

**Diamond Bar Municipal Code
(Excerpts)**

Title 22: DEVELOPMENT CODE

Article III: SITE PLANNING AND GENERAL DEVELOPMENT STANDARDS

Chapter 22.38: TREE PRESERVATION AND PROTECTION

Sec. 22.38.010. - Purpose.

One of the city's most important resources is the beauty of its natural environment. Native trees are a significant part of this environment. While impacted by development over the years, several areas in the city still contain native oak, walnut, and riparian woodlands which support species of trees important to our natural heritage.

Trees are an important natural resource, contributing to the environment by replenishing oxygen and counteracting air pollution, controlling soil erosion, and providing wildlife habitat. Trees are an aesthetic asset which provide scale, color, aroma, shade, visual buffers between land uses, and increased property value. It is essential to the public peace, health, and welfare that such trees be protected from random removal or cutting, especially where such trees are associated with a proposal for development.

[The] general plan, as the overall policy document for the city, requires the preservation and maintenance of native trees including oak, walnut, sycamore, willow, significant trees of cultural or historical value and pepper trees where appropriate. The purpose of this chapter is to protect and preserve these trees and when removal is allowed as a result of new development to require their replacement.

(Ord. No. 02(1998), § 2, 11-3-98; Ord. No. 02(2003), 9-16-03)

Sec. 22.38.020. - Applicability.

The provisions of this chapter shall apply in all zoning districts to the removal, relocation or pruning of protected trees as provided in section 22.38.030 (Protected trees). Exceptions to the provisions of this chapter are outlined in section 22.38.060 (Exemptions).

(Ord. No. 02(1998), § 2, 11-3-98)

Sec. 22.38.030. - Protected trees.

A protected tree is any of the following:

- (1) Native oak, walnut, sycamore and willow trees with a DBH of eight inches or greater; pepper trees with a DBH of eight inches or greater where appropriate;
- (2) Trees of significant historical or value as designated by the council;
- (3) Any tree required to be preserved or relocated as a condition of approval for a discretionary permit;
- (4) Any tree required to be planted as a condition of approval for a discretionary permit; and

(5) A stand of trees, the nature of which makes each tree dependent upon the others for survival.

(Ord. No. 02(1998), § 2, 11-3-98; Ord. No. 02(2003), 9-16-03)

Sec. 22.38.040. - Damaging protected trees prohibited.

Except as provided in section 22.38.060 (Exemptions), no person shall cut, prune, remove, relocate, or otherwise destroy a protected tree.

The topping of protected trees is prohibited. No reduction of the tree crown shall be permitted without a tree pruning permit and then only by "thinning out" selected branches in compliance with guidelines published by the National Arborists Association.

(Ord. No. 02(1998), § 2, 11-3-98)

Sec. 22.38.050. - Tree removal permit or tree pruning permit required.

No person shall remove or relocate a protected tree or develop within the protection zone of a protected tree without first obtaining a tree removal permit from the director. No person shall prune a protected tree without first obtaining a tree pruning permit from the director if branches are to be pruned that are over four inches in diameter at the point of the cut. The maximum amount allowed for the pruning of a protected tree shall be 20 percent, except for oak trees which shall be ten percent.

(Ord. No. 02(1998), § 2, 11-3-98)

Sec. 22.38.060. - Exemptions.

The following shall be exempt from the provisions of this chapter:

(1) Trees, except those designated by the city council as a historical or cultural tree and trees required to be preserved, relocated, or planted as a condition of approval of a discretionary permit, located on all developed properties prior to adoption of this development code.

(2) Trees held for sale by licensed nurseries or tree farms or the removal or transplanting of trees for the purpose of operating a nursery or tree farm.

(3) A tree that is so damaged, diseased or in danger of falling (as verified by an arborist) that it cannot be effectively preserved, or its presence is a threat to other protected trees or existing or proposed structures.

(4) Trees within public rights-of-way where their removal, pruning or relocation is necessary to obtain adequate line-of-site distances or to keep streets and sidewalks clear of obstructions as required by the city engineer.

(5) Trees that present a dangerous condition requiring emergency action to preserve the public health, safety and welfare as determined by the director.

(6) The maintenance of trees that interfere with a public utility's ability to protect or maintain an electric power or communication line, or other property of a public utility.

(7) The pruning of branches not to exceed four inches in diameter or compensatory pruning in compliance with guidelines published by the National Arborists Association, intended to ensure the continued health of a protected tree.

(8) Native oak, walnut, sycamore, willow, or pepper trees located upon a lot one-half acre or less are exempted from these regulations.

(9) Any native oak, walnut, sycamore, willow or naturalized California Pepper trees planted subsequent to the subdivision of property of any size are exempted from these regulations.

(Ord. No. 02(1998), § 2, 11-3-98; Ord. No. 02(2003), 9-16-03)

Sec. 22.38.070. - Tree removal in conjunction with a discretionary permit.

When the removal or relocation of a protected tree is proposed in connection with an application for another discretionary permit, the director may waive the requirement of a separate tree removal permit and require necessary information to be submitted as part of the discretionary permit application. All of the standards of this chapter, including section 22.38.130 (Tree replacement/relocation standards) and section 22.38.140 (Tree protection standards) shall apply to the approval of a discretionary permit.

(Ord. No. 02(1998), § 2, 11-3-98)

Sec. 22.38.080. - Application submittal requirements.

(a) Applications for a tree removal permit or a tree pruning permit shall be filed with the department. The department will consider an application complete when all necessary application forms, materials and exhibits, as established by the department, have been provided and accepted as adequate and all necessary fees have been paid.

(b) The director may require the submittal of an arborist report before accepting the application for filing. Arborist reports shall be paid for by the applicant and may be required to include specific information as required by the director. This information may include but is not limited to: The impact on existing trees, the health and structural stability of existing trees and any remedial measures or mitigation recommended.

(c) The director may require additional information when deemed necessary for permit processing. Any request for the removal or relocation of a protected tree proposed in conjunction with an application for another discretionary permit shall be subject to approval by the same hearing body as the discretionary permit.

(Ord. No. 02(1998), § 2, 11-3-98)

Sec. 22.38.090. - Action on application.

An application for a tree removal permit or tree pruning permit shall be approved, conditionally approved or denied by the director. Where the director finds that significant policy questions are at issue, the director may refer the application to the commission for action. If an application is denied, the reasons shall be provided to the applicant in writing.

(Ord. No. 02(1998), § 2, 11-3-98)

Sec. 22.38.100. - Conditions of approval.

In approving an application for a tree permit or tree pruning permit, the director or commission may require the applicant to meet certain conditions in order to secure the purpose of this chapter. Conditions may include, but are not limited to, measures designed to protect and preserve protected trees remaining on the site and the restoration of protected trees removed from the site.

(Ord. No. 02(1998), § 2, 11-3-98)

Sec. 22.38.110. - Findings for approval.

In order to approve an application for a tree removal permit or tree pruning permit, it shall be necessary that one or more of the following findings be made, otherwise the application shall be denied:

- (1) The tree is so poorly formed due to stunted growth that its preservation would not result in any substantial benefits to the community.
- (2) The tree interferes with utility services, or streets and highways, either within or outside of the subject property, and no reasonable alternative exists other than removal or pruning of the tree(s).
- (3) The tree is a potential public health and safety hazard due to the risk of it falling and its structural instability cannot be remediated.
- (4) The tree is a public nuisance by causing damage to improvements (e.g., building foundations, retaining walls, roadways/driveways, patios, and decks).
- (5) The tree is host to an organism which is parasitic to another species of tree which is in danger of being exterminated by the parasite.
- (6) The tree belongs to a species which is known to be a pyrophitic or highly flammable and has been identified as a public safety hazard.
- (7) Preservation of the tree is not feasible and would compromise the property owner's reasonable use and enjoyment of property or surrounding land and appropriate mitigation measures will be implemented in compliance with section 22.38.130 (Tree replacement/relocation standards) below.

(Ord. No. 02(1998), § 2, 11-3-98)

Sec. 22.38.120. - Tagging.

In the process of preparing a tree report, each tree is required to be physically marked for identification by consecutively numbered tags. The following method of tagging shall be used to identify and locate applicable trees:

- (1) A permanent tag, a minimum of two inches in length, shall be used for identifying applicable trees. The tag shall be made from a noncorrosive, all-weather material and be permanently attached to the tree in a manner preserving its health and viability.

(2) Tags shall be located on the north side of the tree at a height of four and one-half feet above natural grade.

(Ord. No. 02(1998), § 2, 11-3-98)

Sec. 22.38.130. - Tree replacement/relocation standards.

(a) Replacement trees shall be indigenous to the area whenever feasible as determined by an arborist.

(b) Replacement trees shall be planted at a minimum 2:1 ratio for residential properties less than 20,000 square feet. Residential parcels greater than 20,000 square feet and commercial and industrial properties shall be planted at a minimum 3:1 ratio. The director or commission may grant exceptions to these requirements or may require additional replacement trees based on the following considerations:

(1) The vegetative character of the subject property.

(2) The number of protected trees which are proposed to be removed in relation to the number of protected trees currently existing on the subject property.

(3) The anticipated effectiveness of the replacement of trees, as determined by arborists' report submitted by the applicant.

(c) Replacement trees shall be a minimum box size of 24 inches for six or fewer replacement trees. For greater than six replacement trees, the sizes shall be determined by the director. Smaller container sizes may be approved by the director or commission when additional replacement trees are provided significantly exceeding the required replacement ratios.

(d) Tree relocation or replacement shall be on the same site to the extent feasible. A written report by an arborist is required concerning the methodology and feasibility of transplanting trees.

(e) Where site conditions preclude the long-term success of replacement trees, the director or commission may require either or both of the following alternatives:

(1) Planting replacement trees on public property (e.g., designated open space areas or public parks); and/or

(2) Monetary donation to a tree replacement fund in the amount equal to the value of required replacement trees, and the cost of installation as established by an arborist's report.

(f) The applicant may be required as a condition of permit approval to enter into a tree maintenance agreement prior to removal of any protected tree or commencement of construction activities that may adversely affect the health and survival of trees to be preserved. The maintenance agreement may include provisions for the submittal of arborist reports during and after construction activities, installation of replacement trees and irrigation systems by or under the supervision of a certified arborist, replacement of trees that die during or after construction phases, periodic fertilizing and pruning, and submittal of a security deposit as may be necessary to ensure the health and survival of

the affected trees during the effective date of the tree maintenance agreement. The performance security may be required for three years from the date of the approval or as determined by the director. The amount of the performance security deposit shall be equal to 125 percent of the cost of a nursery grown tree and installation by a qualified professional.

(Ord. No. 02(1998), § 2, 11-3-98)

Sec. 22.38.140. - Tree protection requirements.

The director shall determine during project review whether and to what extent measures will be required to protect the existing trees during construction. This decision shall be based upon the proximity of the area of construction activity to existing protected trees. The protective measures shall include but are not limited to the following:

(1) The existing trees to be retained shall be enclosed by chain link fencing with a minimum height of five feet or by another protective barrier approved by the director prior to the issuance of a grading or building permit and prior to commencement of work.

(2) Barriers shall be placed at least five feet outside the drip line of trees to be protected. A lesser distance may be approved by the director if appropriate to the species and the adjacent construction activity.

(3) No grade changes shall be made within the protective barriers without prior approval by the director. Where roots greater than one inch in diameter are damaged or exposed, the roots shall be cleanly saw cut and covered with soil in conformance with industry standards.

(4) Excavation or landscape preparation within the protective barriers shall be limited to the use of hand tools and small hand-held power tools and shall not be of a depth that could cause root damage.

(5) No attachments or wires other than those of a protective or nondamaging nature shall be attached to a protected tree.

(6) No equipment or debris of any kind shall be placed within the protective barriers. No fuel, paint, solvent, oil, thinner, asphalt, cement, grout or any other construction chemical shall be stored or allowed in any manner to enter within the protected barrier.

(7) If access within the protection zone of a protected tree is required during the construction process, the route shall be covered in a six-inch mulch bed in the drip line area and the area shall be aerated and fertilized at the conclusion of the construction.

(8) When the existing grade around a protected tree is to be raised, drain tiles shall be laid over the soil to drain liquids away from the trunk. The number of drains shall depend upon the soil material. Lighter sandy soils and porous gravelly material require fewer drains than heavy nonporous soils like clay. Dry wells shall be large enough to allow for maximum growth of the tree trunk. Dry well walls shall be constructed of materials that permit passage of air and water.

(9) When the existing grade around a tree is to be lowered, either by terracing or a retaining wall, a combination may be used to lower grade. With either method, the area within the drip line shall be left at the original grade. The retaining wall shall be porous to allow for aeration.

(10) Trees that have been destroyed or that have received major damage during construction shall be replaced prior to final inspection.

(Ord. No. 02(1998), § 2, 11-3-98)

Sec. 22.38.150. - Post decision procedures.

(a) *Appeals.* Decisions of the director shall be considered final unless an appeal is filed in compliance with chapter 22.74 (Appeals). The decision of the director may be appealed to the planning commission. The decision of the commission may be appealed to the council.

(b) *Expiration/extension.* A tree removal permit or tree pruning permit shall be exercised within one year from the date of approval or other time frame that may be established with a discretionary permit approval. Time extensions, for up to a total of two additional years, may be granted in compliance with chapter 22.66 (Permit Implementation and Time Extensions). If a tree removal permit or tree pruning permit is not exercised within the established time frame, and a time extension is not granted, the provisions of chapter 22.66 (Permit Implementation and Time Extensions) shall apply.

(c) *Construction monitoring.* Monitoring of tree protection and restoration measures specified as conditions of approval shall be performed by site inspection conducted by the director, or by an arborist.

(d) *Revocation.* A tree removal permit or tree pruning permit may be revoked or modified, in compliance with chapter 22.76 (Revocations/Modifications), if it is found that the tree removal, relocation or protection activities:

- (1) Resulted from misrepresentation or fraud;
- (2) Has not been implemented in a timely manner;
- (3) Has not met, or has violated, any conditions of approval;
- (4) Is in violation of any code, law, ordinance or statute;
- (5) Is detrimental to public health, safety or welfare; or
- (6) Constitutes a nuisance.

(e) *Enforcement.*

- (1) Any person who cuts, damages, or moves a protected tree in violation of this chapter shall be deemed guilty of an infraction or misdemeanor in compliance with section 22.78.060 (Legal Remedies).

(2) Violation of this chapter during construction activity may result in an immediate stop-work order issued by the city, until permits are obtained along with proper mitigation.

(Ord. No. 02(1998), § 2, 11-3-98)

Sec. 22.38.160. - Tree replacement fund.

Moneys received by the city in lieu of replacement trees as provided for in section 22.38.130 (Tree Replacement/Relocation Standards), or as civil penalties for violations of this chapter shall be deposited in a tree replacement fund and the city's general fund, respectively. Funds collected by the city for the tree replacement fund and interest earned thereon shall be used solely for the planting of trees or other vegetation on publicly owned property.

(Ord. No. 02(1998), § 2, 11-3-98)

Sec. 22.38.170. - Buyers awareness package.

When a project contains trees that have been protected or planted under the requirements of this chapter, the developer shall provide buyers with information regarding the proper care of the trees. The information shall be specific to different tree species and include information on proper pruning techniques, pest and disease control, fertilization requirements, watering needs, and other pertinent information about the particular tree species.

(Ord. No. 02(1998), § 2, 11-3-98)
