

# APPENDIX II. EAST PALO ALTO TREE ORDINANCE TEXT

This appendix captures the text of the three main East Palo Alto Municipal Code sections that regulate trees at the time the Urban Forest Master Plan was completed (April 2022). The current Municipal Code can be found online at [https://library.municode.com/ca/east\\_palo\\_alto/codes/code\\_of\\_ordinances](https://library.municode.com/ca/east_palo_alto/codes/code_of_ordinances).

The three sections reproduced here are:

- Title 12 (Streets, Sidewalks, and Public Places), Chapter 12.16 “Cutting and Trimming Trees on City Streets and Public Places”
- Title 13 (Public Services), Chapter 13.24, Article VII. Section 13.24.410 “Street Trees”
- Title 18 (Development Code), Chapter 18.28 “Landscaping and Trees”

## *CONTENTS*

- Chapter 12.16 - Cutting and Trimming Trees on City Streets and Public Places
- Section 13.24.410 - Street Trees
- Chapter 18.28 - Landscaping and Trees

# Chapter 12.16 - Cutting and Trimming Trees on City Streets and Public Places

## 12.16.010 Definitions.

The following words used in this chapter shall be given the following meanings unless another meaning is apparent from their use in the context:

"Tree" means any fruit, shade, ornamental or other tree of any kind or nature.

"Trim" means the cutting off or removal of any limbs or branches of trees.

(Prior code § 5-11.101)

## 12.16.020 Cutting of trees on public streets or public places prohibited.

It is unlawful for any person to cut down any tree growing or standing on any public street or highway, or other public place, in the city, without first obtaining the written consent and authorization therefor as hereinafter provided.

(Prior code § 5-11.102)

## 12.16.030 Trimming of trees on public streets prohibited.

It is unlawful for any person to trim any tree growing or standing on any public street or highway, or other public place in the city, or any such tree which, though standing or growing on private property and land, has limbs or branches extending over or into a public street or highway, or other public place, without first obtaining the written consent and authorization therefor as hereinafter provided.

(Prior code § 5-11.103)

## 12.16.040 Consent.

Written consent to the cutting or trimming of trees mentioned in Section 12.16.020 or 12.16.030 must be obtained from the owner of the land fronting or abutting on the public street, highway or public place where the tree or trees are growing, or the owner of land on which such tree or trees are growing, the limbs of which extend over or into a public street, highway or place, as the case may be. If such owner refuses to give his written consent to the cutting or trimming, the person desiring to cut or trim may make known that fact to, and thereupon apply for written consent from, the director of public works of the city.

(Prior code § 5-11.104)

### **12.16.050 Consent by director of public works.**

The director of public works shall not give such written consent to the cutting or trimming of trees unless it shall first appear to his satisfaction that the applicant has endeavored in good faith to obtain the consent of the owner as provided in this chapter, and the director shall deem it for the public interest to grant such written consent; provided further, no such written consent shall be given by the director except upon the further condition that any cutting or trimming of such tree or trees shall be done by a competent gardener, skilled in the cutting and trimming of trees and approved by the director as a suitable person to do such work. All of the work shall be done at the sole cost and expense of the person to whom written consent is given, and all of the work shall be done at a time when the least injury possible shall be done to such tree or trees.

(Prior code § 5-11.105)

### **12.16.060 Cuttings must be removed.**

No person who, having obtained the written consent as provided in this chapter, and having thereupon cut down or trimmed any tree, shall permit any portion of the trunk, limbs or branches of such tree to encumber or remain upon any public interest or highway, or other public place.

(Prior code § 5-11.106)

## Section 13.24.410 - Street Trees

The public works department at the current rate of cost may fulfill a parkway tree-planting requirement Street trees are required for every development project. Every street in the city has a designated street tree. One specified minimum gallon size tree must be installed for every thirty-five (35) feet of property frontage. Trees may be clumped or spaced on a maximum of sixty-five (65) feet on center and planted according to these standards. General design criteria and information required for street trees are indicated below:

- A. Trees shall be a minimum fifteen (15) gallon size with the planting of at least one twenty-four (24) inch box tree for every three fifteen (15) gallon trees planted, or one twenty-four (24) inch box tree per thirty-five (35) feet of lineal footage, whichever results in a greater number on on-site planting.
- B. Spacing of trees in on-site planters shall be one tree per five parking spaces.
- C. Palm tree sizes shall be of a minimum of eighteen (18) to twenty (20) feet of brown trunk.

(Ord. 253 § 7.9, 2001)

# Chapter 18.28 - Landscaping and Trees

## 18.28.010 Purpose

- A. Promote the values and benefits of landscapes while recognizing the need to invest water and other resources as efficiently as possible;
- B. Establish a standard for planning, designing, installing, and maintaining and managing water efficient landscapes in new construction and rehabilitated projects;
- C. Establish provisions for water conservation practices and water waste prevention for existing landscapes;
- D. Use water efficiently without waste by establishing regulations to reduce water use to the lowest practical amount;
- E. Preserve trees for the health, safety, and welfare of the community; and
- F. Use trees to preserve scenic beauty, prevent erosion of topsoil, protect against flood hazards, counteract pollutants in the air, maintain climatic balance, and decrease wind velocities.

## 18.28.020 Applicability

- A. The provisions of this chapter apply to the following landscape projects and the removal of trees:
  - 1. All landscape projects identified in Chapter 17.06 of the Municipal Code;
  - 2. All new single-family residential subdivisions; and
  - 3. Any proposed removal of a tree.

## 18.28.030 Landscape Requirements

- A. **General.** All landscape projects for new construction of 500 square feet or more or rehabilitated landscapes of 1,000 square feet or more, shall comply with the provisions of the City's Water Conservation in Landscaping Ordinance, Municipal Code Chapter 17.06.
- B. **New Single-Family Subdivisions.** For all new single-family residential subdivisions there shall be a minimum of one tree for each parcel. If a parcel has frontage on more than one street there shall be a minimum of one tree for each street frontage. Trees shall be placed within the front yard area. This requirement is in addition to the 150 square feet of permanent private open space that is required for each parcel within a single-family subdivision.
- C. **Other Subdivisions and Common Land.** For multiple-family residential subdivisions, non-residential subdivisions, and common land there shall be a minimum ratio of one tree for every 50 feet of street frontage. This requirement is in addition to landscaping required within parking lots.

- D. **Tree Variety and Size.** Trees may be of the hardwood or softwood varieties. Each tree shall be at least one and one-half inches in caliper. Tree species must be appropriate for the site. A maximum of 40 percent of one species may be used to meet planting requirements within each subdivision.

### 18.28.040 Tree Regulations

- A. **Applicability.** Every owner of real property within the City, and every person responsible for removing or damaging a tree, regardless of whether the person is engaged in a tree removal business, is subject to the tree regulations.

B. **Definitions.**

1. **Tree.** "Tree" means a woody perennial plant characterized by having a main stem or trunk, or a multiple-stemmed trunk system, with a more or less definitely formed crown, and usually over 10 feet high at maturity. This definition does not include trees planted, grown, and held for sale by licensed nurseries or the first removal or transplanting of trees as part of the operation of a licensed nursery business.
2. **Protected tree.** "Protected tree" includes all of the following:
  - a. Any tree having a main stem or trunk that measures 24 inches or greater in circumference at a height of 40 inches above grade;
  - b. tree within a public street or public right-of-way, regardless of size;
  - c. Any tree that was required to be preserved as a condition of a development approval granted by the City;
  - d. Any tree required to be planted as a condition of a development approval granted by the City; and
  - e. Any tree required to be planted as a replacement for an unlawfully removed tree.

Protected trees are required to be preserved unless a removal permit is obtained. Any person who conducts grading, excavation, demolition or construction activity on a property is required to do so in a manner which does not threaten the health or viability of the tree, or cause the removal of any protected tree.

3. **Remove.** "Remove" includes any of the following:
    - a. Complete removal, such as cutting to the ground or extraction.
    - b. Taking any action foreseeably leading to the death of a tree or permanent damage to its health, including but not limited to: excessive pruning, cutting, girdling, poisoning, over-watering, under-watering, unauthorized relocation or transportation, or trenching, excavating, altering the grade, or paving within the dripline.
- C. **Tree Protection Plan.** No construction shall occur within the dripline of a tree. A protective fence shall be installed along the dripline of the tree for the duration of construction. Prior to construction or grading commencing, the Planning Division will inspect the property to ensure the fence has been installed.

- D. **Removal of trees without permit.** It is unlawful for any person to destroy, remove, cause to be destroyed, or removed any protected tree upon any private or public property in the City without first obtaining a Tree Removal Permit, unless an exemption applies.
- E. **Exemptions.** Tree Removal Permits shall not be required for any of the following:
1. **Emergencies.** If the condition of a tree presents an immediate hazard to life or property, as defined by ANSI A300, it may be removed without a permit on order of the City Manager, Building Official, or the Director;
  2. **Trees on public property.** Employees of the City may take action with regard to trees on City owned property as may be necessary to maintain safety;
  3. **Public utilities.** Public utilities subject to the jurisdiction of the State Public Utilities Commission may, without a permit, take actions necessary to comply with the safety regulations of the Commission and as may be necessary to maintain safe operation of facilities. Where possible, trees shall be preserved;
  4. **Project approval.** No Tree Removal Permit is required where the removal of trees has been authorized as part of a development approval granted by the City.
- F. **Application and Bond.**
1. **Application.** An application for a Tree Removal Permit shall be made to the Director on the form provided. The application shall contain the number and location of each tree to be removed, the type and approximate size of the tree, the reason for removal, and any additional information required by the Director. The Director may refer the application to another department, or person for a report, and recommendation.
  2. **Tree report.** The applicant shall submit a tree report prepared by a certified arborist. The report shall describe the general specifications (e.g., size, species, etc.) and health condition for the tree(s) requested to be removed. The arborist shall be selected by the applicant from a list of certified arborists maintained by the Department. Any expense associated with the preparation of the tree report shall be the responsibility of the applicant.
  3. **Bond.** A bond or cash deposit shall be placed with the City for the true cost, including staff time, of replacement trees as mitigation for the removal of trees. The bond or cash deposit shall be removed upon proof of replacement of the required trees either through planting or payment of an in lieu impact fee.
  4. **Notification.** The property owner shall be required to notify abutting property owners and tenants, if any, twice. First, upon submittal of the permit, and if approved, a second time at least 48 hours prior to removal. The notification shall be in a written form that demonstrates proof of delivery to abutting owners and tenants.
- G. **Criteria for Removal.** Issuance of a Tree Removal Permit shall be determined on the basis of the following criteria:
1. The tree is dead or infected with a terminal disease;
  2. The tree is structurally unsound and cannot be corrected or the risk cannot be significantly reduced by traditional pruning, cabling, or bracing; or

3. The tree is causing visible damage to property, which cannot be corrected without destroying the tree canopy or root system.
- H. **Criteria Supporting Denial of Authorization to Remove.** Applications for a Tree Removal Permit may be denied for any of the following reasons:
1. The tree is an important asset to the community based on its service as part of a windbreak system, its assistance in stormwater drainage, the avoidance of soil erosion, mitigation of urban heat island effect, its service as a component of wildlife habitat, its role in maintaining the existing urban forest, or its contribution to reducing reflective glare from buildings and pavement;
  2. The tree contributes substantially to the aesthetic beauty of an area and its removal would adversely affect the appearance of the area. The tree's potential, or lack thereof, for a long life and for a substantial increase over time of its contribution to the City's urban forest shall be taken into consideration in making this determination; or
  3. The tree is a member of a group of trees mutually dependent on each other for survival, structural integrity, or aesthetics.
- I. **Replacement of Trees or In Lieu Fee.** If a tree is allowed to be removed, the applicant shall be required to either plant replacement tree(s) of an equivalent value or pay an in lieu fee. Replacement tree(s) planted on-site are a priority. More than one replacement tree may be required to accomplish the goal of replacing the lost canopy. If replacement cannot be fully accomplished on-site, staff may authorize in-lieu fees. The value of the removed tree(s) shall be calculated in compliance with the latest edition of the Guide for Establishing Values of Trees and Other Plants, as prepared by the Council of Tree and Landscape Appraisers.
- J. **Appeal Procedures.** An appeal of the decision of the Director regarding a Tree Removal Permit shall be processed in compliance with the standard appeal procedures.
- K. **No Liability Upon City.** No liability shall be imposed upon the City or upon any of its officers or employees for damages related to an unsafe tree to relieve the owner or occupant of any private property from the duty to keep in safe condition any trees upon the property or adjacent to or overhanging the public right-of-way.
- L. **Violations and Penalties.** The violation of a provision contained in this section is declared to be unlawful and shall constitute an infraction and a public nuisance, subject to enforcement as determined by the City. In addition, a person who intentionally removes or destroys a protected tree without approval of a Tree Removal Permit, or negligently causes the removal or destruction of a protected tree, shall be subject to:
1. Replacing on-site each unlawfully removed tree with three new trees or a greater number of new trees as the Director may determine to be necessary to ensure the replacement of the lost canopy and to provide an aesthetic quality reasonably equivalent to the unlawfully removed tree within 10 to 15 years. The size, species, and condition of the replacement trees shall be subject to approval by the Director. All replacement trees shall be maintained by the property owner under a five-year maintenance agreement with the City.

2. Where the Director determines that on-site replacement trees will not provide sufficient reasonably equivalent canopy cover and aesthetic quality, the Director shall determine the cost of the mitigation needed to remedy the effects of the removal based upon the value of the unlawfully removed tree(s) in compliance with the latest edition of the Guide for Establishing Values of Trees and Other Plants, as prepared by the Council of Tree and Landscape Appraisers, and the cost of planting replacement trees elsewhere. The established value of the tree(s) shall be the civil penalty for violation of this section in addition to the penalty prescribed by law for the commission of an infraction offense.
3. A violation of any provision by a person of a tree removal, landscaping, construction, or other business in the City shall constitute grounds for revocation of the Business License issued to the person or business.