

**Arcadia Municipal Code
(Excerpts)**

**Article IX: DIVISION AND USE OF LAND
Chapter 7: OAK TREE PRESERVATION**

9700. INTENT AND PURPOSE.

This Chapter is established to recognize oak trees as significant aesthetic and ecological resources and to create favorable conditions for the preservation and propagation of irreplaceable plant heritage for the benefit of the current and future residents of the City. It is the intent of this Chapter to maintain and enhance the public health, safety and welfare through the mitigation of soil erosion and air pollution. It is also the intent of this Chapter to preserve and enhance property values through conserving and enhancing the distinctive and unique aesthetic character of many areas in the City.

9701. SCOPE.

No oak tree shall be removed, damaged or have its protected zone encroached upon except in conformance with the provisions of this Chapter. The provisions of this Chapter shall apply to all oak trees on all public and private property whether vacant, undeveloped, in the process of development or developed.

Exceptions. The following are exempt from the provisions of this Chapter:

- A. Combined Permit. An Oak Tree Removal Permit is not required where tree removal and/or encroachment has been specifically approved as part of a development permit.
- B. Emergency Situation. Cases of emergency where the Director of Public Works, or any member of a law enforcement agency or the City of Arcadia Fire Department, in the performance of his or her duties, determines that an oak tree poses an imminent threat to the public safety, or general welfare.
- C. Visual Barriers. Removal or relocation of oak trees necessary to obtain adequate line-of-sight distances as required by the Director of Public Works.
- D. Public Utility Damage. Actions taken for the protection of existing electrical power or communication lines or other property of a public utility.
- E. City Property. Removal of oak trees on City owned property, which in the opinion of the Director of Public Works, will cause damage to existing public improvements, or which are in a location that does not permit the development of the site for public purposes.
- F. Arcadia Redevelopment Agency Property. Removal of oak trees on Arcadia Redevelopment Agency owned property that, in the opinion of the Executive Director of the Arcadia Redevelopment Agency, are in a location which does not permit the development of the site.
(Amended by Ord. 2207 adopted 7-5-05)

9702. DEFINITIONS.

For the purposes of this Article, certain words and phrases used herein shall be defined as follows:

- a. **Damage.** Damage shall mean any action undertaken which causes injury, death, or disfigurement to an oak tree. This includes, but is not limited to, cutting, poisoning, overwatering, relocating or transplanting an oak tree, or trenching, excavating or paving within the protected zone of an oak tree.
- b. **Director.** In a matter involving private property, "Director" shall mean the Director of Planning of the City of Arcadia or appointed designee. In the matter involving public property, "Director" shall mean the Director of Public Works of the City of Arcadia or appointed designee.
- c. **Drip Line.** Drip line shall mean a series of points formed by the vertical dripping of water, on any property, from the outward branches and leaves of an oak tree.
- d. **Encroachment.** Encroachment shall mean any intrusion into the protected zone of an oak tree including, but not limited to, grading, excavation, trenching, parking of vehicles, storage of materials or equipment, or the construction of structures or other improvements.
- e. **Oak Trees.** Oak trees shall include the following:
1. *Quercus Engelmannii* (Engelmann oak), or *quercus agrifolia* (coast live oak, California live oak) with a trunk diameter larger than four (4) inches measured at a point four and one-half (4 1/2) feet above the crown root, or two (2) or more trunks measuring three (3) inches each or greater in diameter, measured at a point four and one-half (4 1/2) feet above the crown root.
 2. Any other living oak tree with a trunk diameter larger than twelve (12) inches measured at a point four and one-half (4 1/2) feet above the crown root, or two (2) or more trunks measuring ten (10) inches each or greater in diameter, measured at a point four and one-half (4 1/2) feet above the crown root.
- f. **Private Property.** Private property shall mean land owned by individuals, partnerships, corporations, firms, churches, and the like to which land access by the public is generally restricted.
- g. **Protected Zone.** Protected zone shall mean a specifically defined area totally encompassing an oak tree within which work activities are strictly controlled. When depicted on a map, the outermost edge of the protected zone will appear as an irregular shaped circle that follows the contour of the dripline of the oak tree. In no case shall the protected zone be less than fifteen (15) feet from the trunk of an oak tree, or exclude the known root structure in the case of irregularly shaped trees.
- h. **Public Property.** Public property shall mean land owned by a public or governmental entity and generally accessible to the public.
- i. **Removal.** Removal shall mean the uprooting, cutting, or severing of the main trunk, or major branches, of an oak tree or any act which causes, or may be reasonably expected to cause a tree to die, including but not limited to the following:
1. Damage inflicted upon the root system by machinery, storage of materials, or soil compaction;
 2. Substantially changing the grade above the root system or trunk;
 3. Excessive pruning;
 4. Excessive paving with concrete, asphalt, or other impervious materials in such a manner which may reasonably be expected to kill an oak tree;

5. Excessive watering within the dripline;

6. Encroachment into the protected zone.

j. **Root Crown.** Root crown shall mean that portion of an oak tree trunk from which roots extend laterally into the ground.

k. **Undeveloped Property.** Undeveloped property shall mean land which is in its natural, original, or pristine state.

l. **Vacant Property.** Vacant property shall mean land on which no buildings or improvements have been erected or orchards planted but which may have been graded for drainage or other purposes.

9703. OAK TREE PROTECTION REGULATIONS.

a. Oak Tree Permit Required.

1. An oak tree permit shall be obtained prior to the removal of any oak tree.

2. An oak tree permit shall be obtained prior to any encroachment into the protected zone of any oak tree.

b. Required Protective Measures.

The following protective measures are hereby established to protect oak trees during development or construction activity:

1. No building, structure, wall or impervious paving shall be located within the protected zone of any oak tree.

2. No construction related activities shall occur within the protected zone of any oak tree, including but not limited to, building construction, storage of materials, grade changes, or attachment of wires to or around tree trunks, stems, or limbs.

3. Each and every oak tree shall be shielded from damage during construction by a four (4) foot high barrier composed of wooden stakes, chicken wire, or chain link fencing material, which shall enclose the entire dripline area on the construction site. Such barriers shall be installed prior to the commencement of any development on the site and shall remain in place throughout the construction period.

4. Branches that may be injured by vehicles or that interfere with construction shall be pruned carefully.

9704. APPLICATION AND FEES.

A. Oak Tree Permit for the Removal of Diseased and/or Hazardous Oak Trees.

1. An application for an oak tree permit for the removal of a diseased or hazardous oak tree shall be made to the Community Development Division, and shall include an evaluation from a certified arborist as to the condition of the tree.

2. There is no fee for an oak tree permit for the removal of a diseased or hazardous oak tree.

B. Oak Tree Permit for the Removal of Healthy Oak Trees.

1. An application for an oak tree permit for the removal of a healthy oak tree shall be made to the Community Development Division. The content, form, instructions, procedures, and requirements of the application package deemed necessary and appropriate for the proper enforcement of this Chapter shall be established by the Community Development Division. The application shall include:

- (a) An explanation as to why the tree's removal is necessary;
- (b) An explanation as to why tree removal is more desirable than alternative project designs;
- (c) An explanation of any mitigation measures.
- (d) A fee in the same amount as required for a modification application.

C. Oak Tree Permit for Encroachment Into a Protected Zone.

1. An application for an oak tree permit for encroachment into a protected zone shall be made to the Community Development Division, and shall include an evaluation from a certified arborist as to the condition of the tree and the effect of the encroachment upon the tree accompanied by the appropriate photographs showing the area(s) of encroachment.

2. A fee in the same amount as required for an administrative modification application shall be submitted at the time said application is filed with the City.
(Amended by Ord. 2207 adopted 7-5-05)

9705. ACTION ON APPLICATION

A. Oak Tree Permit for the Removal of Diseased and Hazardous Oak Trees.

1. Upon the receipt of an application to remove a diseased or hazardous oak tree, the Community Development Administrator or his/her designee shall have five (5) working days to approve, conditionally approve, or deny the application.

2. If the Community Development Administrator or his/her designee denies such application, the decision may be appealed to the Modification Committee. Such appeal shall be processed pursuant to the modification regulations. The fee for an appeal shall be the same as for a Modification application.

3. The privileges granted an applicant in this Section shall become null and void if not utilized within one (1) year from the date of the approval.

B. Oak Tree Permit for the Removal of Healthy Oak Trees.

1. The application for an oak tree permit for the removal of a healthy oak tree or trees shall be subject to the approval or conditional approval of the Modification Committee or the Planning Commission (on appeal) or City Council (on appeal) pursuant to the modification regulations.

2. If the applicant lives within a Homeowners Association area established pursuant to Section 9272.2.3 of the Arcadia Municipal Code, the applicant shall submit their tree removal plans to the Architectural Review Board (Committee) of said Homeowners Association for review and approval, conditional approval or denial, prior to filing an application with the City.

3. The Architectural Review Board's (Committee's) review and comment are not required if the Homeowners Association has filed a letter with the Community Development Division stating that their Association does not wish to perform such review.

4. The privileges granted an applicant in this Section shall become null and void if not utilized within one (1) year from the date of the approval or conditional approval.

C. Oak Tree Permit for Encroachment Into a Protected Zone.

1. Upon the receipt of an application to encroach into the protected zone of an oak tree, the Community Development Administrator or his/her designee shall have five (5) working days to approve, conditionally approve, or deny the application.

2. If the Community Development Administrator or his/her designee denies such application or approves said application with conditions, the applicant may appeal the denial or the conditions of approval to the Modification Committee. Such appeal shall be processed pursuant to the modification regulations. The fee for an appeal shall be the same as for a modification application.

3. The privileges granted an applicant in this Section shall become null and void if not utilized within one (1) year from the date of the approval.
(Amended by Ord. 2207 adopted 7-5-05)

9706. CONDITIONS.

Conditions may be imposed on the issuance of an Oak Tree Permit including, but not limited to, the following:

- a. Relocating of oak trees on-site, or the planting of new oak trees.
- b. Planting of additional trees, other than oak, which may be more appropriate to the site.

9707. ENFORCEMENT.

a. The Planning Department, through its Code Enforcement Officers, shall enforce the provisions of this Chapter. Additionally, Police Officers, inspectors from the Building Division and Public Works Department, in the course of their duties, will monitor construction activities for compliance with the provisions of this Chapter. Any irregularities or suspected violations will be reported immediately to the Code Enforcement Division for follow-up action.

b. Whenever any construction or work is being performed contrary to the provisions of this Chapter, any oak tree permit, or any conditions of the appropriate development permit, a City inspector may issue a notice to the responsible party to "stop work" on the project on which the violation has occurred or upon which the danger exists. The notice shall state the nature of the violation or danger and no work shall be allowed until the violation has been rectified and approved by the Director of Planning.

c. Criminal and Civil Remedies.

1. Criminal.

Any person who violates any provisions of this Chapter including violations of inspector's orders shall be subject to the following remedies in addition to misdemeanor penalties for violation of the Municipal Code.

2. Restitution--Civil Penalties.

(a) It has been determined that the oak trees within the City are valuable environmental assets to the citizens of this community and as a result of the loss of any of these oak trees, the public should be recompensed, and penalties applied to assure the primary goal of conservation, protection, and preservation of oak trees as set forth in this Chapter.

(b) Accordingly, any person violating the provisions of this Chapter shall be responsible for proper restitution including but not limited to the following or any combination thereof: (1) payment of a fine, (2) replacement the oak tree, which has been removed, and/or (3) planting new oak trees or other trees which may be more appropriate to the site. Replacement shall be made based on the value or the actual replacement cost, whichever is higher, plus the cost of planting the replacement trees. The type, number, size and location of said equivalent replacement trees shall be determined by the Director of Planning.

(c) Tree values shall be established as provided in the tree evaluation formula, as prepared by the International Society of Arboriculture "Guide to Establishing Value for Trees and Shrubs."

(d) The City Attorney is authorized to take whatever legal steps are necessary for recovery of civil penalties.

d. Administrative Remedies.

1. A suspension of any building permits until all mitigation measures specified by the City are satisfactorily completed.

2. Completion of all mitigation measures as established by the City.

9708. LIABILITY.

Nothing in this chapter shall be deemed to impose any liability upon the City, its officers, or employees. No duty of care or maintenance is imposed upon the City, its officers or employees with reference to private property, and no private property owner or other person in possession of private property is relieved from the duties to keep oak trees in a safe condition on their property. This ordinance does not relieve the owner or possessor of private property from the duty to keep oak trees subject to this chapter in such a condition as to prevent the oak tree from constituting a hazard or dangerous condition to persons or property.

(Chapter 7 added by Ord. 1962 adopted 1-21-92)