

**CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT**

TO: Planning Commission

THROUGH: Richard Thompson, Director of Community Development

FROM: Laurie B. Jester, Planning Manager

DATE: January 28, 2009

SUBJECT: City Council 2008-2009 Work Plan item: Zoning Code Amendment to the Tree Preservation regulations (Section 10.52.120 of the Zoning Code) and related Code sections, to revise the tree preservation regulations, to provide more flexibility and to require a Tree Trimmers Permit.

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT** the **PUBLIC HEARING, DISCUSS,** and **ADOPT DRAFT RESOLUTION PC 09-02** for revisions to the Zoning Code related to the Tree Preservation Ordinance.

BACKGROUND

The City's Tree Preservation Ordinance was originally adopted in 1993 and at that time, the Ordinance applied only to the Tree Section. The Ordinance protected most private property trees with a 12" or greater trunk diameter located in the front yard. At that time the Ordinance was implemented more as a "removal and replacement" regulation rather than a "preservation" regulation.

In 2003, the Ordinance was expanded to apply to all of the residential zones in Area Districts I and II; the Beach Area is not covered by the Tree Ordinance. With the expansion of the Tree Ordinance, planning staff began implementing the regulation as a "preservation" regulation, not a "removal and replacement" regulation as previously implemented. At a joint City Council and Planning Commission meeting the City Council confirmed that the Ordinance was intended to preserve trees, and that Staff should continue to enforce the Ordinance accordingly.

In July 2005, the City Council adopted the 2005-2007 Work Plan which included a status report on the Tree Preservation regulations, and the Council provided direction on revisions to the regulations. In March 2006 the City Council adopted Ordinance No. 2082 amending the Tree Preservation regulations to protect streetside trees on corner lots, require new trees on lots that have no trees, increase the size of replacement trees, and require tree pruning standards. Additionally, new fees and fines for violations of the Tree Ordinance were adopted with the fines going to the newly established Tree Canopy Restoration Fund. City Council also directed staff to work with a group of interested residents to form a Tree Committee.

In April 2006 the City Council approved the formation of the Tree Committee as well as established the purpose of the Committee to work with City staff to focus on educating the public on the Tree Preservation Ordinance and to promote the protection and enhancement of the Manhattan Beach tree canopy.

In September 2007 the City Council held a special study session to discuss the Tree Ordinance, and then at that meeting requested that staff return with a status report as a regular agenda item. In December 2007 the Council reviewed the status report, provided direction to staff to utilize the City arborist more, and approved increased fines for tree ordinance violations. The Council also accepted a presentation from the Tree Committee, acknowledging their efforts and refined their role, directing them to focus on developing a number of outreach and educational items. One of the items that Council directed staff to work with the Committee on was a Tree Trimmers Permit.

In June 2008 the City Council adopted the 2008-2009 Work Plan. One of the Work Plan items under the category of “Other Environmental Initiatives” was to provide a status report on the Tree Ordinance as follows:

“Staff will present a status report on implementing the City’s tree ordinance to the City Council, as well as feedback from it’s meetings with the Palo Alto Tree Specialist and the Canopy Committee held in May. City Council will provide direction for any changes to the ordinance, its implementation, or public outreach that may be necessary.”

In October 2008, the Council approved a reduced fee of \$100 for a Tree Permit for the removal and replacement of dead or dying trees. On November 18, 2008 staff presented a status report to the City Council in accordance with the Work Plan. The Council directed the Tree Committee to focus their efforts on public education, and they directed staff to proceed with Code Amendments to provide flexibility in the regulations and a no cost Tree Trimmers Permit and license.

DISCUSSION

At the November 2008 City Council meeting, the Council heard from various members of the public, including the Tree Committee, that the existing Tree Preservation Ordinance is too restrictive. They felt that it does not allow enough flexibility for removal and replacement of trees. Although there were strong opinions on both sides of the issue, the general consensus was that the original 1993 ordinance was too lax, and the 2003 revisions are too restrictive, and a more “middle of the road” approach would better suit the desires of the community. Based on those discussions the Council formed a subcommittee that met with staff to discuss revisions to the Tree Ordinance.

The subcommittee felt that it was important to provide some flexibility in the regulations to allow the removal and replacement of trees in marginal health, trees that will be impacted by development, and trees that significantly damage private property, creating a liability and safety

concern. The subcommittee also directed staff to address the State Solar Shade Control Act requirements in the Tree Ordinance.

The Council subcommittee also discussed developing guidelines for tree canopy management. (Attachments F, G and H). They suggested that guidelines should be a future work effect, that it was important to go forward with the initial revisions as soon as possible and not have the guidelines delay the other revisions. Staff received one e-mail that addresses this issue, included at Attachment D. The Council subcommittee then reported back to the Council on January 6, 2009, and the Council directed staff to proceed with the revisions to the Planning Commission. This item is before the Commission tonight based on that direction from the City Council.

Tree Trimmers License

The Community Development and Finance Departments, and City Attorneys office have worked with the Tree Committee to develop a Tree Trimmers Permit Application. Currently all gardeners and landscapers in the City require a City business license. Currently there are about 300 total licensed landscapers and gardeners in town. If they also trim protected trees they will be required to also obtain a Tree Trimmers Permit. The Permit will be valid for one year, the same as the business license. The Permit has criteria that they must meet, such as requiring that the tree trimmers acknowledge that they will meet ANSI A300 pruning standards as already specified in the Tree Preservation ordinance, and that a notice will be posted near the protected trees to be trimmed. The City will provide the Tree Trimmer with a supply of large notices with the Trimmers permit information and the Tree Trimmer will be required to complete information on the job address and dates of pruning and post the notice on each job site.

Homeowners that prune their own trees do not need a permit, however they must comply with the ANSI pruning standards. Tree Trimmers and homeowners will also be informed that there are fines for violations of the ordinance. A list of permitted Tree Trimmers will be available from the Finance and Community Development Departments and posted on the City website. Links to the International Society of Arboriculture (ISA) website with the ANSI Pruning Standards are available on the City website.

Attachment B is a copy of the draft Tree Trimmers Permit, and Attachment C is a reduced size of the draft Tree Trimmers Permit sign that will be posted on the site where the tree is being pruned. The Council previously reviewed and approved these in concept. The Council also directed that no fee be charged for the Tree Trimmers Permit.

Tree Ordinance flexibility

The following is a summary of the revisions to the Tree Ordinance as discussed in concept with the Council Subcommittee. The proposed revisions will allow more flexibility in the removal and replacement of trees.

Purpose

The purpose section is proposed to be revised to emphasize that healthy trees should be protected, allow flexibility for removal of trees that may be inappropriate or causing damage, and balancing the preservation of healthy trees with the reasonable enjoyment of private property.

Criteria

A new section is proposed to be added to the Code to establish the criteria for the removal and replacement of trees. The criteria includes the current standards that staff uses: if the tree is dead, dying, a health or safety hazard, structurally unstable, or construction will cause significant unavoidable damage to the tree, staff will approve removal. Generally the applicant will submit an arborist report and the City arborist will also review the request to remove the tree and make a recommendation before staff makes a decision. Currently there needs to be a compelling health or safety reason in order for staff to approve removal and replacement of a protected tree. Cracked driveways, walkways, or walls or clogged sewers have not been compelling reasons to approve tree removal.

Additional criteria is also proposed to be added to allow more flexibility. First if the tree is in marginal condition and reasonable alternatives are not available to preserve the tree, staff feels it is appropriate to remove and replace a tree. Construction is very stressful for existing trees, even when they are protected on a job site. Sites are very small, leaving limited room for tree protection, access to the site and on-site storage of construction materials and debris. Roots are compacted, watering is limited and construction equipment can damage trees. Abandoned cesspools are required to be dug up, and underground utility trenching can damage tree roots. If a tree is in marginal condition at the beginning of a construction job it is not likely to survive and thrive through a year or more of construction. On sites where there is no construction sometimes it is in the best interest of the entire landscaping to remove a tree in marginal health and replace it with a younger, stronger, healthier tree that is more appropriate for the location.

If a tree is significantly damaging public property, cracking a sidewalk, curb or gutter, or damaging a utility meter, which creates a public liability, health or safety concern, and it can not be reasonably repaired or maintained, staff will approve removal. The Council requested that staff include similar criteria for damage to private property to the regulations. This will allow trees that are significantly damaging driveways, walkways, walls or other above ground structures, to be removed if there is a liability, health or safety concern, and the situation can not be reasonably be repaired, maintained, or corrected. The applicant would generally be required in these situations to submit support documentation to substantiate the request. Generally damage to underground structures and utilities, such as sewers, and water pipes would not be sufficient justification to approve removal and replacement of a protected tree.

State laws in California protect homeowner's access to the sun for solar systems. The Public Resources Code Section 25980-25986, the Solar Shade Control Act, (Attachment E) allows the pruning and removal of trees in certain situations, if trees are shading more than 10% of the solar panel between 10:00 am and 2:00 pm. There are a number of exemptions for tree that were planted prior to the installation of the solar panels and their replacement trees if those trees die, as well as trees that are protected under City ordinances. Due to these exceptions it is unlikely that trees will be removed in accordance with the State Solar requirements, however staff felt it was important to add this reference.

Third party arborist

Usually, when a tree permit is submitted the applicant is also required to submit a report from an ISA certified arborist or other horticultural professional, and/or historical or other support documentation to justify the removal and replacement of the tree. The City arborist and City staff reviews the information and make a determination if the request meets the established criteria. Occasionally the applicants arborist and the City arborist will disagree. In these cases the application is brought before the Planning Commission. As an alternative staff would like to have the option of contracting with a third party ISA certified arborist, agreed to by the applicant and the City, to mediate the situation. The cost of this third party arborist would be shared between the applicant and the City. City staff would make the determination if this is the appropriate approach and whether or not the application would then be forwarded to the Planning Commission, and ultimately the City Council.

Appeals

Staff is adding a new Appeals section that references the current Code Section, Chapter 10.100. This Chapter indicates that decisions of the Director of Community Development are appealable to the Planning Commission , and Planning Commission decisions are appealable to the City Council. If none of the criteria for removal can be met and the applicant desires to remove the tree, the applicant may appeal the Directors denial of the permit. When reviewing the request one of the options that the Planning Commission could consider it to have an determination made on the appraised value of the tree. If the Commission or City Council feels it is appropriate to remove the tree an option would be to have the applicant pay the City the full appraised value of the tree, minus the cost of replacement trees. The funds paid by the applicant could then be placed in the City Tree Canopy Restoration Fund to be used by the City for tree planting, education and other tree related projects. These are options that could be reviewed during an appeal.

CONCLUSION:

Staff requests that the Commission conduct the public hearing, review and adopt the attached draft Resolution recommending to the City Council approval of the proposed amendments to the Tree Ordinance.

Attachments:

- A. Draft Resolution No. PC 09-02
- B. Tree trimmers Permit
- C. Tree Trimmers sign
- D. E-mail from Gary Osterhout- January 17, 2009
- E. State of California Solar Shade Control Act- Public Resources Code 25980-25986
- F. Guidelines for Developing and Evaluating Tree Ordinances- (document not attached- link to document on International Society of Arboriculture website - <http://www.isa-arbor.com/publications/tree-ord/resources/treeord.pdf>)

- G. Tree Guidelines for Coastal Southern California Communities- (document not attached-link to document on website- Local Government Commission- http://www.fs.fed.us/psw/programs/cufr/products/2/cufr_48.pdf)
- H. Protecting and Developing the Urban Tree Canopy- The United States Conference of Mayors- (document not attached-link to document on website- <http://www.urbanforestrysouth.org/resources/library/protecting-and-developing-the-urban-tree-canopy-a-135-city-survey>)

H:\Work Plan 2008-2009\Tree Ordinance-\PC Report 1-28-09- tree trimmers and flexibility.doc

DRAFT RESOLUTION NO. PC 09-02

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH RECOMMENDING APPROVAL OF AMENDMENTS TO THE CITY ZONING CODE (SECTION 10.52.120) TO REVISE THE TREE PRESERVATION REGULATIONS

THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission of the City of Manhattan Beach hereby makes the following findings:

- A. The City's Tree Preservation Ordinance was originally adopted August 19, 1993 (Ordinance No. 1884), and is included as Section 10.52.120 of the Zoning Code, and the Ordinance originally applied only to the Tree Section, generally bounded by Rosecrans Avenue, Blanche Road, Valley Drive and Sepulveda Boulevard.
- B. On May 6, 2003, the Ordinance was expanded (Ordinance No. 2045) to apply to all of the residential zones in Area Districts I and II; the Beach Area is not covered by the Tree Ordinance.
- C. On June 24, 2005, the City Council held a special session and developed the 2005-2007 Work Plan, which included an item to study possible revisions to the Tree Ordinance.
- D. On July 5, 2005, the City Council amended and formally adopted the 2005-2007 Work Plan.
- E. On July 26, 2005 the City Council and Planning Commission held a joint Work Plan meeting, and provided direction to revise the Tree Ordinance as one of the top priorities for the Community Development Department.
- F. On March 21, 2006 the City Council adopted Ordinance No. 2082 amending the Tree Preservation regulations to protect streetside trees on corner lots, require new trees on lots that have no trees, increase the size of replacement trees, and require tree pruning standards. Additionally, new fees and fines for violations of the Tree Ordinance were adopted with the fines going to the newly established Tree Canopy Restoration Fund, and the concept of a residents' Tree Committee was approved. The Tree Committee was formally approved April 18, 2009.
- G. On September 18, 2007 the City Council held a special study session to discuss the Tree Ordinance, and requested that staff return with a status report.
- H. On December 4, 2007 the Council reviewed a status report, provided direction to staff to utilize the City arborist more, and adopted Resolution No. 6117 increasing fines for tree ordinance violations. The Tree Committee made a presentation, and the Council directed them to focus on developing a number of outreach and educational items, including a Tree Trimmers Permit.

- I. On June 17, 2008 the City Council adopted the 2008-2009 Work Plan, which includes providing a status report on the Tree Ordinance.
- J. On October 21, 2008, the Council adopted Resolution No. 6163 approving a reduced fee of \$100 for a Tree Permit for the removal and replacement of dead or dying trees.
- K. On November 18, 2008 staff presented a status report to the City Council in accordance with the 2008-2009 Work Plan. The Tree Committee was directed to focus their efforts on public education, and staff to proceed with Code Amendments to provide flexibility in the Tree Preservation regulations and provide a no cost Tree Trimmers Permit and license.
- L. Pursuant to applicable law, the Planning Commission of the City of Manhattan Beach conducted a public hearing on January 28, 2009, on the proposed Code Amendments related to revisions to the Tree Preservation regulation.
- M. The public hearing was advertised pursuant to applicable law, testimony was invited and received. Public noticing included an ad published on January 8, 2009 in a newspaper of general circulation (Beach Reporter).
- N. The applicant for the subject project is the City of Manhattan Beach.
- O. Pursuant to the California Environmental Quality Act (CEQA) and the Manhattan Beach CEQA Guidelines, the subject Amendments are exempt in that they are covered by the general rule that CEQA [Section 15061 (3)] only applies to projects which have the potential for causing a significant effect on the environment, and since it can be seen with certainty that there is no possibility that the activity will have a significant effect on the environment, the activity is not subject to CEQA.
- P. The proposed amendments have been prepared in accordance with the provisions of Title 7, Division 1, Chapter 4, Section No. 65853, et seq., of the State of California Government Code.
- Q. The Planning Commission finds that the project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- R. The Planning Commission made the following findings with regard to the proposed changes:

- 1. The proposed amendments are consistent with the City of Manhattan Beach General Plan.

Goal LU-2: Encourage the provision and retention of private landscaped open space.

Policy LU-2.3: Protect existing mature trees throughout the City, and encourage their replacement with specimen trees whenever they are lost or removed.

Goal LU-3: Achieve a strong, positive community aesthetic.

Goal CR-4: Preserve the existing landscape resources in the City, and encourage the provision of additional landscaping.

Policy CR-4.1: Protect existing mature trees throughout the City and encourage their replacement with specimen trees whenever they are lost or removed.

Policy CR-4.3: Recognize that landscaping, and particularly trees, provide valuable protection against air pollution, noise, soil erosion, excessive heat, and water runoff, and that they promote a healthy environment.

Policy CR-4.4: Review the tree ordinance to consider its application citywide and to determine the need to strengthen tree preservation criteria.

Policy CR-4.5: Discourage the reduction of landscaped open space and especially the removal of trees from public and private land.

SECTION 2. NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Manhattan Beach hereby recommends **APPROVAL** of the proposed amendments to the Manhattan Beach Municipal Code (Section 10.52.120-Tree preservation and restoration in residential zones, Area Districts I and II) as follows:

SECTION 3. The Planning Commission of the City of Manhattan Beach hereby recommends modifying Section 10.52.120 (Tree Preservation and Restoration in Residential Zones Area Districts I and II) of the Manhattan Beach Municipal Code by amending Section 10.52.120 A. (Purpose) as follows:

A. **Purpose.** Tree preservation is necessary for the health and welfare of the citizens of the City of Manhattan Beach in order to provide cooling shade and beauty, increase property values, minimize spread of disease to healthy trees, conserve scenic beauty, prevent erosion of topsoil, protect against flood hazards, counteract pollutants in the air, and generally maintain the climatic and ecological balance of the area. These regulations strive to preserve and enhance the existing healthy tree canopies on individual residential properties as well as the overall neighborhood, in order to maintain the neighborhood character, while allowing flexibility for removal of existing trees that may be inappropriate for an area or causing damage. The design of residences, including grading, driveways, walkways, patios, utilities and right-of-way improvements, shall consider and accommodate existing healthy protected trees. The intent of this section is the reasonable retention and preservation of healthy trees while considering and balancing the reasonable enjoyment of private property. The purpose of the Tree Trimmers Permit is to provide standards so that trees are pruned properly in order to protect the City's tree canopy and to provide residents with a list of permitted Tree Trimmers.

SECTION 4. The Planning Commission of the City of Manhattan Beach hereby recommends modifying Section 10.52.120 (Tree Preservation and Restoration in Residential Zones Area Districts I and II) of the Manhattan Beach Municipal Code by adding Section 10.52.120 G. (Tree Permit Criteria) as follows:

G. Tree Permit Criteria. In addition to being in compliance with the Purpose portion of this Section, the following criteria shall be met in order to remove and replace a protected tree.

1. The tree is dead, or
2. The tree is a health or safety hazard, or
3. The tree is structurally unstable, or

4. The tree is dying or in marginal condition and reasonable alternatives to preserve or rejuvenate the tree have been implemented unsuccessfully or have been analyzed, and are not feasible, or
5. Construction will cause significant unavoidable damage to the tree that will compromise the health and/or safety of the tree, and reasonable alternatives to preserve the tree have been analyzed and are not feasible, or
6. The tree is causing or is likely to cause in the future, significant damage to public or private property, which creates a liability, health or safety concern, and can not reasonably be repaired, maintained or corrected. Trees causing damage to sewers, water piper or other similar private underground utilities or structures, generally shall not be considered to meet the criteria for removal and replacement, or
7. The tree is obstructing protected solar access as regulated by California State law, Solar Shade Control Act, Public Resources Code 25980-25986, and the tree can not be reasonably pruned or maintained in accordance with the State requirements.

The Director of Community Development may require the applicant to submit a report from an ISA certified arborist or other horticultural professional, and/or historical or other support documentation in order to substantiate that the required criteria has been met. The City arborist and/or other City staff may review the information. All costs shall be the responsibility of the applicant. If the applicant's arborist or other horticultural professional is not in agreement with the findings of the City arborist or staff a third party ISA certified arborist, agreed to by the applicant and the City, may be contracted to mediate the situation. The cost of this third party arborist shall be shared between the applicant and the City.

SECTION 5. The Planning Commission of the City of Manhattan Beach hereby recommends modifying Section 10.52.120 (Tree Preservation and Restoration in Residential Zones Area Districts I and II) of the Manhattan Beach Municipal Code by adding Section 10.52.120 J. (Tree Trimmers Permit) as follows:

J. Tree Trimmers Permit.

1. Any person pruning any private property Protected Tree in the City of Manhattan Beach must have a Tree Trimmers Permit. Residents pruning their own trees are exempt from obtaining a permit but must still comply with the ANSI A300 standards. Homeowners are responsible for hiring City licensed Tree Trimmers.

2. All Tree Trimmers and Homeowners must prune protected trees in accordance with ANSI A300 pruning standards.

3. All Tree Trimmers must comply with the following standards when pruning protected trees.

- a. A notice provided by the City shall be posted on the site.
- b. If the tree trimming job totals \$500 or more then one of the following State of California contractor's licenses must be provided:
 - i. C27- Landscaping Contractor, or
 - ii. C61- Limited Specialty Classification and D49 Tree Service.

SECTION 6. The Planning Commission of the City of Manhattan Beach hereby recommends modifying Section 10.52.120 (Tree Preservation and Restoration in Residential Zones Area Districts I and II) of the Manhattan Beach Municipal Code by adding Section 10.52.120 K. (Effective date-Appeals) as follows:

K. Effective date--Appeals. Unless appealed in accordance with Chapter 10.100, a Tree Permit decision shall become effective after expiration of the time limits for appeal set forth in Section 10.100.030.

SECTION 7. A staff review of the proposed amendments is hereby directed to occur approximately twelve (12) months after the effective date of the City Council approved Ordinance.

SECTION 8. Pursuant to Government Code Section 66499.37, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution.

SECTION 9. If any sentence, clause, or phrase of this resolution is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this resolution. The Planning Commission hereby declares that it would have passed this resolution and each sentence, clause or phrase thereof irrespective of the fact that any one or more sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

SECTION 10. Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other resolution of the City, to the extent that they are inconsistent with this resolution, and no further, are hereby repealed.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of January 28, 2009 and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Richard Thompson
Secretary to the Planning Commission

Sarah Boeschen
Recording Secretary



TREE TRIMMERS PERMIT APPLICATION (PRIVATE PROPERTY PROTECTED TREES)

CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
(310)-802-5503 www.citymb.info

11-18-08 DRAFT DRAFT DRAFT DRAFT 1-18-08 DRAFT DRAFT DRAFT DRAFT DRAFT

Business Name (DBA)

Business License No.

Address

City

Zip

Business phone number

Cell phone number

Purpose: To provide standards so that trees are pruned properly in order to protect the City's tree canopy and to provide residents with a list of permitted Tree Trimmers.

Permit and Notice: Any person pruning any private property **Protected Tree** in the City of Manhattan Beach must have a Tree Trimmers Permit, in accordance with Section 10.52.XXX of the MBMC. Residents pruning their own trees must still comply with the ANSI A300 standards (summary below), but are exempt from obtaining a permit. Residents may obtain a list of permitted Tree Trimmers from the City of Manhattan Beach Finance Department, Business License Division. Homeowners are responsible for hiring City licensed Tree Trimmers. Pruning all trees in the public right-of-way requires a right-of-way permit

Protected Trees are defined by Section 10.52.120 of the MBMC as follows.

1. Trees that are on private property in all Residential Zones, **and**
2. Located in Area Districts I and II, generally east of Valley/Ardmore and Blanche/Bell (See map on back), **and**
3. Located in the front yard or streetside yard (on corner lots), **and**
4. Have a trunk diameter of twelve inches (12") in diameter or greater or multiple trunks totaling twelve inches (12") in diameter or greater at a height of four and one-half feet (4.5') from the ground or is a required new or replacement tree for any protected tree that was removed.

Exclusions: Trees excluded from protection include deciduous (lose their leaves in winter) fruit-bearing trees and Washingtonia species palm trees (California and Mexican Fan Palms).

Standards:

All Tree Trimmers and Homeowners must comply with the following standards when pruning protected trees.

1. Trees must be pruned in accordance with ANSI A300 pruning standards. Standards may be obtained from the Tree Care Industry website at: http://www.natlarb.com/code/gov_standards_a300.htm.
2. ANSI A300 standards provide, in part, that generally no more than 25% of living foliage should be removed annually. Exceptions exist such as for utility clearance, crown dieback or decay, damage due to natural or accidental causes, insects or disease, and where trees are used as hedges.
3. Topping of trees (indiscriminately trimming major branches to limit height) is prohibited.

In addition to the standards above, **all Tree Trimmers** must comply with the following standards when pruning protected trees.

1. A notice provided by the City shall be posted on the site, **NOT** on the tree. The notice shall be visible from the street, state the job address and date of pruning, be posted a minimum of 24 hours prior to pruning and remain on the site for a minimum of two weeks after the pruning.
2. In addition, the following is required for tree trimmers doing jobs that **total \$500 or more**.
One of the following State of California contractor's licenses must be provided:
 - a. C27- Landscaping Contractor, **OR**
 - b. C61- Limited Specialty Classification and D49 Tree Service

VIOLATIONS OF THESE REQUIREMENTS ARE PUNISHABLE AS A MISDEMEANOR OR AN INFRACTION AND/OR ARE SUBJECT TO ADMINISTRATIVE FINES.

I HEREBY CERTIFY THAT THE INFORMATION I PROVIDED ABOVE IS TRUE AND THAT I HAVE READ, UNDERSTAND, AND WILL COMPLY WITH THE ABOVE STANDARDS.

SIGNATURE

PRINT NAME

DATE

OFFICE USE ONLY:

Approved ()

Denied ()

Signature

Date

THIS APPLICATION IF APPROVED MUST BE ACCOMPANIED BY A BUSINESS LICENSE APPLICATION



CITY OF MANHATTAN BEACH PROTECTED TREE 2009 TREE TRIMMERS PERMIT

Job Address: DRAFT DRAFT DRAFT DRAFT 11-18-08 DRAFT DRAFT DRAFT

Date of pruning: _____ Business License No.: _____

Business Name (DBA): _____ Contact Name: _____

Address: _____ City: _____ Zip: _____

Business phone number: _____ Cell phone number: _____

- Trees must be pruned in accordance with ANSI A300 pruning standards
- Generally no more than 25% of living foliage should be removed annually;
 - Exceptions for utility line/structure clearance, crown dieback or decay, damaged branches, trees used as hedges and similar ANSI exceptions.
- Topping of trees is prohibited.
- This notice shall be posted to be visible from the street (not on the tree) a minimum of 24 hours prior to pruning and remain on the site for a minimum of two weeks after pruning.
- Violations of these requirements are punishable as a misdemeanor or an infraction and/or are subject to administrative fines.

TO REPORT VIOLATIONS CALL CITY OF MANHATTAN BEACH (310) 802-5538 OR 5503

Laurie B. Jester

From: Richard Thompson
Sent: Tuesday, January 20, 2009 8:09 AM
To: Laurie B. Jester
Subject: FW: Tree Ordinance



Tree
Ordinances.pdf (1 ME
fyi

Richard Thompson
Director of Community Development

-----Original Message-----
From: gosterhout@roadrunner.com [mailto:gosterhout@roadrunner.com]
Sent: Saturday, January 17, 2009 11:14 AM
To: Sandra Seville-Jones; Wayne Powell; jim@fasolaarchitects.com; paralusz@hotmail.com; David Lesser; Richard Thompson
Cc: Gerry O'Connor; Kaye Sherbak; Portia Cohen - External email
Subject: Tree Ordinance

Dear Planning Commission Members:

This is in reference to your upcoming meeting to review the Tree Ordinances and Pruning Permit.

I am currently concerned about how long it is taking for our city to get these ordinances and collateral items in place, as trees are imperiled daily. I know in your due diligence review you will have questions whether the proposed materials are appropriate To that end, I have attached what I believe to be the most comprehensive tree ordinance publication available: "Guidelines for Developing and Evaluating Tree Ordinances." If accessed online at www.isa-arbor.com/publications/tree-ord/resources/treecord.pdf, there are actual links in the document from the index and to other source documents and websites.

I'm not sure if you are provided with resources like this by Community Services or have your own sources, but hopefully you can use this document as a template for your own independent research, to provide definitions where definitions might be lacking, as reference to discuss a concern with your fellow commission members or the audience, or to satisfy yourself that the ordinance you are reviewing is not that far off or far-reaching. I personally have been searching a long time for something like this. If needed, I also have a copy if needed of ANSI 300 Part I (Tree, Shrub, and Other Woody Plant Management-Standard Practices (Pruning), and a more readable companion publication to ANSI 300 Part I published by the International Society of Arboriculture.

I am suggesting you use this material to break through any roadblocks confronted in your recommendations concerning the proposed materials you will be receiving, not as a motivation to re-create the wheel. Please don't consider this as suggesting that the Manhattan Canopy Tree Committee product is in any way flawed. I believe this is one hard-working committee that knows what it is doing and has developed a good product. Again, your due diligence review requires asking

some hard questions; hopefully the attached reference material will expedite that process.

Regards,

Gary Osterhout

PUBLIC RESOURCES CODE

SECTION 25980-25986

25980. This chapter shall be known and may be cited as the Solar Shade Control Act. It is the policy of the state to promote all feasible means of energy conservation and all feasible uses of alternative energy supply sources. In particular, the state encourages the planting and maintenance of trees and shrubs to create shading, moderate outdoor temperatures, and provide various economic and aesthetic benefits. However, there are certain situations in which the need for widespread use of alternative energy devices, such as solar collectors, requires specific and limited controls on trees and shrubs.

25981. (a) As used in this chapter, "solar collector" means a fixed device, structure, or part of a device or structure, on the roof of a building, that is used primarily to transform solar energy into thermal, chemical, or electrical energy. The solar collector shall be used as part of a system that makes use of solar energy for any or all of the following purposes:

- (1) Water heating.
- (2) Space heating or cooling.
- (3) Power generation.

(b) Notwithstanding subdivision (a), for the purpose of this chapter, "solar collector" includes a fixed device, structure, or part of a device or structure that is used primarily to transform solar energy into thermal, chemical, or electrical energy and that is installed on the ground because a solar collector cannot be installed on the roof of the building receiving the energy due to inappropriate roofing material, slope of the roof, structural shading, or orientation of the building.

(c) For the purposes of this chapter, "solar collector" does not include a solar collector that is designed and intended to offset more than the building's electricity demand.

(d) For purposes of this chapter, the location of a solar collector is required to comply with the local building and setback regulations, and to be set back not less than five feet from the property line, and not less than 10 feet above the ground. A solar collector may be less than 10 feet in height only if, in addition to the five-foot setback, the solar collector is set back three times the amount lowered.

25982. After the installation of a solar collector, a person owning or in control of another property shall not allow a tree or shrub to be placed or, if placed, to grow on that property so as to cast a shadow greater than 10 percent of the collector absorption area upon that solar collector surface at any one time between the hours of 10 a.m. and 2 p.m., local standard time.

25982.1. (a) An owner of a building where a solar collector is proposed to be installed may provide written notice by certified mail

to a person owning property that may be affected by the requirements of this chapter prior to the installation of the solar collector. If a notice is mailed, the notice shall be mailed no more than 60 days prior to installation of the solar collector and shall read as follows:

SOLAR SHADE CONTROL NOTICE

Under the Solar Shade Control Act (California Public Resources Code Sec. 25980 et seq.) a tree or shrub cannot cast a shadow greater than 10 percent of a solar collector absorption area upon that solar collector surface at any one time between the hours of 10 a.m. and 2 p.m. local standard time if the tree or shrub is placed after installation of a solar collector. The owner of the building where a solar collector is proposed to be installed is providing this written notice to persons owning property that may be affected by the requirements of the act no more than 60 days prior to the installation of a solar collector. The building owner is providing the following information:

Name and address of building owner:
 Telephone number of building owner:
 Address of building and specific location where a solar collector will be installed (including street number and name, city/county, ZIP Code, and assessor's book, page, and parcel number):
 Installation date of solar collector:

Building Owner, Date

(b) If the owner of the building where a solar collector is proposed to be installed provided the notice pursuant to subdivision (a), and the installation date is later than the date specified in that notice, the later date shall be specified in a subsequent notice to persons receiving the initial notice.

(c) (1) A transferor of the building where the solar collector is installed may provide a record of persons receiving the notice pursuant to subdivision (a) to a transferee of the building.

(2) A transferor receiving a notice pursuant to subdivision (a) may provide the notice to a transferee of the property.

25983. A tree or shrub that is maintained in violation of Section 25982 is a private nuisance, as defined in Section 3481 of the Civil Code, if the person who maintains or permits the tree or shrub to be maintained fails to remove or alter the tree or shrub after receiving a written notice from the owner or agent of the affected solar collector requesting compliance with the requirements of Section 25982.

25984. This chapter does not apply to any of the following:

(a) A tree or shrub planted prior to the installation of a solar collector.

(b) A tree planted, grown, or harvested on timberland as defined in Section 4526 or on land devoted to the production of commercial agricultural crops.

(c) The replacement of a tree or shrub that had been growing prior to the installation of a solar collector and that, subsequent to the installation of the solar collector, dies, or is removed for the protection of public health, safety, or the environment.

(d) A tree or shrub that is subject to a city or county ordinance.

25985. (a) A city, or for unincorporated areas, a county, may adopt, by majority vote of the governing body, an ordinance exempting their jurisdiction from the provisions of this chapter. The adoption of the ordinance shall not be subject to the California Environmental Quality Act (commencing with Section 21000).

(b) Notwithstanding the requirements of this chapter, a city or a county ordinance specifying requirements for tree preservation or solar shade control shall govern within the jurisdiction of the city or county that adopted the ordinance.

25986. Any person who plans a passive or natural solar heating system or cooling system or heating and cooling system which would impact on an adjacent active solar system may seek equitable relief in a court of competent jurisdiction to exempt such system from the provisions of this chapter. The court may grant such an exemption based on a finding that the passive or natural system would provide a demonstrably greater net energy savings than the active system which would be impacted.
