



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*

**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.**

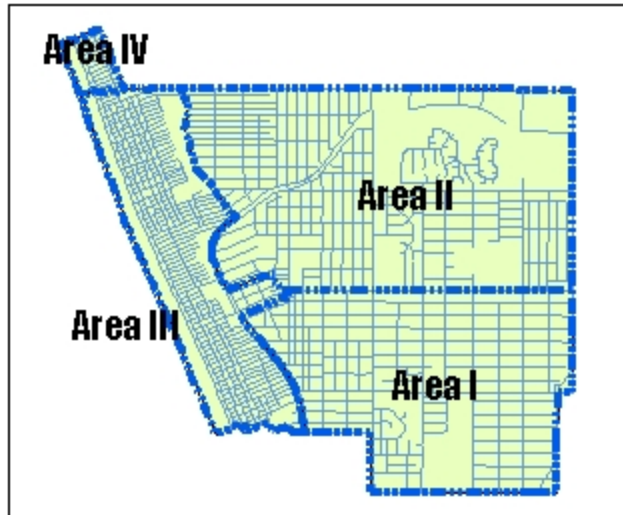
- A. **Purpose.** Tree preservation is necessary for the health and welfare of the citizens of the City of Manhattan Beach in order to conserve scenic beauty, prevent erosion of topsoil, protect against flood hazards, counteract pollutants in the air, and generally maintain the climatic and ecological 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

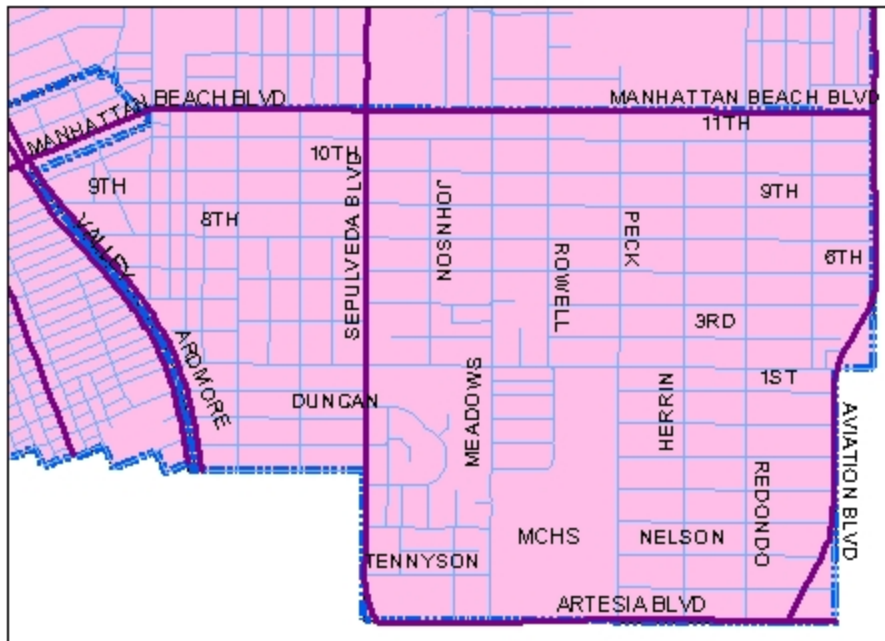
- Director.
2. Care shall be exercised for trees to be preserved so that no damage occurs to said trees. All construction shall preserve and protect the health of trees:
    - a. Remaining in place
    - b. Being relocated
    - c. Planted to replace those removed
    - d. Adjacent to the subject property.
  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)

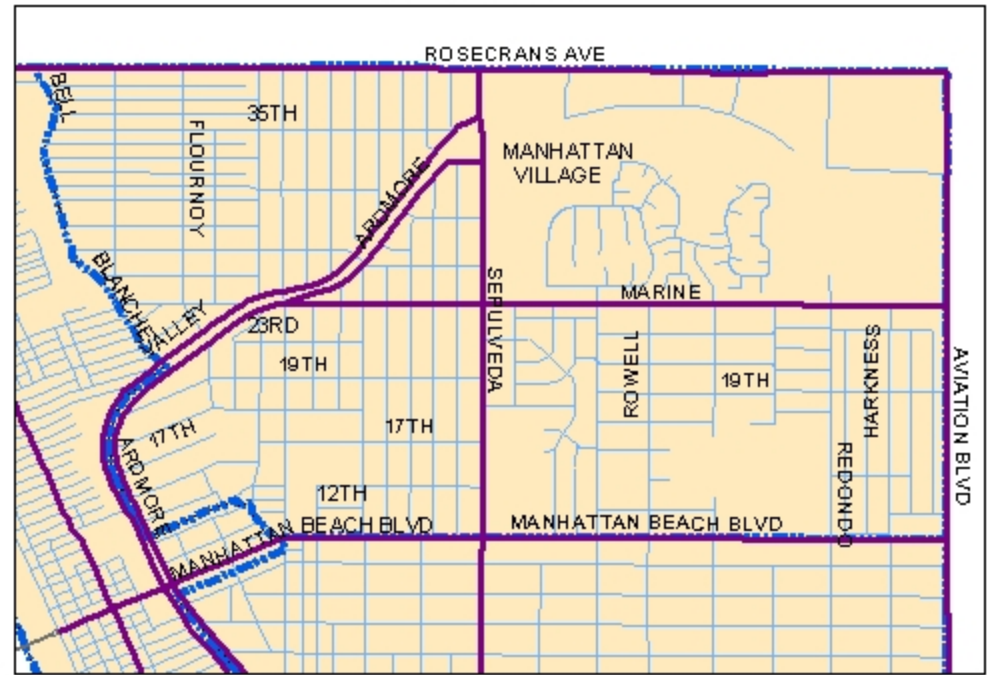
# City of Manhattan Beach Tree Preservation Ordinance





**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.



## 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	Ceratonia 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



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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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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**