

ORDINANCE NO. 2338

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCADIA, CALIFORNIA, AMENDING ARTICLE IX, CHAPTER 7 OF THE ARCADIA MUNICIPAL CODE TO ADD ADDITIONAL PROTECTED TREES AND UNPROTECTED TREES TO THE CITY'S TREE PRESERVATION REGULATIONS

THE CITY COUNCIL OF THE CITY OF ARCADIA, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 7 of Article IX of the Arcadia Municipal Code is hereby amended in its entirety to read as follows:

"TREE PRESERVATION

9700. INTENT AND PURPOSE.

This Chapter is established to recognize oak trees and sycamore trees as significant aesthetic and ecological resources and to create favorable conditions for the preservation and propagation of irreplaceable plant heritage for the benefit of the current and future residents of the City. It is the intent of this Chapter to maintain and enhance the public health, safety and welfare through the mitigation of soil erosion and air pollution. It is also the intent of this Chapter to preserve and enhance property values through conserving and enhancing the distinctive and unique aesthetic character of many areas in the City.

9701. SCOPE.

No protected trees as herein defined shall be removed, damaged or have its protected zone encroached upon except in conformance with the provisions of this Chapter. The provisions of this Chapter shall apply to all protected trees on all public and private property whether vacant, undeveloped, in the process of development or developed.

Exceptions. The following are exempt from the provisions of this Chapter:

A. Combined Permit. A Tree Permit is not required where tree removal and/or encroachment has been specifically approved as part of a development permit.

B. Emergency Situation. Cases of emergency where the Development Services Director or the Director of Public Works Services or their designees, or any member of a law enforcement agency or Fire Department, in the performance of his or her duties, determines that protected tree poses an imminent threat to the public safety, or general welfare.

C. Visual Barriers. Removal or relocation of protected trees necessary to obtain adequate line-of-sight distances as required by the Development Services Director or the Director of Public Works Services or their designees.

D. Public Utility Damage. Actions taken for the protection of existing electrical power or communication lines or other property of a public utility.

E. City Property. Removal of protected trees on City owned property, which in the opinion of the Director of Public Works Services or designee, will cause damage to existing public improvements, or which are in a location that does not permit the development of the site for public purposes.

9702. DEFINITIONS.

For the purposes of this Article, certain words and phrases used herein shall be defined as follows:

a. Damage. Damage shall mean any action undertaken which causes injury, death, or disfigurement to a protected tree. This includes, but is not limited to, cutting,

poisoning, overwatering, relocating or transplanting a protected tree, or trenching, excavating or paving within the protected zone of a protected tree.

b. Director. In a matter involving private property, "Director" shall mean the Director of Development Services of the City of Arcadia or appointed designee. In the matter involving public property, "Director" shall mean the Director of Public Works Services of the City of Arcadia or appointed designee.

c. Drip Line. Drip line shall mean a series of points formed by the vertical dripping of water, on any property, from the outward branches and leaves of a protected tree.

d. Encroachment. Encroachment shall mean any intrusion into the protected zone of a protected tree including, but not limited to, grading, excavation, trenching, parking of vehicles, storage of materials or equipment, or the construction of structures or other improvements.

e. Protected Trees. Protected trees shall include the following:

1. Quercus Engelmannii (Engelmann oak), or quercus agrifolia (coast live oak, California live oak) with a trunk diameter larger than four (4) inches measured at a point four and one-half (4Y2) feet above the root crown, or two (2) or more trunks measuring three (3) inches each or greater in diameter, measured at a point four and one-half (4Y2) feet above the root crown.

2. Any other living oak tree with a trunk diameter larger than twelve (12) inches measured at a point four and one-half (4Y2) feet above the root crown, or two (2) or more trunks measuring ten (10) inches each or greater in diameter, measured at a point four and one-half (4Y2) feet above the root crown.

3. *Plantanus racemosa* (Sycamore) with a trunk diameter larger than six (6) inches measured at a point four and one-half (4½) feet above the root crown, or two (2) or more trunks measuring four (4) inches each or greater in diameter, measured at a point four and one-half (4½) feet above the root crown.

4. Any tree, with the exception of the trees listed as Unprotected Trees, that have a trunk diameter larger than twelve (12) inches measured at a point four and one-half (4½) feet above the root crown, or two (2) or more trunks measuring ten (10) inches each or greater in diameter, measured at a point four and one-half (4½) feet above the root crown and is located within a required front, side, street-side, or rear yard setback.

f. Private Property. Private property shall mean land owned by individuals, partnerships, corporations, firms, churches, and the like to which land access by the public is generally restricted.

g. Protected Zone. Protected zone shall mean a specifically defined area totally encompassing a protected tree within which work activities are strictly controlled. When depicted on a map, the outermost edge of the protected zone will appear as an irregular shaped circle that follows the contour of the dripline of the protected tree. In no case shall the protected zone be less than fifteen (15) feet from the trunk of a protected tree, or exclude the known root structure in the case of irregularly shaped trees.

h. Public Property. Public property shall mean land owned by a public or governmental entity and generally accessible to the public.

1. Removal. Removal shall mean the uprooting, cutting, or severing of the main trunk, or major branches, of a protected tree or any act which causes, or may be

reasonably expected to cause a protected tree to die, including but not limited to the following:

1. Damage inflicted upon the root system by machinery, storage of materials, or soil compaction;

- Substantially changing the grade above the root system or trunk;

3. Excessive pruning;

4. Excessive paving with concrete, asphalt, or other impervious materials in such a manner which may reasonably be expected to kill a protected tree;

5. Excessive or inadequate watering within the dripline;

6. Encroachment into the protected zone.

- j. Root Crown. Root crown shall mean that portion of a protected tree trunk from which roots extend laterally into the ground.

- k. Undeveloped Property. Undeveloped property shall mean land which is in its natural, original, or pristine state.

- l. Unprotected Trees. Unprotected trees shall mean trees that are not subject to the regulations stated in this Chapter. Unprotected trees shall include any non-oak and non-sycamore tree located outside a required front, side, street-side, or rear yard setback and any of the following trees located anywhere on a property:

1. Fruit trees

2. Fraxinus uhdei (Shamel Ash)

3. Ficuses – Exception: Ficus macrophylla (Moreton Bay Fig)

4. Eucalyptus

5. Ailanthus altissima (Tree of Heaven)

6. Arecaceae (palm tree)
7. Schinus terebinthifolius (Brazilian Pepper)
8. Ceratonia siliqua (Carob)
9. Betula pendula (European White Birch)
10. Grevillea robusta (Silk Oak)
11. Morus (Mulberry)
12. Acer saccharinum (Silver Maple)
13. Cupressus sempervirens (Italian cypress)
14. Populus Fremontii (Western Cottonwood)
15. Alnus rhombifolia (White Alder)
16. Populus trichocarpa (Black Cottonwood)
17. Populus 'Highland' hybrid
18. Salix lasiolepis (Arroyo Willow)
19. Liquidambers (Sweet Gum)

m. Vacant Property. Vacant property shall mean land on which no buildings or improvements have been erected or orchards planted but which may have been graded for drainage or other purposes.

9703. TREE PROTECTION REGULATIONS.

a. Tree Permit Required.

1. A tree permit shall be obtained prior to the removal of any protected tree.

A tree permit shall be obtained prior to any encroachment into the protected zone of any protected tree.

b. Required Protective Measures.

The following protective measures are hereby established for protected trees during development or construction activity:

1. No building, structure, wall or impervious paving shall be located within the protected zone of any protected tree.

2. No construction related activities shall occur within the protected zone of any protected tree, including but not limited to, building construction, storage of materials, grade changes, or attachment of wires to or around tree trunks, stems, or limbs.

3. Each and every protected tree shall be shielded from damage during construction by a four (4) foot high barrier composed of wooden stakes, chicken wire, or chain link fencing material, which shall enclose the entire dripline area on the construction site. Such barriers shall be installed prior to the commencement of any development on the site and shall remain in place throughout the construction period.

4. Branches that may be injured by vehicles or that interfere with construction shall be pruned carefully.

9704. APPLICATION AND FEES.

A Tree Permit for the Removal of Diseased and/or Hazardous Protected Trees.

1. An application for a tree permit for the removal of a diseased or hazardous protected tree shall be made to the Community Development Division, and shall include an evaluation from a certified arborist as to the condition of the tree.

2. There is no fee for a tree permit for the removal of a diseased or hazardous protected tree.

B. Tree Permit for the Removal of Healthy Protected Trees.

1. An application for a tree permit for the removal of a healthy protected tree shall be made to the Community Development Division. The content, form, instructions, procedures, and requirements of the application package deemed necessary and appropriate for the proper enforcement of this Chapter shall be established by the Community Development Division. The application shall include, but not be limited to the following:

- (a) An explanation as to why the tree's removal is necessary;
- (b) An explanation as to why tree removal is more desirable than alternative project designs;
- (c) An explanation of any mitigation measures.
- (d) A fee in the same amount as required for a modification application.

C. Tree Permit for Encroachment Into a Protected Zone.

1. An application for a tree permit for encroachment into a protected zone of a protected tree shall be made to the Community Development Division, and shall include an evaluation from a certified arborist as to the condition of the protected tree and the effect of the encroachment upon the protected tree accompanied by the appropriate photographs showing the area(s) of encroachment.

2. A fee in the same amount as required for an administrative modification application shall be submitted at the time said application is filed with the City.

9705. ACTION ON APPLICATION.

A. Tree Permit for the Removal of Diseased and Hazardous Protected Trees.

1. Upon the receipt of an application to remove a diseased or hazardous protected tree, the Community Development Administrator or his/her designee shall have ten (10) working days to approve, conditionally approve, or deny the application.

2. If the Community Development Administrator or his/her designee denies such application, the decision may be appealed to the Modification Committee. Such appeal shall be processed pursuant to the modification regulations. The fee for an appeal shall be the same as for a Modification application.

3. The privileges granted an applicant in this Section shall become null and void if not utilized within six (6) months from the date of the approval.

B. Tree Permit for the Removal of Healthy Protected Trees.

1. The application for a tree permit for the removal of a healthy protected tree or trees shall be subject to the approval or conditional approval of the Modification Committee or the Planning Commission (on appeal) or City Council (on appeal) pursuant to the modification regulations.

2. If the subject property is within a Homeowners Association area established pursuant to the Arcadia Municipal Code, the applicant shall submit their tree removal plans to the Architectural Review Board (Committee) of said Homeowners Association for review and approval, conditional approval or denial, prior to filing an application with the City.

3. The Architectural Review Board's (Committee's) review and comment are not required if the Homeowners Association has filed a letter with the Community Development Division stating that their Association does not wish to perform such review.

4. The privileges granted an applicant in this Section shall become null and void if not utilized within one (1) year from the date of the approval or conditional approval.

C. Tree Permit for Encroachment Into a Protected Zone.

1. Upon the receipt of an application to encroach into the protected zone of a protected tree, the Community Development Administrator or his/her designee shall have ten (10) working days to approve, conditionally approve, or deny the application.

2. If the Community Development Administrator or his/her designee denies such application or approves said application with conditions, the applicant may appeal the denial or the conditions of approval to the Modification Committee. Such appeal shall be processed pursuant to the modification regulations. The fee for an appeal shall be the same as for a modification application.

3. The privileges granted an applicant in this Section shall become null and void if not utilized within one (1) year from the date of the approval.

9706. CONDITIONS.

Conditions may be imposed on the issuance of a Tree Permit including, but not limited to, the following:

- a. Relocating of protected trees on-site, or the planting of new protected trees.
- b. Planting of additional trees, other than protected trees, which may be more appropriate to the site.

9707. ENFORCEMENT.

a. The Development Services Department, through its Code Services Officers, shall enforce the provisions of this Chapter. Additionally, Police Officers, planners,

inspectors from Building Services and the Public Works Services Department, in the course of their duties, will monitor construction activities for compliance with the provisions of this Chapter. Any irregularities or suspected violations will be reported immediately to the Community Development Division for follow-up action.

b. Whenever any construction or work is being performed contrary to the provisions of this Chapter, any tree permit, or any conditions of the appropriate development permit, a City inspector may issue a 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 or danger and no work shall be allowed until the violation has been rectified and approved by the Director of Development Services or designee.

c. Criminal and Civil Remedies.

1. Criminal.

Any person who violates any provisions of this Chapter including violations of inspector's orders shall be subject to the following remedies in addition to misdemeanor penalties for violation of the Municipal Code.

2. Restitution-Civil Penalties.

(a) It has been determined that the protected trees within the City are valuable environmental assets to the citizens of this community and as a result of the loss of any of these protected trees, the public should be recompensed, and penalties applied to assure the primary goal of conservation, protection, and preservation of protected trees as set forth in this Chapter.

(b) Accordingly, any person violating the provisions of this Chapter shall be responsible for proper restitution including but not limited to the following or any combination thereof: (1) payment of a fine, (2) replacement the protected tree, which has been removed, and/or (3) planting new protected trees or other trees which may be more appropriate to the site. Replacement shall be made based on the value or the actual replacement cost, whichever is higher, plus the cost of planting the replacement trees. The type, number, size and location of said equivalent replacement trees shall be determined by the Director of Development Services or designee.

(c) Tree values shall be established as provided in the tree evaluation formula, as prepared by the International Society of Arboriculture "Guide to Establishing Value for Trees and Shrubs."

(d) The City Attorney is authorized to take whatever legal steps are necessary for recovery of civil penalties.

d. Administrative Remedies.

1. A suspension of any building permits until all mitigation measures specified by the City are satisfactorily completed.

2. Completion of all mitigation measures as established by the City.

9708. LIABILITY.

Nothing in this chapter shall be deemed to impose any liability upon the City, its officers, or employees. No duty of care or maintenance is imposed upon the City, its officers or employees with reference to private property, and no private property owner or other person in possession of private property is relieved from the duties to keep protected trees in a safe condition on their property. This ordinance does not relieve the

owner or possessor of private property from the duty to keep protected trees subject to this chapter in such a condition as to prevent the protected tree from constituting a hazard or dangerous condition to persons or property."

SECTION 2. The City Clerk shall certify to the adoption of this Ordinance and shall cause a copy of same to be published at least once in the official newspaper of said City within fifteen (15) days after its adoption. This Ordinance shall take effect on the thirty-first (31st) day after its adoption.

Passed, approved and adopted this 2nd day of August, 2016.

/S/ Tom Beck I

Mayor of the City of Arcadia

ATTEST:

/S/ Gene Glasco

City Clerk

APPROVED AS TO FORM:

/S/ Stephen P. Deitsch

City Attorney

STATE OF CALIFORNIA)

COUNTY OF LOS ANGELES) SS:

CITY OF ARCADIA)

I, GENE GLASCO, City Clerk of the City of Arcadia, hereby certifies that the foregoing Ordinance No. 2338 was passed and adopted by the City Council of the City of Arcadia, signed by the Mayor and attested to by the City Clerk at a regular meeting of said Council held on the 2nd day of August, 2016 and that said Ordinance was adopted by the following vote, to wit:

AYES: Council Members Amundson, Beck, Chandler, Tay, and Verlato

NOES: None

ABSENT: None

/s/ Gene Glasco

City Clerk of the City of Arcadia