

Chapter 15.02 MUNICIPAL TREE ORDINANCE

15.02.010 Purpose

A City's Urban Forest is an integral part of its character as well as its infrastructure. Properly planned and managed, the urban forest provides significant ecological, health, and economic benefits. It is the purpose of this chapter to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of public trees, as well as heritage trees. This chapter is intended to supplement the City's Policies and Administrative Procedures as outlined in the City's Urban Forestry Management Program.

15.02.020 Authority

The City Manager, or his/her designee, shall have the authority and jurisdiction of regulating the planting, maintenance, care, and removal of certain trees within the public right-of-way or on public property to ensure safety or to preserve or enhance the aesthetics of such public sites.

The City Manager shall designate a City Arborist, who shall serve as the City's expert and shall advise the City Manager and all departments on urban forestry matters. In addition to the authority granted in this ordinance the City Arborist shall have the authority to bring disagreements or conflicts to the City Manager, City Commissions, and/or the City Council for resolution in accordance with established City procedures. The City Arborist shall have the authority to formulate and publish a master tree plan subject to City Council approval.

15.02.030 Definitions

"Approved Tree Species Master List" means a listing of trees as approved by the City Council that are deemed appropriate for planting on a Citywide basis, or in limited areas as determined by the City Arborist. This listing shall consider, as appropriate, ultimate tree and root canopy; compatibility with nearby buildings, sidewalks, and streets; shade canopy provided; and fire resistance. It may also include a listing of trees that the City Arborist has determined to be not native to

this area and/or are not to be planted within the City of Encinitas by public or private parties. The approved tree species master list shall be maintained by the City Arborist and included as part of the City's Urban Forest Management Plan and shall be made available to the public.

"Certified Arborist" is a professional arborist who has been certified by the International Society of Arboriculture, and has a minimum of three years' full-time experience working in the professional tree care industry.

"City" shall mean the City of Encinitas.

"City Tree" means a tree within the City's public rights-of-way, parks, or other public places and is maintained by the City.

"Excessive Pruning" means removing more branches, stems, and roots than necessary to accomplish the desired objective. Typically no more than twenty-five (25) percent of a tree's total number of major branches or canopy volume should be removed in a single year. Pruning in excess of twenty-five (25) percent can injure a tree and is prohibited unless approved by the City Arborist.

"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.

"Heritage Tree" means a tree designated by the City in accordance with procedures outlined in its Urban Forest Management Program that is one of the oldest or largest of its species located in the City and has historic significance due to an association with an historic building, site, street, person or event or it is a defining landmark or significant outstanding feature of a neighborhood.

Injury" means a wound resulting from any activity, including but not limited to excessive pruning, cutting, topping, trenching, excavating, altering the grade, paving or compaction within the Tree Protection Zone.

"Landscape Architect" means a person licensed by the State of California in the planning, design and oversight of landscape or space.

“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 the life of trees.

“Park” means and includes any park owned, operated and/or maintained by the City of Encinitas.

“Public Nuisance” means an individual tree or shrub on public or private property that in the opinion of the City Arborist is apt to destroy, impair or otherwise interfere with any street improvements, sidewalks, curbs, gutters, sewers, or other public improvements, including above and below ground utilities or constitutes a hazard to the public or nearby public or private property.

“Public Places” means and includes all grounds, other than streets or parks, owned by, leased to, or otherwise under the control of the City of Encinitas.

“Shrub” means and includes any woody perennial plant commonly achieving a height of less than ten feet in height at maturity and having multiple stems.

“Street Tree” means and includes any woody perennial plant having a single main axis or stem commonly achieving ten feet in height or greater at maturity and capable of being shaped and pruned to develop a branch-free trunk at least nine feet in height and that is located within City rights-of-way.

“Topping” means an inappropriate technique to reduce tree size that cuts through a stem more than two years old at an indiscriminate location; a type of pruning cut that serves to initiate discoloration and perhaps decay in the cut stem.

“Tree Plan” means a plan adopted by the City Council for a street or other area which establishes the species and spacing of trees to be planted along a particular street or geographic area as designated by that plan.

“Tree Protection Zone” means the area around a tree within the tree canopy or as determined by the City Arborist where no soil disturbance is permitted unless otherwise approved by the City Arborist.

“Urban Forest Management Plan” means a manual of procedures as approved by the City Arborist that provides technical guidance to City Staff and private parties regarding planting, maintenance, care, and protection of trees.

15.02.040 Urban Forest Advisory Committee

The City Manager, in consultation with the City Arborist, shall establish an Urban Forest Advisory Committee (UFAC). The City Arborist shall serve as the City Staff liaison to the UFAC. The UFAC shall consist of no fewer than five members and should include community members, tree professionals such as a Certified Arborist or Landscape Architect, contractors having experience in tree planting and maintenance, and persons knowledgeable of governmental operations and policies. Terms, meeting times, and other responsibilities shall be as determined by the City Manager. Committee meetings shall be open to the public. The UFAC, shall among other things:

- A. Review and provide comments on City plans and policies related to urban forestry, including updates to the City’s Urban Forest Management Plan.
- B. Review and provide comments on Tree Plans prior to consideration by the City Council.
- C. Review and provide comments on the Approved Tree Species Master List prior to consideration by the City Council.
- D. Advise City Staff regarding programs of public outreach and education in order to promote public understanding of the City’s urban forest, including programs to celebrate and promote Arbor Day.

15.02.050 Maintenance

All City Trees shall be maintained in accordance with the City’s Urban Forest Management Program, which will be reviewed periodically by the UFAC. The City shall consider the long-term viability of the tree canopy in various areas of the City and pro-actively maintain and/or remove trees in a manner that minimizes disruption to the aesthetics and functionality of the tree canopy.

15.02.060 Species, Cultivars, and Varieties

All trees planted in [by/approved by] the City of Encinitas shall conform to approved tree palettes identified in adopted City and Community Master Plans, General Plans and Specific Plans and as reflected in the Approved Tree Species Master List found in the Urban Forest Management Program. The initial Approved Tree Species Master List shall be reviewed and approved by the City Council. Minor revisions may be made by the City Arborist following review by the UFAC.

15.02.070 Removal or Injury

Unless authorized by the City Arborist, no person shall remove, injure or cause injury to any street trees, park trees, trees or shrub in public areas, or heritage trees. Except in cases of emergency as determined by the City Manager or his/her designee, a public notification shall be required prior to the planned removal of any tree with a diameter greater than six (6) inches measured at a point one foot above the ground line. Such notification shall at a minimum consist of placing a sign no less than 12 inches wide by 18 inches high in the immediate vicinity of each tree to be removed no less than five days prior to the scheduled removal. Where practical, markings shall also be placed on each tree planned for removal. Any tree removed shall have its stump removed to a depth at least six (6) inches below the adjacent ground level. If appropriate, a replacement tree of a type, size, and location as determined by the City Arborist shall be planted.

15.02.080 Approval Required

Except for minor trimming of a non-City Tree, any work done in the City's rights-of-way, parks, or other public areas shall require the written approval of the City Arborist before committing any of the following acts:

- A. Removing, cutting pruning, breaking, injuring, defacing, or in any other way interfering with any tree or shrub, or any part thereof, either above or below the ground.
- B. Planting any tree or shrub.
- C. Spraying [or otherwise applying] any chemical on any tree or shrub.

- D. Securing any rope, wire, sign, or other device on or about such tree or shrub.
- E. Removing or injuring any guard or device on or about the base of a tree or shrub.
- F. Closing or obstructing the base or branch of a tree or shrub that may limit the ability of the tree or shrub to grow or absorb water or nutrients.

15.02.090 Nuisance Abatement

Any tree, shrub, or part thereof in the City that interferes with the use of any public street, park, or public place or is unsafe and constitutes a hazard to the life, health, safety, or property of the public, or constitutes a center of infection for disease or insects that may endanger the health and life of other trees or shrubs shall be declared a public nuisance by the City Arborist and the owner thereof shall be required to correct or remove it. The owner shall be notified in writing by the City Arborist of the existence of such public nuisance and be given reasonable time for its correction or removal. If not corrected or removed within the time allowed, the City Arborist shall cause said nuisance to be corrected or removed at once and initiate such court action as necessary to defray all cost resulting therefrom.

15.02.100 Violations and Penalties

Violations of the Municipal Tree Ordinance shall be a misdemeanor, punishable as provided by the Encinitas Municipal Code. Each day of violation constitutes a separate offense and may be separately punished. Nothing in this section shall limit the City's ability to seek restitution for damage to City Trees or shrubs or Heritage Trees in accordance with valuation methodologies as outlined in the City's Urban Forest Management Program and additional penalties as established by the State of California.

15.02.110 Severability

If any one portion of this ordinance is found to be invalid, the remaining portions shall remain in full force and effect.