

ORDINANCE NO. 2922

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE AMENDING
CHAPTER 11.32 OF TITLE 11 OF THE GARDEN GROVE MUNICIPAL CODE
PERTAINING TO TREES ON PUBLIC PLACES

City Attorney Summary

This Ordinance amends Chapter 11.32 (Trees) of Title 11 (Public Property) of the Garden Grove Municipal Code to help preserve, protect and promote the health, safety and general welfare of the public by providing for the regulation of trees located on public places.

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Chapter 11.32 (Trees) of Title 11 (Public Property) of the Garden Grove Municipal Code is hereby amended in its entirety as stated in the revised Chapter 11.32 attached hereto and incorporated herein by reference.

SECTION 2: If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

SECTION 3: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.

The foregoing Ordinance was passed by the City Council of the City of Garden Grove on the 25th day of May 2021.

/s/ STEVE JONES
MAYOR

ATTEST:

/s/ TERESA POMEROY, CMC
CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS:
CITY OF GARDEN GROVE)

I, TERESA POMEROY, City Clerk of the City of Garden Grove, do hereby certify that the foregoing Ordinance was introduced for first reading and passed to second reading on May 11, 2021, with a vote as follows:

AYES: COUNCIL MEMBERS: (7) BRIETIGAM, O'NEILL, NGUYEN D., BUI,
KLOPFENSTEIN, NGUYEN K., JONES
NOES: COUNCIL MEMBERS: (0) NONE
ABSENT: COUNCIL MEMBERS: (0) NONE

and was passed on May 25, 2021, by the following vote:

AYES: COUNCIL MEMBERS: (6) BRIETIGAM, O'NEILL, NGUYEN D.,
KLOPFENSTEIN, NGUYEN K., JONES
NOES: COUNCIL MEMBERS: (0) NONE
ABSENT: COUNCIL MEMBERS: (1) BUI

/s/ TERESA POMEROY, CMC
CITY CLERK

CHAPTER 11.32 (TREES) OF TITLE 11 (PUBLIC PROPERTY) OF THE
GARDEN GROVE MUNICIPAL CODE ATTACHED ON FOLLOWING PAGES

Chapter 11.32 TREES

11.32.010 Purpose and Intent

- A. It is the purpose of this chapter to preserve, protect and promote the health, safety and general welfare of the public by providing for the regulation of trees located on thoroughfares, parks and public areas owned or controlled by the City. These regulations also apply to new developments and alterations to previous developments on private property.
- B. It is the intent of this chapter to:
1. Preserve, maintain, and care for trees on public property.
 2. Regulate the planting, maintenance and removal of trees.
 3. Establish tree planting standards to ensure that newly planted trees thrive.
 4. Protect the community from personal injury and property damage caused or threatened by improper planting, pruning, maintenance or removal of trees.
 5. Emphasize the importance of trees and vegetation as both visual and physical buffers.
 6. Improve air quality by reducing air pollution and carbon dioxide levels in the atmosphere.
 7. Reduce the effects of heat, noise, and glare from traffic and lights.
 8. Provide and preserve shade and tree canopy to reduce ambient temperatures and heat island effects.
 9. Prevent soil erosion.

11.32.020 Definitions

Words and phrases used in this chapter that are not specifically defined in this section shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Adjacent property owners" means the owners of property directly adjacent to the parcel on which the subject tree is located. If the tree is located on City-owned property or right-of-way owned in fee, the "adjacent property owners" include the owners of propert(ies) within ten (10) feet of the tree and the parcels adjacent thereto.

"Arborist" an individual who is a specialist in the care and maintenance of trees and is certified by the International Society of Arboriculture (ISA) or is a registered consulting arborist certified by the American Society of Consulting Arborists (ASCA) in good standing.

"City Manager" means the City Manager of the City or his/her designee.

"Park" includes all existing public parks and those to be developed in the future.

"Park Tree" includes all trees, shrubs and other woody vegetation growing in existing public parks and those to be developed in the future.

"Public places" includes all other areas owned by the City or to which the public has free access.

"Public thoroughfare" includes all land lying between property lines on either side of all City streets, alleys, and boulevards.

"Root protection zone" means, generally, 18 inches (18") to 24 inches (24") deep and a distance from the trunk of a tree equal to one-half its height or its drip line, whichever is greater.

11.32.020 City Jurisdiction and Authority

- A. The City Manager shall have the jurisdiction, authority, control, supervision and direction over all trees planted or growing in the City, except where exempted in this chapter.
- B. The City Manager shall prepare and publish guidelines and specifications for tree planting, tree species selection, care, maintenance, removal and landscape design in a document entitled "Tree Ordinance Guidelines" for reference and use by property owners, developers, consultants and the general public in furtherance of the requirements and intent of this chapter. The Tree Ordinance Guidelines shall be reviewed periodically by the Planning Commission.
- C. The City Manager shall review all applications for permits for any planting, removal and/or trimming or cutting of trees subject to this chapter and shall have the authority to grant or deny permits and to attach reasonable conditions to the granting of a permit.

11.32.030 Nuisance Abatement

- A. A tree, shrub, or part thereof shall be declared a nuisance, if one or more of the following conditions are met:
1. Interferes with the use of any public thoroughfare, park or public place.
 2. Is unsafe and constitutes a hazard to the life, health, safety, or property of the public.
 3. Constitutes a center of infection for disease or insects that may endanger the health and life of other trees or shrubs.
- B. In the event of a nuisance, the owner shall be notified in writing of the existence of such public nuisance and given reasonable time for its correction or removal. If not corrected or removed within the time allowed, the City Manager shall cause said nuisance to be corrected or removed, and initiate such procedures or court action as necessary to defray all cost resulting therefrom.

11.32.040 Protection for Trees on Public Property

- A. No person shall spray, fertilize, remove, destroy, cut, top, or otherwise severely prune, including the root system, or treat any tree or shrub having all or any portion of its trunk in or upon any public property without first obtaining a written permit from the City, and without complying strictly with the provisions of the permit, this chapter, and the "Tree Ordinance Guidelines."
- B. No person shall plant any tree or shrub on any public street right-of-way or public property without first obtaining a permit from the City and without complying strictly with the provisions of the permit, the provisions of this chapter and the "Tree Ordinance Guidelines."
- C. No person shall damage, cut, or carve any tree or shrub having all or any portion of its trunk in or upon any public property; attach any object, including, but not limited to, rope, wire, nail, chain or sign to any such tree or shrub, or to the guard or stake intended for the protection of such tree.
- D. No person shall place, store, deposit, or maintain, upon the ground in any public street or public place, any compacted stone, cement, brick, sand or other materials which may impede or obstruct the free passage of air, water and fertilizer to the roots of any tree or shrub growing in any such street or public place without written authorization from the City.
- E. No person shall change the natural drainage; excavate any ditches, tunnels, or trenches; or lay any drive within the root protection zone of any tree

having all or any portion of its trunk in or upon any public property without obtaining a permit from the City and without strictly complying with the provisions of the permit and provisions of this Chapter.

- F. No person shall perform, or contract with another to perform, excavation or construction work within the drip line of any tree having all or any portion of its trunk in or upon any public property without first obtaining a permit in accordance with this chapter.
- G. No person shall place salt, oil, or any other substance injurious to plant growth upon any public thoroughfare, park, or public place in such manner as to injure any tree or shrub growing thereon.
- H. No person shall build any fire or station any engine in any public place in such a manner that the heat, vapors, or fumes therefrom may injure the trees or shrubs growing thereon.
- I. No person shall permit any leak to exist in any gas pipe or main within the root zone of any tree or shrub.
- J. No person shall allow or continue to pollute the air surrounding any tree or shrub with toxic smoke, gases, or other injurious chemicals that may be harmful to the health or life of such tree or shrub.
- K. Liability for damages or injuries to any tree or shrub having all or any portion of its trunk in or upon public property resulting from a violation of this chapter shall be determined by the City in accordance with section 11-32-160. The person performing the work, the property owner and the person contracting for the performance of the work shall be jointly and severally liable for any penalties or other enforcement action imposed pursuant to this chapter, or other provisions of law on account of work performed in violation of this chapter. However, no claims shall be made more than five (5) years after damage can be proven to have occurred.
- L. Any tree service performing tree pruning or removal activities on public property must have an arborist or authorized City employee, as defined in this chapter, present onsite to perform or oversee the work.

11.32.050 Permit Application and Issuance

- A. No permit shall be issued under this chapter until the application is submitted and the appropriate fee is paid, not less than two (2) weeks in advance of the time the work is to be done, unless otherwise permitted by the City Manager to abate an immediate hazard.
- B. The City Manager shall issue the appropriate permit as provided for herein if, in his or her judgment, the proposed work adheres to specifications contained in this chapter and in the Tree Ordinance Guidelines.

- C. The person receiving the permit shall abide by all conditions stated on the permit and by the standards established in the Tree Ordinance Guidelines.
- D. Any Tree Permit granted shall contain a definite date of expiration. The work shall be completed in the time allowed on the permit, and only in the manner as therein described.
- E. Notice of completion shall be given within five (5) days to the City Manager for inspection.
- F. Where a Tree Permit for removal has been denied, the property owner may appeal the decision to the City Manager within ten (10) days of the denial. The appeal may be heard by an official or designee not involved in the denial of the permit. The decision of the official or designee shall be final.

11.32.060 Resident Petition for Street Tree Removal and Replacement

A petition may be presented by citizen action in a given area for the removal and replacement of existing City trees, if in the opinion of the petitioners, the trees are undesirable. The following conditions must be met:

- 1. The petition must be signed by the adjacent property owners in accordance with the following percentage schedule based upon the number of trees involved:
 - a. 0 to 15 Trees 75%
 - b. 16 to 25 Trees 80%
 - c. 26 trees and over 85%
- 2. All costs for removal and mitigation will be borne by the petitioner. Mitigation may include replacement with an approved species, or payment of fees as established by resolution of the City Council.
- 3. The work is to be performed by contract, under City specifications and administered by the City. The cost will be determined by the City Manager, and would be placed on deposit with the City prior to removal being initiated.
- 4. It will be the responsibility of the petitioners to collect and deposit the necessary funds with the City to cover the cost of the project.
- 5. In that granting requests initiated by petitions is discretionary, each petition request will be considered individually, and will be determined on the merits of the individual request.

11.32.070 Construction and Utility Projects

The City Manager shall review and approve all plans and City permits for construction, installation, altering, moving, or razing of all buildings, utilities,

sidewalks, sewers, or other operations where trees or shrubs, or parts thereof are involved. Plans and permits shall include a tree protection plan that includes the following:

1. Location, species, size, height, canopy, condition of trees, and irrigation infrastructure within the work area.
2. Identification/location of root protection zone for each tree greater than ten (10) feet diameter four and one-half (4 ½) feet above the average ground level.
3. Identification of trees to be preserved.
4. Identification, description and location of tree protection measures (e.g. fencing, trunk protection, mulch blanket, root barrier, etc.).

11.32.080 Protecting Trees or Shrubs Prior to Construction or Repair

- A. All tree protection measures on an approved plan and/or permit shall be in place and installed to the satisfaction of the City Manager, prior to the commencement of any construction activities, including but not limited to: erecting, altering, repairing, demolishing, trenching, digging, or grading.
- B. All building materials, equipment, dirt or other debris shall be kept outside the root protection zone. Tree protection measures shall not be removed unless or until the City Manager authorizes it to be removed.

11.32.090 Protection from Electrical Wiring

No person shall permit any wire designed to carry electric current to come in contact with any tree or shrub unless protected by methods approved by the City Manager. Further, any person having or maintaining such electric service shall maintain them in such a manner safeguarding the trees and shrubs and shall make periodic adjustments whenever necessary to prevent damage to the trees and shrubs.

11.32.100 Moving Building or Object—Tree Repair, Removal or Replacement Responsibility

When the moving of any building or object along a public highway will injure, threaten, or necessitate the removal of any tree or shrub on public property, the owner or contractor shall apply for a permit, and if approved shall assume full responsibility for such removal, replacement, repair, or alteration of such trees or shrubs.

11.32.110 Protection Responsibility in Public Places

It shall be the duty of the person maintaining services or structures in a public highway, park, or public place to assume responsibility for the protection of such facilities during the progress of tree operations deemed necessary by the City Manager provided prior notice has been given said person of the existence of such tree operations.

11.32.120 Compliance with Regulations

Full compliance with all regulations of the City shall be required in reference to this chapter.

11.32.130 Enforcement

- A. It shall be the responsibility of the City Manager to see that all the provisions of this chapter are obeyed, and all complaints as to the violation of this chapter shall be presented in writing, and prosecution for all violations of this chapter shall be instituted by and shall be prosecuted in the name of the City.
- B. The City Manager may assign an inspector to supervise the provisions of all permits herein involved, and the cost of such service shall be charged to the person involved.

11.32.140 Correction Responsibility

Any person violating any of the provisions of this chapter shall assume full responsibility for the removal, replacement, repair, or alteration of such trees and shrubs according to the specifications deemed necessary by the City Manager.

11.32.150 Interference with Authority

No person shall hinder, prevent, or interfere with the agents or employees of the City while engaged in carrying out the provisions of this chapter.

11.32.160 Penalties

- A. Generally. Any person who violates any of the provisions of this chapter, or rules or orders adopted or issued pursuant to this chapter, shall be subject to any one, all, or a combination of the civil penalties prescribed by this section. Penalties assessed under this chapter are in addition to and not in lieu of compliance with the requirements of this chapter. The person performing the work, the property owner and the person contracting for the performance shall be jointly and severally liable for any penalty or other enforcement action imposed pursuant to this chapter or other provisions of law on account of work performed in violation of this chapter.

- B. Civil penalties. Civil penalties for violations of this Chapter shall be assessed pursuant to the following:
1. Failure to plant original or replacement trees in accordance with this chapter shall be subject to a fine of \$50.00 for each tree not planted. No civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation and given an opportunity within a reasonable time to correct the violation. If the site is not brought into compliance within the time specified in the notice of violation, a civil penalty may be assessed from the date the notice of violation is received. The failure to plant each individual tree shall constitute a separate, daily and continuing violation.
 2. Injury or damage to, or destruction of, trees and shrubs protected by sections 11.32.070 and 11.32.080 that result in the total loss of the tree or shrub shall be assessed in accordance with generally accepted industry evaluation methods for the loss of the trees and shrubs. However, the maximum civil penalty for each tree injured, damaged or destroyed shall not exceed \$20,000.00. No notice of violation is necessary prior to the assessment of a civil penalty issued pursuant to this subsection.
 3. Injury or damage to, or destruction of, trees and shrubs protected by sections 11.32.070 and 11.32.080 that do not result in the total loss of the trees shall be assessed for each tree or shrub in accordance with generally accepted industry evaluation methods. However, the maximum amount of the penalty shall not exceed \$1,000.00. No notice of violation is necessary prior to the assessment of a civil penalty issued pursuant to this subsection.
 4. Failure to install or maintain required tree protection measures in accordance with 11.32.070 and 11.32.080 shall be subject to \$1,000.00 fine. No civil penalty shall be assessed until the person has been notified of the violation and given an opportunity within a reasonable time to correct the violation. If the site is not brought into compliance within the time specified in the notice of violation, a civil penalty may be assessed from the date the notice of violation is received. The failure to install the required tree protection measures shall constitute a separate, daily and continuing violation. Injury or damage to, or destruction of, trees in the tree protection zone and tree save area resulting from inadequate or omitted tree protection measures constitutes a separate violation which may subject the violator to any other applicable penalty set forth in this section.
 5. Any other action that constitutes a violation of this chapter may subject the violator to a civil penalty of \$50.00, and each day of continuing violation shall constitute a separate violation. However, the maximum amount of the penalty shall not exceed \$1,000.00.

- C. Nonmonetary penalty. A nonmonetary penalty, in the form of increased or additional planting requirements, may be assessed in addition to or in lieu of any monetary penalties prescribed under this section.

11.32.170 City Council Review

Where practical difficulties or unnecessary hardships inconsistent with the purposes of this part result from its literal interpretation or enforcement, the City Council may waive, modify, or delay the enforcement of these provisions upon written request of the developer or the property owner, which request shall be in writing and filed with the City Clerk and shall contain any and all facts that are offered in support of said request.