

## Revised Tree Ordinance and Tree-Related Ordinance Amendments

Sections and chapters referenced in the revised City ordinances include:

- Section 2.62.030: Powers and Duties of Commission  
(in Chapter 2.62: Parks and Recreation Commission)
- Section 8.04.100: Nuisances Specified  
(in Chapter 8.04: Nuisances Generally)
- Chapter 12.56: Trees Generally
- Chapter 12.60: Dutch Elm Disease
- Chapter 12.64: Heritage Trees

**ORDINANCE NO.**

Adopted by the Sacramento City Council

Date Adopted

**AN ORDINANCE AMENDING SECTIONS 2.62.030 AND 8.04.100, REPEALING AND ADDING CHAPTER 12.56, AND REPEALING CHAPTERS 12.60 AND 12.64 OF THE SACRAMENTO CITY CODE, RELATING TO TREES**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

**SECTION 1.**

Section 2.62.030 of the Sacramento City Code is amended to read as follows:

**2.62.030 Powers and duties of commission.**

The powers and duties of the commission ~~shall be as follows~~ are:

- A. To provide recommendations and advice to the city council and the department of parks and recreation on policies, projects, and other matters pertaining to parks, recreation, trees, and human services affecting the City of Sacramento referred to the commission by the city council, the director of parks and recreation, the community, or members of the commission.
- B. To review and provide recommendations on the development and implementation of the parks and recreation master plan as an element of the city's general plan.
- C. To conduct public hearings and review complaints and other matters pertaining to parks and recreation issues, as requested by the director of parks and recreation or the city council.
- D. To conduct an annual workshop to review the department's annual operating budget and capital improvement plan.
- ~~E. To hear appeals from decisions of the director of transportation relating to tree maintenance and removal pursuant to Sections 12.56.120 and 12.64.060 of this code.~~
- ~~F.~~ **EF.** To meet with neighborhood associations and park user groups to discuss parks and recreation issues and needs.
- ~~G.~~ **FG.** To encourage individuals, business, and citizens groups to contribute funds, property, and volunteer services for the development and operation of parks and recreation facilities.

**SECTION 2.**

Section 8.04.100 of the Sacramento City Code is amended to read as follows:

**8.04.100 Generally.**

It is unlawful and a misdemeanor and ~~hereby declared~~ a public nuisance for any person owning, leasing, occupying, or having charge or possession of any premises in this city to

maintain ~~such~~the premises in ~~such~~ a manner that any one or more of the conditions or activities described in the following subsections are found to exist and allowed to continue:

A. The keeping, storage, depositing, or accumulation on the premises of any personal property ~~which is~~ within the view of persons on adjacent or nearby real property or the public right-of-way when ~~thesuch~~ personal property constitutes visual blight, reduces the aesthetic appearance of the neighborhood, is offensive to the senses, or is detrimental to nearby property or property values. Personal property includes, but is not limited to, junk as defined in ~~s~~Section 8.04.090 ~~of this chapter~~, abandoned, wrecked, or dismantled automobiles, ~~or~~ unseaworthy boats or vessels, automotive parts and equipment, appliances, furniture, containers, packing materials, scrap metal, wood, building materials, rubbish, ~~and debris~~;

Wood and building materials being used, or to be used, for a project of repair or renovation and for which an active building permit is in existence may be stored for as long as is necessary to complete the project expeditiously. Upon expiration or cancellation of the permit, wood and building materials for the project must be immediately removed;

B. The keeping, storage, depositing, ~~or~~ accumulation of dirt, sand, gravel, concrete, ~~or~~ other similar materials that constitute visual blight, ~~or~~ reduces the aesthetic appearance of the neighborhood, ~~or~~ is offensive to the senses, ~~or~~ is detrimental to nearby property or property values;

C. The operation of a junk yard or automobile dismantling yard, except in an industrial zone pursuant to a ~~conditional~~special use permit;

D. Any abandoned drive-in enterprise;

E. Any dangerous, unsightly, or blighted condition ~~that~~which is detrimental to the health, safety, ~~or~~ welfare of the public;

F. Any condition in violation of the ~~Sacramento Ceity B~~Building ~~Ce~~code, set forth in ~~t~~Title 15 ~~of this code~~;

G. Any condition in violation of ~~c~~Chapter 9.44 ~~of this code~~ (animal ~~care services~~control law);

H. Any condition in violation of the Planning and Development Code set forth in ~~t~~Title 17 ~~of this code~~;

I. Any condition in violation of the ~~fire prevention city fire~~ code, set forth in ~~t~~Title 15 ~~of this code~~;

J. Any condition in violation of ~~c~~Chapter 5.152 ~~of this code~~ (regulation of unattended donation boxes);

K. Any condition recognized in law or in equity as constituting a public nuisance;

L. The maintenance of the exterior of any vacant or unoccupied building or the interior of any such building ~~that~~which is readily visible from any public street or adjacent parcel of property in a state of unsightliness so as to constitute a blighted condition detrimental to the property values in the neighborhood or otherwise detrimental to the public welfare. ~~Once proceedings have been commenced pursuant to this title to declare a building or property to be a public nuisance under this subsection, no such building or property shall~~

be deemed to be in compliance with this title solely because the building or property thereafter becomes occupied;

~~M. Any condition in violation of Chapter 18.12 of this code (employer transportation systems management for the city of Sacramento);~~

~~M~~N. Any unimproved real property ~~that~~which has become a dumping ground for litter, garbage, junk, debris, ~~or~~discarded vehicles, vehicle parts ~~and~~or vehicle hulks, and which real property has been subject to abatement action on one or more occasions by the city;

~~N~~O. Any illegal activity occurring on the property ~~that which~~is detrimental to the life, health, safety, ~~or~~and welfare of the residents, neighbors, or public. For purposes of this chapter, illegal activity is defined as any violation of state or federal law, rules or regulations, or local ordinance;

~~O. Any condition in violation of Chapter 8.132 of this code (cultivation of medical marijuana); and~~

~~P. Any condition of trees on private property that constitutes a threat to the health, safety, or welfare of the residents, neighbors, or public.~~

## SECTION 3.

Chapter 12.56 of the Sacramento City Code is repealed.

## SECTION 4.

Chapter 12.56 is added to the Sacramento City Code to read as follows:

### Chapter 12.56 TREES GENERALLY

#### 12.56.010 Findings and purpose.

The city council recognizes the importance of trees and their role in the well-being of the citizens of Sacramento. The city council finds and determines that trees enhance the natural scenic beauty of the city; increase oxygen levels; promote ecological balance; provide natural ventilation and air filtration; provide temperature and erosion controls; increase property values; improve the quality of life; and are key features of the city that should be protected and managed to maintain these benefits. The purpose of this chapter is to provide for the conservation of trees, to optimize tree canopy coverage, to ensure the city attains the benefits provided by trees, and to recognize and provide for the development and use of private property by establishing and maintaining the optimum sustainable amount of canopy cover in the city, by maintaining trees in a safe and healthy condition through proper arboricultural practices, and by implementing the urban forest and other goals in the general plan and approved urban forestry master plan.

#### 12.56.020 Definitions.

As used in this chapter, the following definitions shall apply:

"ANSI A300 standards" means the most current version of the American National Standard for Tree Care Operations-Tree, Shrub and Other Woody Plant Maintenance-Standard Practices.

"Arborist report" means a report prepared by a qualified arborist that may include, as determined by the director, information concerning the location of, condition of, and potential impacts of proposed development on one or more city street trees or private protected trees.

"City street tree" means any tree whose trunk is partially or completely located within a public right-of-way including any street, road, sidewalk, park strip, mow strip, or alley.

"Director" means the director of the department of public works or the director's designee.

"Minor pruning" means the removal of dead branches; or cutting of roots or branches less than two inches in diameter, measured at the location of the cut, from a city street tree or private protected tree in a cumulative amount of up to 10 percent of a combination of the root system and tree crown within a twelve month period.

"Person" means and includes any individual, partnership, corporation or other private or public entity, except the city of Sacramento.

"Private protected tree" means a tree located on private property or in a utility easement that has a diameter of 12 inches or more measured 4.5 feet above ground level, is in good condition, is free of substantial defects, is in a location that allows long-term preservation, and is not on a list of excluded tree species periodically prepared and maintained by the director.

"Property owner" means the person listed as the owner of the property on the last equalized assessment roll provided that if the director has actual knowledge of a grant deed or other reliable evidence showing that a different person owns legal title to the property, "owner" also may include the different person.

"Public utility" means every pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system, and heat corporation, where the service is performed for or the commodity delivered to the public or any portion thereof.

"Qualified arborist" means a person who is certified as an arborist by the International Society of Arboriculture (ISA) with an active ISA certification number, a person who is a registered consulting arborist with the American Society of Consulting Arborists, or a person who has five or more years of demonstrable professional experience as an arborist and who agrees in writing to perform all work in compliance with ANSI A300 standards.

"Regulated work" means planting a city street tree, or doing any act which could adversely impact the health of a city street tree or private protected tree. "Regulated Work" includes relocating or destroying a city street tree or private protected tree, cutting the branches or roots from the city street tree or private protected tree, grading, clearing, excavating, adding fill soil, trenching, boring, compacting, and dumping chemicals. Regulated work does not include routine maintenance.

"Routine maintenance" means minor pruning, irrigation, fertilizer application, mulch application, mowing or trimming grass or other ground cover close to a tree, application of insecticides or herbicides, or any other similar acts that promote the life, growth, or health of trees.

"Tree permit" means a permit to conduct regulated work on or around a private protected tree or city street tree.

"Tree protection plan" means the plan submitted by the applicant and approved by the city to list the site conditions and treatments to guard city street trees and private protected trees during the construction and landscaping processes.

"Tree protection zone" means the area around a tree set forth in the tree protection plan.

"Utility easement" means a section 16.40.170 utility easement.

"Utility easement tree" means a tree located within a utility easement.

#### **12.56.030 Inspection, maintenance, and removal by city.**

A. The director may inspect, perform regulated work on, or perform routine maintenance on city street trees and utility easement trees.

B. No person shall interfere or cause any other person to interfere with any tree related work performed pursuant to this code by any city employee or any city contractor.

#### **12.56.040 Public projects.**

A. If the city proposes to remove city street trees as part of a public project for the erection, improvement, and remodeling of public buildings and works, the city project manager shall provide written justification to the director of the need to remove city street trees for the public project. If the agreement to perform the work for the public project requires city council approval, the director shall review the written justification and shall make a recommendation to city council to either approve or deny the request to remove the city street trees. The city council shall either approve or deny the request to remove the city street trees at the time the public project is before the city council for approval.

B. The director shall provide written notice of the proposal to remove city street trees as part of a public project by posting a notice of the time, date, and location of the city council meeting on the public project in a conspicuous place in proximity to the trees at least 10 calendar days prior to the city council meeting.

#### **12.56.050 Determination of private protected tree.**

A. Arborist report.

If the director has not issued a tree permit authorizing the destruction or relocation of a private protected tree, prior to destruction or relocation of a tree that has a diameter of 12 inches or more measured 4.5 feet above ground level located on private property or in a utility easement, the property owner shall file an application for determination of private protected tree. The application shall be in writing and shall be filed with the director upon forms provided by the city. The application shall include an arborist report that provides an opinion that the tree is or is not a private protected tree. The application shall be accompanied by an application fee to cover all aspects of administration in an amount established by resolution of the city council.

B. Director's determination.

The director shall review the application and arborist report and shall provide a written determination that the tree is or is not a private protected tree.

**12.56.060 Tree Permits.**

**A. Applications.**

1. Except as provided in section 12.32.020 and section 12.56.080.E, no person shall perform regulated work without a tree permit. Applications for a tree permit shall be in writing and shall be filed with the director upon forms provided by the city. The application shall include a statement detailing the necessity for the proposed regulated work, signature of the applicant, and signature of the property owner if the regulated work is proposed for a private protected tree. The application shall be accompanied by an application fee to cover all aspects of administration in an amount established by resolution of the city council.

2. The director may require that the application be accompanied by:

a. An arborist report;

b. A site map indicating existing and proposed property lines, streets, easements, driveways, buildings and structures, building and structure setbacks, parking areas, existing and proposed land uses, and locations of all trees with identification numbers;

c. An impact assessment;

d. A tree protection plan; and

e. Any other information the director determines to be necessary.

**B. Issuance.**

1. The director may issue tree permits for regulated work on city street trees only if the following conditions are met:

a. The applicant establishes, to the director's satisfaction, that there is need for the proposed work on the city street tree. In making this determination, the director shall consider factors like the need for the regulated work in order to develop property, the probability that the proposed regulated work will destroy or seriously injure the city street tree, the city street tree's health, the desirability of that species, whether the city street tree's condition and size threaten serious damage to property, the condition and number of other trees in the vicinity, whether there are other less onerous means of accomplishing the applicant's goals, and other related criteria.

b. The director may condition any permit issued for regulated work on city street trees as the director determines to be necessary, including requiring the applicant to plant replacement city street trees or to pay to the city compensation for damage to or destruction of the city street trees in an amount established by resolution of the city council.

2. The director shall issue tree permits for regulated work on private protected trees if:

a. In the case of destruction or relocation, (i) that the private protected tree must be destroyed or relocated to use the property for any use permitted as of right or by conditional use permit under the Planning and Development Code for the zoning district in which the property is located and that the use could not be made of the property unless the private protected tree is destroyed or relocated; or (ii) that the condition of the private protected tree with respect to disease, danger of falling or interference with utility services is such that the public health, safety, or welfare requires its destruction;

or (iii) that the private protected tree or its tree roots are causing, or threatening to cause, damage to any main structure on the property and there are no reasonable alternative means to mitigate the damage or threatened damage while minimizing the impact on the tree. Reasonable alternative means of mitigation include, but are not limited to, cutting tree roots, trimming the tree canopy, or installing a root barrier. Removing, relocating, or in any way altering any main structure on the property shall not be considered a reasonable alternative means of mitigation.

b. In the case of other regulated work, that the activity is necessary either to preserve the private protected tree or to engage in construction activity on the property or to reduce a dangerous condition caused by the tree.

3. The director may require replacement as a condition of issuance of a permit to remove a private protected tree as established by resolution of the city council.

4. If the director denies the permit application, the director shall notify the applicant in writing. The applicant may appeal the director's decision to deny the permit application in accordance with the provisions of section 12.56.070. The director shall provide notice of appeal by the applicant of an application for a permit to destroy or relocate a private protected tree by posting a notice in a conspicuous place in proximity to the tree, providing the time, date, and location of the appeal at least 10 calendar days prior to any hearing on the appeal.

5. If the director issues a permit to destroy or relocate a private protected tree, the director shall post notice of the permit issuance for 10 calendar days in a conspicuous place in proximity to the tree. Any person may appeal the decision to issue the permit in accordance with the provisions of section 12.56.070. A permit shall not be effective until expiration of the 10 day notice period or final resolution of all appeals, whichever is later.

6. If the director issues a permit to remove a city street tree, removal work shall include removal of the tree stump and nearby roots to a depth of 18 inches, and filling of the hole with clean topsoil, unless waived by the director. If no replacement tree is required by the director, the permittee shall install lawn, groundcover or paving to match the adjacent area. The permittee shall also repair any damage to the street, curb, or sidewalk caused by the tree's removal.

C. If the application for a tree permit is included with an application for a discretionary permit under title 17, the tree permit shall be processed under the same notice, hearing and appeal provisions applicable to the title 17 discretionary permit.

D. If an application for a tree permit is denied, no tree permit application for the same regulated work shall be filed within one year after the date of final denial of the body having final jurisdiction in the matter.

### **12.56.070 Appeals.**

An applicant aggrieved by the decision of the director under section 12.56.050, any person aggrieved by the decision of the director to issue a permit to destroy or relocate a private protected tree under section 12.56.060, or an applicant aggrieved by the decision of the director to deny an application under section 12.56.060 may appeal the decision to the city council in accordance with chapter 1.24 or appeal the decision in accordance with section 12.56.060.C. The appellant must file a written notice of appeal with the city clerk within 10 calendar days of the director's decision.

**12.56.080 Maintenance responsibility and liability of property owner and public utilities.**

A. The owner of any lot adjacent to a street shall maintain any city street trees or utility easement trees located behind the sidewalk or behind the curb if there is no sidewalk. The property owner owes a duty to members of the public using the streets to maintain the city street trees or utility easement trees in a safe and nonhazardous condition for uses of the streets. The property owner is liable for any damage or injury to persons or property arising from the owner's failure to maintain city street trees or utility easement trees as required by this section.

B. The owner of any lot adjacent to a street or alley, at their own expense, shall keep all trees on that lot, including utility easement trees and city street trees, trimmed in the following manner:

1. The tree provides a clearance of at least 14 feet above any street or alley;
2. The tree provides a clearance of at least eight feet above any sidewalk; and
3. The tree does not obstruct the view of any traffic sign or device for vehicle traffic in the direction controlled by that traffic sign or device.

C. The owner of any lot adjacent to a street shall maintain any unpaved portion of the adjacent public right of way. Maintenance includes keeping the unpaved areas free from weeds or any obstructions contrary to public safety and watering city street trees. All watering requirements shall be waived to the extent inconsistent with government restrictions on water use.

D. The owner of any lot adjacent to a street, at their own expense, is responsible for removal of fallen leaves and other debris from city street trees and utility easement trees.

E. Before any public utility installs or performs maintenance on any overhead wires or underground pipes or conduits that would cause injury to a city street tree or private protected tree, the utility shall obtain permission from the director. Public utilities shall not injure, cut, deface, prune, or scar any city street tree or private protected tree, including its roots, until its plans and procedures are approved by the director.

**12.56.090 Violations.**

A. In addition to any other remedy allowed by law, any person who violates any provision of this chapter is subject to criminal sanctions, civil actions, and administrative penalties under chapter 1.28.

B. Violations of this chapter are a public nuisance.

C. Any person who violates any provision of this chapter is liable for civil penalties of not less than \$250 or more than \$25,000 for each day the violation continues.

D. All remedies prescribed under this chapter are cumulative, and the election of one or more remedies does not bar the city from the pursuit of any other remedy for the purpose of enforcing this chapter.

**12.56.100 Solar Shade Control Act.**

The city is exempt from the provisions of the Solar Shade Control Act, chapter 12 (commencing with section 25980) of division 15 of the California Public Resources Code.

**12.56.110 Liability.**

Nothing in this chapter imposes any liability upon the city, or any of its officers, agents, or employees; nor relieves the owner or occupant of any private property from the duty to keep their private property, sidewalks, and adjacent public street right-of-way planting area in a safe, nonhazardous condition for public use.

**SECTION 5.**

**Chapter 12.60** of the Sacramento City Code is repealed.

**SECTION 6.**

**Chapter 12.64** of the Sacramento City Code is repealed.