the resident's main concern of the loss of mature trees and how to preserve them.

Councilmember Montgomery stressed that he is not happy that mature street side trees are not protected in the proposed Ordinance; that the tree canopy should be the key detail, not the caliber of the trunk; that a tree incentive program is a great idea and it should be city-wide; and that maybe the item should go back to the Planning Commission for more public input.

Mayor Fahey reviewed that, in her recollection, it was agreed that side yard trees were able to be removed because they were required to be replaced with a minimum 24 inch box tree. She relayed her apprehension with in lieu of fees stating that she does not agree with allowing someone to "pay out" to have a tree(s) planted somewhere outside of their neighborhood because the neighborhood will change. She stated that she agrees with the changes made to the emergency removal section, the discretionary fines and removal of street side yard trees, however, would like to see more guidance in regard to replacement trees to retain the character of the neighborhood. She also concurred with Councilmember Tell that rather than indicating that trees should be replaced with a certain box size tree, they should be replaced with a tree that is a certain ratio of the size of the original tree.

Councilmember Tell emphasized that the first challenge is to find out which trees the community wants to preserve and then figure out how to replace them rather than trying to address a fairly comprehensive program that will be more time consuming for staff.

In response to Council questions, Senior Planner Jester explained that it would be extremely difficult to enforce a trunk caliber, tree height and/or canopy ratio driven tree replacement because there are so many different factors to consider; that the community is reacting to the change from small houses with big trees to big houses with small trees; and that this is why staff is trying to preserve mature trees wherever it can.

Council continued discussion concurring that, with the exception of Mayor Pro Tem Ward, who was absent, they all agreed on the following sections of the proposed Tree Ordinance:

*Emergency Removal; Trees on Adjacent Properties with the revision that a Tree Permit would not be required to trim the branches of a neighbor's tree; Trees Exempt From Protection; Street Side Yard Trees with the modification to add for new construction; Violations and Penalties; Right-of-Way Improvements; Purpose; and Miscellaneous Revisions and Abuse of Trees.*

After lengthy discussion with Senior Planner Jester on *Protected Tree Size and Replacement Size*, City Manager Geoff Dolan suggested that staff would prefer that Council direct the issue back to the Planning Commission with the information provided in tonight's discussion. He suggested that staff place advertisements in the newspaper and invite residents to one or two subsequent Planning Commission meetings rather than put together a committee.

In response to Councilmember Aldinger's concern about sending this item back to the Planning Commission, Mayor Fahey suggested, and the majority of Council concurred, that they would support staff notifying those individuals who spoke on the issue this evening and advertising the Planning Commission agenda that the issue will appear on. Mayor Fahey concluded by stating that if no one from the community shows up at the Planning Commission, then it may be back before the Council and maybe "this is as good as it gets".

Councilmember Montgomery suggested that when the tree issue comes before the Planning Commission, it should be the first item on the agenda.

City Manager Dolan stated that staff will follow Council's direction and discuss several alternatives.

#### **RECESS AND RECONVENE**

At 8:29 p.m. the Council recessed and reconvened at 8:41 p.m. with all Councilmembers present, with the exception of Mayor Pro Tem Ward.

#### **GENERAL BUSINESS**

##### 05/0920.15 Consideration of Recommendations from the City's Sub-Committee Regarding Recognition Opportunities in the Blu Moon Marketing Partnership Proposal

Parks and Recreation Director Richard Gill reviewed how Blu Moon Marketing was selected through a Request for Proposal process to help to increase corporate sponsorships of City sponsored events. He explained that after Blu Moon's initial presentation last June, a subcommittee consisting of Councilmembers Tell and Aldinger and Commissioners Sharon Greco (Cultural Arts) and Portia Cohen (Parks and Recreation) was formed to review Blu Moon's proposal and that those items in need of discussion and direction will be presented tonight.

**Leslie Berliant** and **Judy Diethelm** of **Blu Moon Marketing** addressed Council with examples of over-the-street banners, signs and plaques (Attachment D of their Marketing Plan) listing sponsor names and City's logos only, and explained the Partner Guideline Recommendations (Attachment C).

In response to Councilmember Tell, Parks and Recreation Director Gill confirmed that the subcommittee will oversee the quality control of giveaways.

#### **The following individuals spoke on Attachments C & D of this item:**

- **Gary Osterhout, 500 Block of 31<sup>st</sup> Street**

City Council Meeting Minutes of September 20, 2005



**From:** Laurie B. Jester  
**Sent:** Tuesday, January 17, 2006 10:34 PM  
**To:** Richard Thompson  
**Subject:** FW: tree resources and minutes, continued-Tree Ordinance VOICE  
FYI

-----Original Message-----

**From:** Sherbak Family [mailto:sherbak.mb@verizon.net]  
**Sent:** Tuesday, January 17, 2006 10:31 PM  
**To:** DENNIS SHERBAK  
**Subject:** tree resources and minutes, continued

I apologize for the delay with getting the tree meeting minutes to you. I was not finished with adding some resources to the email which was just sent out earlier tonight. (The Sherbak household computer has been down for a few days and we managed to have some "multiple-operator" error tonight to boot, no pun intended.) Some other comments of interest and resources on trees.....

Pictures from the gardenmagiccompany.com website were distributed and discussed

A summary of the city ordinance, completed by Laurie Jester was discussed.

Mike Garcia of Enviroscape Landscaping discussed the impact of improper pruning to trees. Topping can cause long term damage.

The issue of the replacement ratio of trees was discussed as a means to account for trees which don't survive planting.

The possibility of finding volunteers to take photos of trees when fences or for sale signs go up was discussed. We ran out of time for a complete discussion on this topic. We discussed having volunteers coordinate communication to the city for small, specific areas of the city to limit the number of calls and improve the quality of the calls to city staff. I would encourage you to take photos and document the street address for any trees which may be at risk. I have found Laurie Jester at the City of Manhattan Beach to be most helpful when working specific tree issues.

Finally, you are all welcome to attend the next VOICE meeting. The speaker on Monday, February 6th, 7pm will be Paul Orstrove who will discuss the Appropriate Fuel Co-op. Many cars today can use run on Ethanol, come and learn how you can reduce the use of gasoline.

Earth Day Celebration and Concert is April 22nd, 2006 from 11-4pm, planning committee volunteers are always welcome! Contact the VOICE voicemail line at 310.226.2927 if you are interested in volunteering or wish to be a vedor or non-profit participant.

Attachment D-CC 2-7-06, Ann Barklow 12-15-05.txt

From: Ann Barklow [a.sarklow@verizon.net]  
Sent: Thursday, December 15, 2005 6:41 AM  
To: Laurie Jester  
Cc: Portia Cohen (portiacohen@aol.com); 'BDKIMBALL@aol.com'; Dolores Gamble (dolores.gamble@verizon.net); j bernard Johnson (jbj700@adelphia.net); J L Flan (jlflan@gte.net); Jack Feinberg (feinberg@usc.edu); Jim Biondi; Martha Andreani; Kaye L Gagnon Sherbak; Mark Quigle; Richard Thompson  
Subject: 20 foot set back-1019 Duncan Avenue- Deodar Cedar

Hi Laurie,

It was good meeting you last night...from a distance that is. I'm a sucker for volunteering for the city of MB so let me know if I can be of any help with the sign for the tree ordinance or the identification criteria for heritage or landmark trees. I also wanted to add that the definition I use for a "Mature" tree is if the tree has reached 75% of its projected canopy size, it is a mature tree. That is the definition out of the Arboriculture book from ISA.

I'm assuming that I can send you pictures and concerns about certain trees in our city that are currently being damaged during construction, so I will do that. I'll try not to overwhelm you.

I'm working on a report of the deodar cedar tree below, that is ironically on my block. Our last big tree at a height of 60 feet with a DBH of 30 inches. As I was measuring I noticed the trunk is 24 feet from the street. Does that mean it is not protected by our ordinance. I wasn't sure if the 20 feet is measured from the street or the homeowners property line in front. Please let me know as soon as you can since their escrow is dependent on whether or not they can remove this tree.

Thanks again for all you've done!  
Ann Barklow

Attachment D-CC 2-7-06, Ann Barklow 1-20-06.txt

From: Ann Barklow [a.sbarklow@verizon.net]  
Sent: Friday, January 20, 2006 10:14 AM  
To: Laurie Jester  
Cc: Kaye Sherback; Mark Quigley  
Subject: tree ordinance

Hi Laurie,

I went to an excellent Tree conference yesterday. Just by chance the speaker on updating tree ordinances was there. He is in the planning department and is an arborist for the city of Palo Alto. His name Dave Docktor. He stressed the importance of the tree preservation guidelines be on the plans put into the city for approval. Also to work it out administratively so that all he has to do is drive by the construction site and if they are doing anything that is not within the detail on the plan they get a ticket for \$500.00 right there and have 24 hours to fix it before another ticket is issued. Check out some of the forms at

[http://www.cityofpaloalto.org/planning-community/tree\\_forms.htm](http://www.cityofpaloalto.org/planning-community/tree_forms.htm) and lets talk. According to David we can use any of these forms Thanks, Ann Barklow  
977-4289

**From:** Laurie B. Jester  
**Sent:** Friday, February 03, 2006 9:50 AM  
**To:** Laurie B. Jester  
**Subject:** FW: Tree Preservation in MB

*PortiaCohen@aol.com* wrote:

From: PortiaCohen@aol.com  
Date: Sun, 29 Jan 2006 20:02:27 EST  
Subject: Tree Preservation in MB  
To: jfahey@citymb.info

Dear Councilmember Fahey,

I am a member of the MB Citizen Tree Preservation Committee, a volunteer group addressing the issue of tree preservation in our beloved city.

Kindly consider the following requests on behalf of this committee:

1. The tree committee would like to communicate our concerns and better understand how exactly the education and enforcement of the tree ordinance will be incorporated into the duties of this new staff position. Ann Barklow is willing to meet with the newly appointed employee as soon as possible. We would like Council to direct Staff to make arrangements for such a meeting as soon as possible.
2. We recommend the ordinance call for replacement tree box size of 24 inches with the provision that they meet the ISA standards. \*See explanation below from our volunteer Arborist, Ann Barklow.
3. The fees language is still not strong enough. There needs to be more punitive language, we suggest a fine of \$50,000 to the contractor and the developer if protected trees are removed. It is our understanding that fees are currently defined via a separate function from the approval of the ordinance. The need to set fees at a high enough level to seriously discourage noncompliance demands that Council, at a minimum, offer direction to staff regarding specific minimum fee amounts.
4. We recommend the ordinance calls for the use of a certified arborist in every remodel and/or new construction project that would affect the roots, grade or canopy of a tree. The arborist's role would be to evaluate and approve the required tree plan, the execution of that tree plan, and to define any followup activity necessary for all such projects. The arborist report should be required prior to the design plan and arborist report compliance should be a condition on occupancy.
5. The tree committee would like Council to direct staff to communicate to contractors and Architects the importance of getting an arborist involved in the initial meetings with the Architect and General Contractor so the design can be made around the tree not the other way around.

Thank you very much for your time and consideration.

Sincerely,

Portia P. Cohen  
1535 Ruhland Avenue  
Manhattan Beach, CA 90266

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Bring words and photos together (easily) with  
[PhotoMail](#) - it's free and works with Yahoo! Mail.

**From:** Kaye L Gagnon Sherbak [kaye@raytheon.com]  
**Sent:** Saturday, January 21, 2006 3:00 PM  
**To:** Laurie B. Jester  
**Subject:** Fw: tree ordinance input

Hi Laurie, Below is my input to City Council.

MANY THANKS,  
 KAYE SHERBAK  
 310.985.4861  
 KAYE@RAYTHEON.COM

Kaye Gagnon Sherbak (Wireless)

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----- Original Message -----

**From:** "Sherbak Family" [sherbak.mb@verizon.net]  
**Sent:** 01/21/2006 10:39 AM  
**To:** <mward@citymb.info>; <ntell@citymb.info>; <jfahey@citymb.info>;  
 <jaldinger@citymb.info>; <rmontgomery@citymb.info>  
**Cc:** Kaye Gagnon Sherbak  
**Subject:** tree ordinance input

When reviewing the tree ordinance on Feb. 7th please consider the following, we are learning more about tree ordinances every week.

1. **Education:** I would like the newly appointed education and enforcement staff member to fully understand the tree ordinance. Ann Barklow is willing to meet with the newly appointed employee as soon as possible. Please consider directing Staff to make arrangements for such a meeting as soon as possible.
2. **Box Size:** We recommend the ordinance call for replacement tree box size of 24 inches with the provision that they meet the ISA standards. \*See explanation below from our volunteer Arborist, Ann Barklow. [gardenmagiccompany.com](http://gardenmagiccompany.com)
3. **Money is a motivator:** The fees language is still not strong enough. There needs to be more punitive language, I suggest a fine of \$50,000 to the contractor and the developer if protected trees are removed. (I really don't care what the number is, as long as it changes behavior and people are held accountable.)
4. **Arborist & Replanting as a condition of occupancy:** I recommend the ordinance calls for the use of a certified arborist in every remodel and/or new construction project that would affect the roots, grade or canopy of a tree. The arborist's role would be to evaluate and approve the required tree plan, the execution of that tree plan, and to define any followup activity necessary for all such projects. The arborist report should be required prior to the design plan and **arborist report compliance should be a condition of occupancy.**
5. **Prevention is key:** I would like Council to direct staff to communicate to contractors and Architects the importance of getting an arborist involved in the initial meetings with the Architect and General Contractor so the design can be made around the tree, not the other way around.

I hope to see you all at the 15th annual Earth Day Celebration and Concert on April 22nd.

PS, I fully support shuttle services, I have not followed the details, but support bus and shuttle services (our MTA service is really poor).

Thanks for your action in this matter,  
 Kaye Sherbak  
 1825 Agnes Road  
 Manhattan Beach, CA  
 545-7573

----- Original Message -----

**From:** [Sherbak Family](#)

**To:** [DENNIS SHERBAK](#)

**Sent:** Tuesday, January 17, 2006 7:57 PM

**Subject:** tree committee minutes - please write or contact City Council

Hello,

Thank you for attending or expressing interest in attending the first tree committee meeting. I appreciate your time and interest in helping create an "urban forest"! The main interest expressed was to preserve a tree canopy in Manhattan Beach, districts I & II. Ocean views (basically west of Valley) will not be negatively affected by this ordinance.

We decided to create key messages for you to forward to City Council members or to use in creating your own email to send to City Council members. Please send an email to Manhattan Beach City Council members as soon as possible, they will be considering the proposed tree ordinance on February 7th. You can simply forward this email stating you support the protection and promotion of a tree canopy in Manhattan Beach or cut and paste any ideas you support.

**Please let City Council know you want to protect and promote trees in districts I and II.**

1. The tree committee would like to communicate our concerns and better understand how exactly the education and enforcement of the tree ordinance will be incorporated into the duties of this new staff position. Ann Barklow is willing to meet with the newly appointed employee as soon as possible. We would would like Council to direct Staff to make arrangements for such a meeting as soon as possible.

2. We recommend the ordinance call for replacement tree box size of 24 inches with the provision that they meet the ISA standards.

\*See explanation below from our volunteer Arborist, Ann Barklow.

3. The fees language is still not strong enough. There needs to be more punitive language, we suggest a fine of \$50,000 to the contractor and the developer if protected trees are removed. It is our understanding that fees are currently defined via a separate function from the approval of the ordinance. The need to set fees at a high enough level to seriously discourage noncompliance demands that Council, at a minimum, offer direction to staff regarding specific minimum fee amounts.

4. We recommend the ordinance calls for the use of a certified arborist in every remodel and/or new construction project that would affect the roots, grade or canopy of a tree. The arborist's role would be to evaluate and approve the required tree plan, the execution of that tree plan, and to define any followup activity necessary for all such projects. The arborist report should be required prior to the design plan and arborist report compliance should be a condition on occupancy.

5. The tree committee would like Council to direct staff to communicate to contractors and Architects the importance of getting an arborist involved in the initial meetings with the Architect and General Contractor so the design can be made around the tree not the other way around.

City Council e-mail addresses follow the same format as all City Staff: first initial followed by last name @citymb.info. Thus:

Mayor Mitch Ward = mward@citymb.info  
 Mayor Pro Tem Nick Tell = ntell@citymb.info  
 Council Member Joyce Fahey = jfahey@citymb.info  
 Council Member Jim Aldinger = jaldinger@citymb.info  
 Council Member Richard Montgomery = [rmontgomery@citymb.info](mailto:rmontgomery@citymb.info)

Thanks,  
 Kaye Sherbak  
 Tree Committee Volunteer

Please see the following website for the pictures which were shared at the January 9th meeting.  
[gardenmagiccompany.com](http://gardenmagiccompany.com)

\*Reference replacement tree size Ann Barklow copied some information that might clear it up. The size can be moved to 36" and you will have a larger tree but it will sit there at that size for some years before it establishes itself and begins to grow. Trees are so amazing. They send their energy to one thing at a time. If it is pruned it sends its energies there to heal the cuts. If it is planted it sends its energies to the roots etc. While it is sending the energies to the roots its not doing any growing at the top. If the idea is to have a large tree than go with the 36" box. As arborists we know a tree is healthier if planted smaller and will catch up to that size in a few years and usually pass the other tree up. If you do decide to leave it at 24" you should include this explanation with it. Here is a copy from the ISA Arboriculture recommended book that might clarify. The larger the tree at planting, the longer the establishment period. Although larger size stock offers greater height and width at planting, differences in initial size are generally lost following establishment. Several studies demonstrate that trees from larger stock may grow more slowly following planting and be smaller in size after several years. Smaller size nursery stock recovers from the stress of planting more rapidly than larger stock.

1 Harris, Clark, Matheny, Arboriculture (Pearson Education, Inc 2004) pg 125-126



May 12, 2005

16

Honorable  
Mayor Joyce Fahey  
City Hall  
1400 Highland Avenue  
Manhattan Beach, CA 90266

Re: Destruction of Ancient Flora in MB by Construction Demolition Crews

Dear Honorable Mayor Fahey---

I am disturbed by the irresponsible destruction of Agave Americana, Agave Attenuata, Aloe Vera, Mission Aloe Vera, Night Blooming Cirius, and other ancient and mature succulents by destructive demo crews that operate in Manhattan Beach.

Specifically, the recent destruction of about 10 specimens of approximately 80 year old Agave Americana (Blue Agave or Century Plant) that was located at 10<sup>th</sup> Street and Valley Drive, on the alley adjacent to Rick's Raingutters.

I have spoken to city employees about this and apparently these types of flora are not protected in the Manhattan Beach Sand Section.

I propose the following action:

- A) Add Ancient Flora Protection to the 2005-2006 Work Plan
- B) Generate an emergency arrangement to protect Ancient Flora
- C) Allow for a 30-day period prior to demolition for inspection of properties to determine removeability of Ancient Flora
- D) Allow for replanting to private properties, or relocating to MB City locations, ie Sand Dune Park or Botanical Gardens adjacent to Begg Pool

Please notify me in writing of any property scheduled for demolition so I can obtain permission from the owner to remove and/or monitor the removal of ancient flora from properties in Manhattan Beach. Also, I have begun a search for a ¾-ton truck to handle the hauling and relocating of flora.

Thank you very much for your time and cooperation.  
Respectfully submitted,

Gregory D. Robinett  
472- 27th Street  
Manhattan Beach, CA 90266

(310)545-4768 h  
(310)647-8269 w

