


FISCAL IMPACT

There will not be an immediate fiscal impact as a result of these amendments to the municipal code. Tree replacement fees will be collected by the Planning and Development Department from any future development proposal if tree replacement onsite is found to be infeasible.

ENVIRONMENTAL

On January 25, 2010, the Council found that these municipal code changes were categorically exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15061 (general rule).

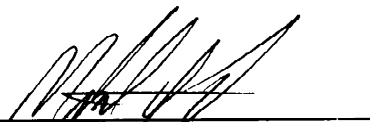
Respectfully submitted,


Michele Beal Bagneris
City Attorney

Prepared by:


Theresa E. Fuentes
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Concurred by:


Michael J. Beck
City Manager

Introduced by: _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PASADENA AMENDING VARIOUS PROVISIONS OF TITLE 8 (HEALTH AND SAFETY) AND TITLE 17 (THE ZONING CODE), RELATED TO THE PROTECTION OF TREES

The People of the City of Pasadena ordain as follows:

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

“Summary

“Ordinance No. _____ amends various provisions of Title 8 (Health and Safety) commonly referred to as the “tree protection ordinance” and Title 17 (the Zoning Code) to, among other things: incentivize on-site retention of existing mature trees; expand the applicability of protections to more trees; promote the policies and procedures of the City toward arboricultural industry standards; and require long-term condition monitoring for all projects with protected trees and/or replacement trees.

Ordinance No. _____ shall take effect 30 days from its publication.”

SECTION 2. Pasadena Municipal Code, Title 8, Chapter 8.52, Section 8.52.020, is amended as follows:

a. By amending Subsection G as follows:

“G. “Landmark tree” means a tree designated as a landmark under Chapter 17.62 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.”

b. By amending Subsection L as follows:

“L. “Multi-trunk” means any tree with multiple trunks attributed to a single tree. Each trunk shall be measured at a height of 4 1/2 feet above natural grade, and the combined areas of the trunks shall be used to determine the tree’s size for the purposes of this ordinance.”

c. By adding new definitions, as follows, in alphabetical order and reordering the subsequent definitions in the proper alphabetical sequence:

““Diameter-at-breast-height (DBH)” means the diameter of the tree 4-1/2 feet above ground on the uphill side of the tree. If a tree forks below breast height, it is considered “a multi-trunk.” A measuring tape can be used to measure tree trunk circumference and then the circumference divided by 3.14 to determine diameter.”

““Landmark-eligible tree” means a tree which meets the criteria for designation as a landmark tree, as determined by the review authority.”

““Mature tree” means an otherwise non-protected tree with a diameter-at-breast-height (DBH) of 19 inches or greater.”

““Protected tree” means a native, specimen, landmark, landmark-eligible, mature (except for the trees in RS or RM-12 zones), or public tree.”

““Replacement matrix” means the table of requirements for replanting replacement trees on private property when removing protected tree/s per Finding 6 in 8.52.075.”

““Tree” means a woody plant that has a single main trunk with clear apical dominance (i.e. one primary stem is significantly larger than the secondary stem/s).”

SECTION 3. Pasadena Municipal Code, Title 8, Chapter 8.52, Section 8.52.025 is amended as follows:

a. By amending Subsection B as follows:

“B. Landmark trees and trees that meet the criteria for designation as a landmark as determined by the review authority.”

b. By adding the following new Subsection as follows:

“D. Mature trees in all zoning districts except for trees on properties subject to the RS or RM-12 development standards.”

SECTION 4. Pasadena Municipal Code, Title 8, Chapter 8.52, Section 8.52.030, Subsection G is amended to read as follows:

“G. Review development and construction plans as they affect mature, landmark, landmark-eligible, native, public and specimen trees;”

SECTION 5. Pasadena Municipal Code, Title 8, Chapter 8.52, Section 8.52.060 is amended to read as follows:

a. By amending the first paragraph as follows:

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

b. By adding the following new subsections:

“A. Incentives for the preservation of mature trees. When considering an application for any permit or approval that preserves mature trees, a decision may be made through the Design Review process or other entitlement process to waive development standards or accept alternative solutions to assist in the preservation of these trees. The review authority or Director, if there is no other review authority, may modify the development standards or accept alternative solutions to assist in the preservation of protected trees. Modifications may include a reduction to garden requirements, guest parking requirements, location of driveways and building height limits. The review authority may approve the modification of up to two development standards after first finding that:

1. Applicant investigated alternative site designs and building footprints using existing development standards; 2. Tree/s to be preserved is/are in good health and condition (taking into account species and longevity) as determined by a certified arborist; 3. Project includes a well integrated and thoughtful design solution that enhances the property and its surroundings; 4. Project is not injurious to adjacent properties or uses, or detrimental to environmental quality, quality of life, or the health, safety, and welfare of the public; and 5. Project is consistent with the objectives and policies of the applicable Design Guidelines and the Citywide Design Principles in the General Plan.”

SECTION 6. Pasadena Municipal Code, Title 8, Chapter 8.52, Section 8.52.065 is amended to read as follows:

“Any person or city agency may propose to the Historic Preservation Commission that a tree meets the criteria set forth in Section 8.52.020 and should be designated as a landmark under Chapter 17.62 and, thereby, as a landmark tree under this Chapter 8.52.”

SECTION 7. Pasadena Municipal Code, Title 8, Chapter 8.52, Section 8.52.066 is amended as follows:

“Designation of native, specimen and mature trees. All trees meeting the definition of native, specimen, landmark, landmark-eligible, or mature trees in Section 8.52.020 are automatically subject to the protections of this chapter, as of the effective date of the ordinance codified in this chapter.”

SECTION 8. Pasadena Municipal Code, Title 8, Chapter 8.52, Section 8.52.070, Subsection B is amended to read as follows:

“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, an application shall be made to the city manager or his/her designee for a permit according to the standard application procedures and submittal requirements set forth in Chapter 17.60 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 17.72 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.”

SECTION 9. Pasadena Municipal Code, Title 8, Chapter 8.52, Section 8.52.075 is amended as follows:

a. By amending Subsection A as follows:

“A. Any permit or approval which will result in injury to or removal of a mature, landmark, landmark-eligible, 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 8.52.024(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 that emphasizes a tree canopy that is sustainable over the long term by adhering to the replacement matrix adopted by resolution of the City Council and included in the associated Administrative Guidelines. Finding 6 shall not apply to permits or approvals seeking removal of a landmark tree and landmark-eligible trees. 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 17.62 are first followed.”

b. By adding the following new subsections:

C. Alternative to replacement matrix requirements. When using Finding 6 for removal of protected trees, the planting of required replacement trees on-site may be satisfied through the following alternative, in compliance with the City's regulations for the implementation of this Chapter.

1. Alternative replacement fee. The developer may request to pay a fee instead of planting on site up to 50 per cent of the required number of replacement trees, as follows.

a. The amount of the fee shall be 100 per cent of the appraised value of the tree/s that cannot be replaced.

1. Applicant must submit an application that includes: an appraisal by a certified arborist utilizing the most-recent edition of the Guide for Plant Appraisal (published by the International Society of Arboriculture), the number replacement trees calculated using the replacement matrix, and a report by a certified arborist or landscape architect that determines that the number of required on-site replacement trees would inhibit healthy growth (e.g., overcrowding of new trees; interfere with roots and canopy of existing protected trees and street trees);

2. Up to 50 per cent of the required replacement trees must be planted on-site and the replacement fee shall be a maximum of 50 per cent of the appraised value of all trees to be removed, prorated as necessary.

b. The review authority may approve an alternative replacement fee only after first making all of the following findings:

1. Applicant investigated alternative site designs and building footprints using existing development standards;

2. Placing the required number of replacement trees on site with existing plan is not conducive to a sustainable landscape plan (e.g.,

overcrowding with existing or new trees; occluding important view corridors; disrupting the configuration of existing open space; or a landscape design which has historic or aesthetic importance; interfering with existing site features—walls, driveways, berms, planting beds, pergolas—which have historic or aesthetic importance);

3. A minimum of 50 per cent of the required replacement trees are on-site and the spacing and selection of the proposed trees and the landscape design contributes to the City's long-term goals of a sustainable urban forest as determined by the City's arborist;

4. Project includes a well integrated and thoughtful design solution that enhances the property and its surroundings;

5. Project is not injurious to adjacent properties or uses, or detrimental to environmental quality, quality of life, or the health, safety, and welfare of the public; and

6. Project is consistent with the objectives and policies of the applicable Design Guidelines and the Citywide Design Principles in the General Plan.

c. One-half of the alternative replacement fee required by this Subsection shall be paid (or alternate security provided in a form acceptable to the Director of Finance) before issuance of a Building Permit for any part of the project. The remainder of the fee shall be paid before a Certificate of Occupancy is issued for any portion of the project.

d. Fees collected in compliance with this Section shall be specified for additional plantings that are above and beyond the City's regular planting programs.

SECTION 10. Pasadena Municipal Code, Title 8, Chapter 8.52, Section 8.52.080, Subsection C is amended as follows:

“C. Where immediate action is required for the protection of life or property, no permit is required to remove or to injure a protected tree which has been determined to be hazardous, by the city manager or his/her designee, any police officer or any fire fighter, after inspection of the tree.”

SECTION 11. Pasadena Municipal Code, Title 8, Chapter 8.52, is amended by adding the following new section:

“Section 8.52.077- Tree relocation.

If recommended by a certified arborist or landscape architect, proposals to relocate a protected tree shall be considered by the review authority if after receiving an approval, the applicant posts a performance bond (or alternate security provided in a form acceptable to the Director of Finance) in an amount equal to 100% of the appraised value of relocated tree/s, calculated using the most recent edition of the Guide for Plant Appraisal published by the International Society of Arboriculture) to ensure that the relocated trees are properly established and maintained for three years. Landmark trees are ineligible for relocation.”

SECTION 12. Pasadena Municipal Code, Title 8, Chapter 8.52, Section 8.52.085 is amended by adding the following new subsections and renumbering the subsequent subsections in the proper numerical sequence:

“E. Landmark-eligible tree. To injure, or to remove without a permit, any landmark-eligible tree located in the established front yard, required side yard, established corner yard, or required rear yard of all projects subject to RS and RM-12 development standards, and in all areas of all other zoning district anywhere in the city.”

“F. Mature tree. To injure, or to remove without a permit, any mature tree located in any zone except projects subject to RS and RM-12 development standards.”

SECTION 13. Pasadena Municipal Code, Title 8, Chapter 8.52, Section 8.52.110 is amended to read as follows:

“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 protected tree without sufficient guards or protections to prevent injury to the protected 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.

Condition monitoring shall be required for all projects with affected protected trees and/or the planting to ensure that trees are properly established and maintained for three years.”

SECTION 14. Pasadena Municipal Code, Title 17, Article 4, Chapter 17.44, Section 17.44.090, is amended as follows:

a. By adding a new Subsection D as follows:

D. Modification of development standards. The review authority or Director, if there is no other review authority, may modify the development standards or accept alternative solutions to assist in the preservation of trees protected in compliance with Chapter 8.52 (City Trees and Tree Protection Ordinance) or street trees. Modifications may include a reduction to garden requirements, guest parking requirements, location of driveways and building height limits. The review authority may approve the modification of up to two development standards after first finding that:

1. The applicant investigated alternative site designs and building footprints using existing development standards;
2. The trees to be preserved are in good health and condition (taking into account species and longevity) as determined by a certified arborist;
3. The project includes a well integrated and thoughtful design solution that enhances the property and its surroundings;
4. The project is not injurious to adjacent properties or uses, or detrimental to environmental quality, quality of life, or the health, safety, and welfare of the public; and

5. The project is consistent with the objectives and policies of the applicable Design Guidelines and the Citywide Design Principles in the General Plan.

SECTION 15. Pasadena Municipal Code, Title 17, Article 4, Chapter 17.44, Section 17.44.100, Subsection C, Paragraph 3 is deleted and former paragraph 4 is renumbered as paragraph 3, as follows:

“3. Consistent with prevailing street pattern. When removal is absolutely necessary, trees shall be replaced in a manner consistent with the prevailing pattern on the street, as determined by the Department of Public Works.”

SECTION 16. Pasadena Municipal Code, Title 17, Article 4, Chapter 17.46, Section 17.46.180, is amended by deleting Paragraph 1.c of Subsection C.

SECTION 17. The City Clerk shall certify the adoption of this ordinance and shall cause this ordinance to be published by title and summary.

SECTION 18. This ordinance shall take effect 30 days from its publication.

Signed and approved this _____ day of _____, 2010.

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 this _____ day of _____ 2010, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Date Published:

Mark Jomsky, CMC
City Clerk

Approved as to form:



Theresa E. Fuentes
Assistant City Attorney

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