

**South Pasadena Municipal Code
(Excerpts)**

Chapter 34: TREES AND SHRUBS

34.1 Definitions.

As used in this chapter:

- (a) “**Caliper**” is the diameter of the trunk of a tree measured at four feet above natural grade. In the case of multitrunked trees, “caliper” is the sum of each trunk measured at four feet above the grade.
- (b) “**Deadwood**” means limbs, branches or a portion of a tree void of green leaves during a season of the year when green leaves should be present.
- (c) “**Damage**” means any action taken which causes injury, disfigurement or death of a tree.
- (d) “**Dripline**” means a series of points formed by the vertical dripping of water from the outermost branches and leaves of a tree.
- (e) “**Front yard**” means that portion of private property as designated in the city zoning code.
- (f) “**Heritage tree**” is of historical value because of its association with a place, building, natural feature of the land, or an event of local, regional or national historic significance. It could be found on private or public property.
- (g) “**Mature tree**” is any variety of tree that has a caliper of at least four inches.
- (h) “**Protection**” means the safeguarding of trees through proper treatment.
- (i) “**Removal**” means uprooting, cutting or severing of the main trunk of a tree.
- (j) “**Significant tree**” is a tree that has a caliper of one foot or more.
- (k) “**Oak tree**” shall mean species of tree of the genus Quercus.
- (l) “**Native species tree**” shall mean any species of tree native to California as defined by resolution adopted by the city council. (Ord. No. 1991, § 2; Ord. No. 2051, § 5; Ord. No. 2126, § 2.)

34.2 Protection during development activity. (Work done pursuant to a development proposal approved by the city).

- (a) No grading shall occur within the dripline of a significant or heritage tree.
- (b) No structure shall be located nor shall any construction requiring a permit occur within six feet of the trunk of a significant or heritage tree. (Ord. No. 1991, § 4; Ord. No. 2126, § 12.)

34.3 Violations.

- (a) It is unlawful for any person to remove or transplant any significant or mature heritage tree, native species tree, or oak tree from any property within the city unless a tree removal permit is first obtained from the city.
- (b) It is unlawful for any person to trim or prune more than twenty percent of the live foliage or limbs of any heritage tree located within the city within any twelve-month period, or cause the same to be done, without first obtaining a tree trimming permit from the city.
- (c) It is unlawful for any person to trim or prune more than ten percent of the live foliage or limbs of any mature oak or mature native species tree located within the city within any twelve-month period, or cause the same to be done, without first obtaining a tree trimming permit from the city.
- (d) It is unlawful for any person to damage or cause to be damaged any heritage tree, mature oak tree, or mature native species tree located within the city.
- (e) It is unlawful to remove any tree that is part of a watershed, wildlife habitat, and/or erosion control on hillsides without first obtaining a tree removal permit from the city.
- (f) It is unlawful for any person to remove any tree or shrub from the parkway area between a sidewalk or private property line and street curb, without the written permission of the public works director or his or her designee. (Ord. No. 1991, § 6; Ord. No. 2126, § 3.)

34.4 Permit applications.

- (a) Any person applying for a tree removal permit or tree trimming permit shall file with the public works director an application in writing on a form furnished by the director. Such application form shall contain the following information:
 - (1) The name and residence or business address of the applicant;
 - (2) The location or description of the property on which the proposed trees are to be removed or trimmed;
 - (3) A tree plan, if the application is for a tree removal permit;
 - (4) The name and state contractor's license number of the person who will perform the work. Permits shall only be issued to persons possessing a C-27 or C-61 (D-49) state contracting license;
 - (5) Additional information as the public works director may require. This information may include, but is not limited to, a list obtained from the county assessor of the names of the owners of all parcels within a one hundred-foot radius of the property upon which the trees are to be removed or trimmed.
- (b) The application shall be accompanied by a nonrefundable fee in an amount established by resolution of the city council. (Ord. No. 1991, § 8; Ord. No. 2051, §§ 1—4; Ord. No. 2126, § 4.)

34.5 Tree plan.

A tree plan to be submitted with an application for a tree removal permit shall contain the following information:

- (a) The location of all trees on the property with all heritage trees, mature trees, native species trees, oak trees, and significant trees identified.
- (b) The tree species and trunk caliper of all trees to be removed.
- (c) The reason for removal. Any trees proposed for removal due to poor health or condition shall have the condition of the tree documented in a letter report prepared and signed by an arborist certified by the International Society of Arboriculture (ISA).
- (d) An arborist review of the tree plan may be required per the determination of the public works director or his/her designee or by the commission. The arborist shall be contracted and managed by the city and all fees incurred shall be the responsibility of the property owner. (Ord. No. 1991, § 10; Ord. No. 2126, § 5.)

34.6 Permit issuance or denial.

Upon receipt of the application, the director shall, if the application is for a tree removal permit, cause notice to be sent by first-class mail to property owners and tenants of property located within a one hundred-foot radius of the subject property. Such property owners shall be given fifteen calendar days from the date of mailing within which to comment on the application. All comments shall be made in writing to the director. Upon expiration of the fifteen-day period, or upon filing if for a tree trimming permit only, the application shall be reviewed by the director, who shall, after considering the application pursuant to the criteria set forth in Section 34.7 and any comments received by interested residents, approve, conditionally approve, or deny the application. The decision of the director shall be made in writing and provided to the applicant and to any interested persons who commented on the application. The director, in his or her sole discretion, may refer any application to the commission for consideration of the application. Should the application be referred to the commission, the commission shall make its decision after holding a noticed public meeting. The decision of the director or the commission shall take effect fifteen days after the date of mailing of the decision to the applicant and any interested persons. (Ord. No. 1991, § 12; Ord. No. 2126, § 6.)

34.7 Criteria for approving tree removal permit. (see Ordinance 2188)

- (a) Subject to the imposition of conditions pursuant to subsection (b) of this section, a tree removal permit may be issued in any one of the following instances:
 - (1) Where the tree itself, its excess foliage or its limbs is interfering with a structure or building, and there is no feasible and reasonable alternative to mitigate the interference.
 - (2) Where, upon taking into account the size, shape, topography and existing trees upon the lot, the denial of the permit would create an unreasonable hardship on the property owner.
 - (3) Where a written determination has been made by an ISA certified arborist, after a visual inspection and scientific evaluation that the tree is so diseased or damaged that it is no longer viable or is a threat to property or to other trees. The director or commission may waive the requirement for an arborist's statement when the tree can reasonably be

determined to be dead by a lay person's visual inspection, or when, after conducting an inspection of the tree, the director determines that the tree poses an obvious and imminent threat to life or property.

(b) A tree removal permit may be issued that is conditional upon the replacement or transplanting of the tree(s) either onsite or offsite. Such replacement shall be subject to the following provisions:

(1) Designation by the director or the commission of the number, size, species and location of replacement tree(s) based on consideration of the size and species of the established tree(s) proposed for removal, the significance the tree(s) proposed to be removed has on the landscaping as seen from public view, the size of the lot, and the number of existing trees on the lot.

(2) Because of their size and/or significance, single tree(s) that have been removed may be required to be replaced with multiple trees, subject to review and approval by the director or his/her designee. If the subject property cannot accommodate multiple trees, alternative locations within the city (public right-of-way, park, etc.) may be designated.

(3) An existing tree(s) onsite may be designated to serve as a replacement tree(s) upon commission approval.

(4) If replacement trees are required, the property owner must agree to accept the conditions of replacement by his/her signature on the application before issuance of the permit.

(5) When the work designated in the permit is completed, the applicant shall contact the public works department for an inspection of the work.

(6) Should the tree designated as a replacement not survive for a period of at least two years, further replacement shall be required.

(7) Where the permit allows the removal, replacement, or transplanting of tree(s), director or commission may, in their discretion, require the applicant to post a bond or surety to replace the tree(s), that do not survive a five-year period. The amount of the bond or surety shall be in accordance with the "Guide for Plant Appraisal" (ISA publication, most recent edition).

(8) Unless otherwise stated in the conditions of approval, the permit shall be valid for a period of one year. (Ord. No. 1991, § 14; amended during 4/04 supplement; Ord. No. 2126, § 7.)

34.8 Appeals.

The applicant or any interested party may appeal the decision of the director to the natural resources commission by filing an appeal in writing submitted to the secretary of the commission within fifteen days after the date of decision of the director. Decisions of the commission may be appealed to the city council by filing such appeal in writing submitted to the city clerk within fifteen days after the date of decision of the commission. The appeal shall specifically identify the grounds upon which the appeal will be taken and summarize the facts and points of law in support of the appeal. (Ord. No. 1991, § 16; Ord. No. 2126, § 8.)

34.9 Exemptions.

- (a) No permit is required for the removal or trimming or pruning of a tree damaged by a storm, fire, or other natural disaster and determined to be dangerous by the public works director, police chief, fire chief, or code enforcement officer.
- (b) No permit is required when the fire department has deemed the removal of the tree(s) is critical to providing an effective firebreak.
- (c) Public utility companies required to remove or trim trees, upon submittal of a letter to the public works director outlining the specific trees along with reasons for removal or trimming, shall be exempt from the provisions of this chapter.
- (d) The city and its contractors will not be required to obtain permits, but shall otherwise comply with this chapter.
- (e) No permit is required for the removal or trimming or pruning of hedges.

(Ord. No. 1991, § 17; Ord. No. 2126, § 9.)

34.10 Obstruction.

- (a) It is unlawful for any person, firm or corporation owning, leasing, occupying, having charge or control of any lot or premises in the city, to keep or maintain thereon any tree, shrub or plant, or portion thereof, that interferes with or obstructs the free passage of pedestrians along or upon adjacent public sidewalks or of vehicles along or upon adjacent public rights-of-way.
- (b) Every fence, sign, wall, hedge, tree, shrub or planting located within seventy-five feet of the point of intersection of the centerlines of streets or within seventy-five feet of the point of intersection of the centerline of a street and a railroad right-of-way, that is more than thirty-six inches in height measured from the nearest adjacent public street level and that, in the opinion of the director constitutes an obstruction to the clear view of motorists on the streets is declared to be a public nuisance; provided, however, that nothing in this section shall be deemed to apply to a wall, building or structure that has been or that may be constructed under a permit issued by the building department of the city. (Ord. No. 1991, § 18; Ord. No. 2126, § 10.)

34.11 Maintenance of trees on public property.

The public works department shall be responsible for the maintenance of trees on public property including but not limited to public rights-of-way and public parks. The public works department shall prepare and implement the annual work plan for the maintenance of trees on public property. (Ord. No. 2051, § 6.)

34.12 Penalties.

Any person violating any of the provisions of this chapter is guilty of a misdemeanor, except, at the discretion of the city attorney, the violation may be charged and prosecuted as an infraction. Penalties shall be as set forth in Sections 1.7 and 1.7A of this code. Persons violating any of the

provisions of this chapter shall also be subject to the administrative citation procedure set forth in Chapter 1A of this code. (Ord. No. 2126, § 11.)

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CHAPTER 1 GENERAL PROVISIONS

1.7 General penalty; continuing violations.

Whenever in this Code or in any other ordinance of the city, any act is prohibited or is made or declared to be unlawful or an offense, or the doing of any acts is required or the failure to do any act is declared to be unlawful or a misdemeanor, where no specific penalty is provided for, the violation of any such provision of this Code or any other ordinance of the city shall be punished by a fine not exceeding one thousand dollars or imprisonment for a term not exceeding six months, or by both such fine and imprisonment.

Every day any violation of this Code or any other ordinance of the city shall continue shall constitute a separate offense. (Ord. No. 1983, § 1 (part).)

1.7A Same—Infractions.

Pursuant to the provisions of Section 36900 of the California Government Code, the first violation by any person of any of the following provisions of the South Pasadena City Code shall be deemed “infractions” while any subsequent violations shall be deemed a “misdemeanor”:

Chapters:

3 Advertising

5 Animals & Fowl

Sections:

16.4, Burning rubbish or debris

16.18, Trash can location

16.3, Trash to be in container

16.2, 16.5, Control of dumping trash

18.20, Operating without a city business license

19.20, Truck routes generally

19.21, Heavy truck on Pasadena Freeway

Articles:

III of Chapter 19 relating to parking

Any person authorized by the chief of police may enforce this section and issue citations for such infractions.

The maximum fine to be imposed for an infraction pursuant to this section shall be one hundred dollars or as provided by state law. (Ord. No. 1799, § 1; Ord. No. 1983, § 2; Ord. No. 2139, § 1 (part).)

CHAPTER 1A ADMINISTRATIVE CITATIONS

1A.1 Authority and purpose.

(a) The city council finds and declares there is a need for an alternative method of enforcement for violations of the Municipal Code and that an appropriate method of enforcement is an administrative citation program.

(b) The city council additionally finds it is in the public's interest to streamline enforcement of violations of city laws by providing for administrative citations because the issuance of an administrative citation provides for a quick resolution of uncontested violations, while continuing to give persons who have been issued citations a hearing before a neutral party. It also allows the city to recover costs associated with the enforcement process, which can only be done in very limited circumstances with a criminal citation. This makes code enforcement equitable since the community is not forced to fund correction of the impacts a code violation can cause to the community.

(c) Pursuant to Article XI section 7, of the California Constitution, the city has the authority to make and enforce within its jurisdictional limits all laws for the public health, safety and welfare of the citizens of South Pasadena which are not in conflict with general state laws. In addition, California Government Code 36901 specifically provides that the city may impose civil fines, penalties and forfeitures, up to a maximum of one thousand dollars, for violations of city ordinances. Further, California Government Code 53069.4 expressly authorizes the city to establish an administrative citation program for violations of city ordinances. (Ord. No. 2098 § 1 (part).)

1A.2 Applicability.

This chapter provides for administrative citations which are in addition to all other legal remedies, criminal or civil, which may be pursued by the city to address any violations of this code. Use of this chapter shall be at the sole discretion of the city.

1A.3 Definitions.

For purposes of this chapter, the following definitions shall apply:

(a) "City manager" means the city manager of the city of South Pasadena, or his or her designee.

(b) "Enforcement officer" means any person authorized to enforce violations of this code.

(c) "Hearing officer" means any person appointed by the city manager to preside over the administrative hearings provided for by this chapter.

(d) "Person" means any natural person, firm, association, business, trust, organization, corporation, partnership, company or any other entity.

(e) "Responsible party" means any person who is responsible for violating any provision of this code. (Ord. No. 2098, § 1 (part).)

1A.4 Administrative citation.

(a) Whenever an enforcement officer determines a violation of this code has occurred, the enforcement officer shall have the authority to issue an administrative citation to any responsible party.

(b) Prior to issuance of an administrative citation, the enforcement officer shall issue a written notice to the responsible party of the violation. The notice shall contain the following information:

(1) The date of the violation;

(2) The address or a specific description of the location where the violation occurred;

(3) The section of this code violated and a description of the violation;

(4) Identification of the action necessary to correct the violation;

(5) A date by which the correction must be made, which shall be not less than ten days from the date of the notice, unless the enforcement officer determines that the violation contains an immediate danger to the public health, safety or welfare, in which case the enforcement officer, in his or her discretion, may provide for a lesser time or require immediate correction; and

(6) An explanation of the consequences of a failure to correct the violation.

(c) If, after the expiration of the time period provided to the responsible party to correct the violation, the responsible party has not corrected the violation, the enforcement officer may issue an administrative citation to the responsible party in the manner prescribed in Section 1A.16.

(d) Notwithstanding subsections (b) and (c) of this section, when the enforcement officer determines it is necessary, he/she may issue an administrative citation without providing prior written notice and an opportunity to correct for any violation that: (i) creates an immediate danger to the public health, safety and welfare and for which immediate correction is required; (ii) is a noncontinuing violation for which it corrects, has previously been provided.

(e) The notice provided pursuant to subsection (b) of this section shall be sufficient notice for any violation of the same code section even if the violation occurs at a different location, date or time, and the enforcement officer may proceed directly to an administrative citation on any future violation of the same code section by the same responsible party. (Ord. No. 2098, § 1 (part).)

1A.5 Contents of administrative citation.

The administrative citation shall contain, in addition to all the contents of the notice specified in subsection (b) of Section 1A.4, the following information:

- (a) The amount of the fine for the code violation(s);
- (b) A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid;
- (c) An order prohibiting the continuation or repeated occurrence of the code violation described in the administrative citation;
- (d) A description of the administrative citation review process, including the time within which the administrative citation may be contested and the place from which a request for hearing form to contest the administrative citation may be obtained; and
- (e) The name and signature of the enforcement officer. (Ord. No. 2098, § 1 (part).)

1A.6 Amount of fines.

- (a) The amounts of the fines for code violations imposed pursuant to this chapter shall be set forth in the schedule of fees established by resolution of the city council.
- (b) The schedule of fines shall specify any increased fines for repeat violations of the same code provision by the same person within thirty-six months after the date of an administrative citation.
- (c) The schedule of fines shall specify the amount of any late payment charges imposed for the payment of a fine after its due date. (Ord. No. 2098, § 1 (part).)

1A.7 Payment of fines.

- (a) The fine shall be paid to the city within thirty days after the date of the administrative citation.
- (b) Any administrative citation fine paid pursuant to subsection (a) shall be refunded if it is determined, after a hearing, the person charged in the administrative citation was not responsible for the violation or there was no violation as charged in the administrative citation.
- (c) Payment of a fine under this chapter shall not excuse or discharge any continuation or repeated occurrence of the code violation for which an administrative citation was issued. (Ord. No. 2098, § 1 (part).)

1A.8 Hearing request.

- (a) By completing a request for hearing form and returning it to the planning department of the city within thirty days after the date of the administrative citation, together with an advance deposit of the fine or notice that a request for an advance deposit hardship waiver has been filed pursuant to Section 1A.9, any recipient of an administrative citation may contest whether (i) a violation of the code occurred or (ii) he/she/it is the responsible party.

- (b) A request for hearing form may be obtained from the planning department.
- (c) The person requesting the hearing shall be notified of the time and place set for the hearing at least ten days prior to the date of the hearing.
- (d) If the enforcement officer submits an additional written report concerning the administrative citation to the hearing officer for consideration at the hearing, a copy of that report also shall be served on the person requesting the hearing at least five days prior to the date of the hearing. (Ord. No. 2098, § 1 (part).)

1A.9 Advance deposit hardship waiver.

- (a) Any person who intends to request a hearing pursuant to section 1A.8 to contest issuance of an administrative citation and who is financially unable to make the advance deposit of the fine may file a request for an advance deposit hardship waiver.
- (b) The request shall be filed with the planning department within ten days after the date of the administrative citation on an advance deposit hardship waiver application form, available from the planning department.
- (c) The requirement of depositing the full amount of a fine shall be stayed unless or until the planning director makes a determination not to issue the advance deposit hardship waiver.
- (d) The planning director may waive the requirement of an advance deposit and issue the advance deposit hardship waiver only if the person issued the administrative citation submits to the planning director a sworn affidavit, together with any supporting documents or materials, demonstrating to the reasonable satisfaction of the planning director that person's actual financial inability to deposit with the city the full amount of the fine in advance of the hearing.
- (e) If the planning director determines not to issue an advance deposit hardship waiver, that person shall remit the deposit to the city within ten days after the date of that decision or thirty days after the date of the administrative citation, whichever is later.
- (f) The planning director shall issue a written determination listing the reasons for his or her determination to issue or not to issue the advance deposit hardship waiver. The written determination of the planning director shall be final.
- (g) The written determination of the planning director shall be served upon the person who applied for the advance deposit hardship waiver. (Ord. No. 2098, § 1 (part).)

1A.10 Hearing officer.

The city manager shall designate the hearing officer for the administrative citation hearing. (Ord. No. 2098, § 1 (part).)

1A.11 Hearing procedure.

- (a) No hearing to contest an administrative citation before a hearing officer shall be held unless the fine has been deposited in advance in accordance with Section 1A.8 or an advance deposit hardship waiver has been issued in accordance with Section 1A.9.

- (b) A hearing before a hearing officer shall be set for a date not less than fifteen days and not more than sixty days after the date the request for hearing is filed in accordance with the provisions of this chapter.
- (c) At the hearing, the person requesting the hearing shall be given the opportunity to present, either themselves or through a representative, evidence and testimony concerning the administrative citation.
- (d) The failure of any recipient of an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust their administrative remedies.
- (e) The administrative citation and any additional report submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents.
- (f) Prior to issuing a written decision, the hearing officer may continue the hearing and request additional information from the enforcement officer or the person who requested the hearing.
- (g) The formal rules of evidence shall not apply and the hearing officer shall have authority to control the orderly conduct of the hearing. (Ord. No. 2098, § 1 (part).)

1A.12 Hearing officer's decision.

- (a) After considering all of the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision to uphold or cancel the administrative citation and shall list in the decision the reasons for that decision. The hearing officer may also reduce, waive, or conditionally reduce the fine, and may also impose conditions and deadlines by which to correct the violation(s). The decision of the hearing officer shall be final.
- (b) If the hearing officer determines the administrative citation should be upheld, then the fine amount on deposit with the city shall be retained by the city.
- (c) If the hearing officer determines the administrative citation should be upheld and the fine has not been deposited pursuant to an advance deposit hardship waiver, the hearing officer shall set forth in the decision a payment schedule for the fine.
- (d) If the hearing officer determines the administrative citation should be canceled and the fine was deposited with the city, then the city shall promptly refund the amount of the deposited fine, together with interest at the average rate earned on the city's portfolio for the period of time that the fine amount was held by the city.
- (e) The person requesting the hearing shall be served with a copy of the hearing officer's written decision.
- (f) The employment, performance evaluation, compensation and benefits of the hearing officer shall not be directly or indirectly conditioned upon the amount of administrative citation fines upheld by the hearing officer. (Ord. No. 2098, § 1 (part).)

1A.13 Late payment charges.

Any person who fails to pay to the city any fine imposed pursuant to the provisions of this chapter on or before the date the fine is due also shall be liable for the payment of any applicable late payment charges set forth in the schedule of fines. (Ord. No. 2098, § 1 (part).)

1A.14 Recovery of administrative citation fines and costs.

The city may collect any past due administrative citation fine or late payment charge by use of all available legal means. The city may also recover its collection costs. (Ord. No. 2098, § 1 (part).)

1A.15 Right of judicial review.

The person who requested the hearing may obtain review of the hearing officer's administrative decision regarding the administrative citation by filing a petition for judicial review pursuant to the provisions of California Government Code 53069.4. (Ord. No. 2098, § 1 (part).)

1A.16 Notices.

(a) The administrative citation and all notices required to be given by this chapter shall be served on the responsible party either by personal delivery or by deposit in the United States mail, in a sealed envelope postage prepaid, addressed to such person at his/her/its last known business or residence address as the same appears in the public records or other records pertaining to the matter to which such notice is directed. Service by mail shall be deemed to have been completed at the time of deposit in the post office.

(b) Failure to receive any notice specified in this chapter does not affect the validity of proceedings conducted thereunder. (Ord. No. 2098, § 1 (part).)