

**CITY COUNCIL STUDY SESSION MEETING AGENDA
TUESDAY NOVEMBER 12, 2024 6:00 PM
SAN DIMAS COUNCIL CHAMBER
CONFERENCE ROOM
245 EAST BONITA AVENUE**

A public agenda packet is available for review on the City’s website www.sandimasca.gov or by contacting the City Clerk’s Office at cityclerk@sandimasca.gov.

CITY COUNCIL

Mayor Emmett Badar, Mayor Pro Tem Eric Nakano, Councilmember Rachel Bratakos, Councilmember Ryan A. Vienna, Councilmember Eric Weber

CALL TO ORDER AND FLAG SALUTE

ORAL COMMUNICATIONS

(Members of the audience are invited to address the City Council on any item on this agenda. Public comment will not be taken during each individual agenda item, except for public hearing items. Comments on public hearing items will be heard when that item is scheduled for discussion. Under the provisions of the Brown Act, the legislative body is prohibited from engaging in discussion on any item not appearing on the posted agenda. However, your concerns may be referred to staff or set for discussion at a later date. Each speaker will be limited to speaking once for up to (3) three minutes.)

STUDY SESSION

1. Updates to SB 9 Ordinance Specifically Related to Affordability Requirement and Implementation Costs for a Monitoring Program and Alternative (in-lieu fee) Program
2. Discussion and Consideration of Potential Revisions to the San Dimas Tree Preservation Ordinance, Chapter 18.162 of the San Dimas Municipal Code.

ADJOURNMENT



Notice Regarding Americans with Disabilities Act: In compliance with the ADA, if you need assistance to participate in a city meeting, please contact the City Clerk's Office at (909) 394-6216. Early notification before the meeting you wish to attend will make it possible for the City to make reasonable arrangements to ensure accessibility to this meeting [28 CFR 35.102-35.104 ADA Title II].

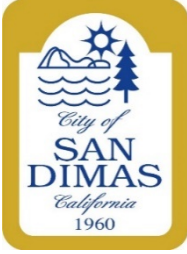
Copies of documents distributed for the meeting are available in alternative formats upon request. Any writings or documents provided to the City Council regarding any item on this agenda will be made available for public review Monday through Thursday 7:30 a.m. to 5:30 p.m. and on Fridays from 7:30 a.m. to 4:30 p.m. at the Administration Counter at City Hall and San Dimas Library. In addition, most documents are posted on the City's website at www.sandimasca.gov.

Posting Statement: I declare under penalty of perjury that on November 8, 2024, I posted a true and correct copy of this agenda on the bulletin board in the Civic Center Plaza of City Hall at 245 E. Bonita Ave., San Dimas Library 145 N. Walnut Ave., San Dimas Post Office 300 E. Bonita Ave., Von's Via Verde Shopping Center 1160 Via Verde Ave., and on the City's website www.sandimasca.gov/agendas-minutes/ as required by law.

November 8, 2024

Debra Black

Debra Black, City Clerk



Study Session Agenda Item Staff Report

To: Honorable Mayor and Members of City Council
For the Meeting of November 12, 2024

From: Brad McKinney, City Manager

Prepared by: Luis Torrico, Director of Community Development

Subject: Updates to SB 9 Ordinance Specifically Related to Affordability Requirement and Implementation Costs for a Monitoring Program and Alternative (in-lieu fee) Program

SUMMARY

Staff has been working on drafting an SB 9 ordinance to regulate two-unit developments and urban lot splits. As directed by the Council, the proposed ordinance will include development standards that will restrict the second unit, including an affordability requirement. On May 14, 2024, Staff presented concerns with the affordability requirement to the City Council, specifically with the requirement to create an alternative method of compliance. The Council directed Staff to research costs to create an alternative method of compliance. This report summarizes the costs and seeks direction from the Council on the SB ordinance's affordability requirement.

RECOMMENDATION

Staff recommends that the City Council provide direction to Staff related to the affordability requirement for the SB 9 Ordinance.

FISCAL IMPACT

There is no fiscal impact for the recommended action.

BACKGROUND

Senate Bill 9 (SB 9) was signed into law in September 2021 and went into effect January 1, 2022. SB 9 requires cities to ministerially approve subdivisions of single-family zoned parcels into two (2) parcels (urban lot splits) and developments of two (2) residential units on single-family zoned parcels (two-unit developments). SB 9 law allows cities to adopt objective zoning, design and

development standards, however, there are limitations, including, but not limited to unit size, setbacks, parking, and off-site improvements for subdivisions.

On January 25, 2022, the City Council approved an initiation for a Municipal Code Text Amendment to amend the San Dimas Municipal Code related to SB 9.

On June 16, 2022, the Planning Commission considered the options prepared by Staff, which could assist in minimizing negative impacts related to SB 9 developments and provided recommendations to the City Council.

On July 26, 2022, the City Council discussed the options recommended by Staff and the Planning Commission. After discussing the options, the City Council directed Staff to bring the item back and provide three (3) options that provide development incentives ranging from the least to the most restrictive.

On March 28, 2023, staff presented to City Council the three (3) options for SB 9 developments with a range of development incentives. After discussing the range of restrictions and incentives, the Council directed staff to continue the item to a date when all members of the Council could be present.

On June 13, 2023, the City Council directed Staff to draft an SB 9 Ordinance that would limit the second unit to 800 square feet, one-story in height, would have to be affordable, and subject to objective development standards as required by the Ordinance.

On May 24, 2024, Staff presented concerns with the affordability requirements to the Council. The issues of concern included the inability to apply affordable requirements to ADUs, which can be one of the unit types that would be allowed under two-unit developments and urban lot splits, the requirement to create an alternative compliance program, and the possibility that the Department of Housing and Community Development (HCD) would consider the affordability requirement a governmental constraint to housing development. As a result of the discussion, the Council directed Staff to provide a cost analysis for the creation of a monitoring and alternate compliance program needed to implement the affordability requirement for SB 9 developments.

DISCUSSION/ANALYSIS

In order for Staff to implement an affordability requirement on any type of housing development, State law requires that an alternate method of compliance be provided for developers/applicants. Staff reached out to a consultant to get costs to create an in-lieu fee program which would provide developers the option to pay a fee in-lieu of building affordable units. The in-lieu fee fund would be used to develop or maintain existing affordable housing units in the City. In addition to creating the in-lieu fee program, Staff would also have to develop a monitoring program, which would include creating guidelines, applications and forms. There would also be other requirements such as annual monitoring, creating covenants and annual compliance reports. Staff got costs from consultants for both tasks which are outlined below.

Cost to City to Enforce Affordability Component for SB 9 Developments		
Specific Actions Required for Implementation	Fee for Specific Actions	Details of Fees
Development of in-lieu fee program alternative for provision of affordability	\$15,000	One-time lump sum payment to consult
Affordable Housing Monitoring Program (AHMP) Program Set-up and creation of guidelines, applications, and forms	\$10,000	One-time lump sum payment to consult
TOTAL INITIAL COSTS	\$25,000	
Application intake and file set-up	\$800	Per unit/application payment to consultant
Preparation/Execution of Affordable Housing Covenants	\$400 + applicable Title and Recording Fees	Per unit/application payment to consultant
Conduct annual monitoring	\$600	Per unit/application payment to consultant
TOTAL ANNUAL PER UNIT COSTS	\$1,800	
Preparation of annual compliance report	\$4,000	Annual payment to consultant

To summarize, if the City requires an affordability requirement for second units created from an SB 9 application, the City will then be required to create a monitoring program and an alternative (in-lieu fee) program resulting in the following: initial \$25,000 payment (\$10,000 for the monitoring program and \$15,000 for the alternative in-lieu fee program), plus \$4,000 annual payment for the compliance report, plus \$1,800 per unit/application for applicants that wish to include an affordability component rather than pay the in-lieu fee. It's also important to note that these fees only reflect the direct costs to consultants to establish and implement the monitoring program and the alternative in-lieu fee program, but do not consider the costs associated with City staff's meetings and correspondence with consultants, analysis of the program applications, guidelines, forms, and reports, preparation of staff reports, and other hearing documents and presentations that would all be needed to adopt, implement, and monitor these programs, both of which are required in order to specifically require the affordability component for SB 9 developments.

Staff requests guidance from the Council related to whether the affordability requirement should be pursued. It appears there would be very little incentive for SB 9 applicants to build an 800 square foot, single-story second unit, that would also be required to be affordable, or pay an in-lieu fee, when they could instead build a 1,000 square foot ADU that does not need to comply with affordability requirements and can include a second story if permitted under the development standards of the underlying zone. There doesn't appear to be any benefit for applicants to build under the proposed constraints of the SB 9 ordinance when they can build a less restricted ADU, and there doesn't appear to be any benefit to the City. Rather, these proposed restrictions will come with a cost to the City to adopt, implement, and monitor and are unlikely to be pursued by applicants when there is a less restrictive ADU option.

ALTERNATIVES

There are no alternatives proposed for this discussion.

ENVIRONMENTAL REVIEW

Pursuant to CEQA guidelines Section 15061 (b)(3), CEQA does not apply to this item because there is no potential for causing a significant effect on the environment. Therefore, no additional environmental review is needed at this time.

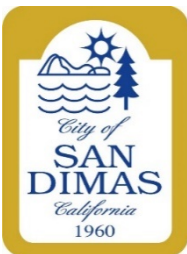
Respectfully submitted,



Luis Torrico
Director of Community Development

Attachments:

1. May 14, 2024, City Council Study Session Staff Report and Minutes



Study Session Agenda Item Staff Report

To: Honorable Mayor and Members of City Council
For the Meeting of May 14, 2024

From: Chris Constantin, City Manager

Prepared by: Luis Torrico, Director of Community Development

Subject: Update on Proposed SB 9 Ordinance

SUMMARY

Senate Bill 9 (SB 9) was signed into law in September 2021 and went into effect January 1, 2022. SB 9 requires cities to ministerially approve subdivisions of single-family zoned parcels into two (2) parcels and developments of two (2) residential units on single-family zoned parcels.

SB 9 law allows cities to adopt objective zoning, design and development standards, however, there are limitations, including, but not limited to unit size, setbacks, parking, and off-site improvements for subdivisions.

On January 25, 2022, the City Council approved an initiation for a Municipal Code Text Amendment to amend the San Dimas Municipal Code related to SB 9.

On June 16, 2022, the Planning Commission considered the options prepared by Staff, which could assist in minimizing negative impacts related to SB 9 developments and provided recommendations to the City Council.

On July 26, 2022, the City Council discussed the options recommended by Staff and the Planning Commission. After discussing the options, the City Council directed Staff to bring the item back provide three options that provide development incentives ranging from the least to the most restrictive.

On June 13, 2023, the City Council directed Staff to draft an SB 9 Ordinance that would limit the second unit to 800 square feet, one-story in height, would have to be affordable, and subject to objective development standards as required by the Ordinance.

RECOMMENDATION

Staff recommends that the City Council

- Provide direction related to concerns raised with the proposed affordability requirement for the second unit and should the affordability requirement be removed.

FISCAL IMPACT

There is no fiscal impact for the recommended action.

BACKGROUND

On September 16, 2021, in an effort to ease California's housing shortage, SB 9 was signed into law by Governor Gavin Newsom, and went into effect on January 1, 2022 (Attachment 1). SB 9 requires cities to ministerially approve urban lot splits and two-unit residential developments for parcels zoned single-family, essentially allowing a single-family zoned parcel to have up to four (4) units, should the parcel be split and developed with two (2) units each pursuant to the new law. Cities are allowed to implement objective development standards; however, these standards would have to allow, at a minimum, 1,200 square-foot lot splits, and 800 square-foot units if developed pursuant to SB 9.

In order to regulate, SB 9 projects and retain some local control, on January 25, 2022, the City Council approved an initiation for a Municipal Code Text Amendment (MCTA) to amend the San Dimas Municipal Code related to SB 9. The amendment will include objective zoning, design and development standards in compliance with the law, to allow at a minimum 1,200 square-foot lot splits and 800 square-foot two-unit developments. Prior to bringing the MCTA ordinance before the Planning Commission and City Council, Staff has prepared a list of possible standards the City could adopt to minimize negative impacts related to SB 9.

These standards, which included floor area, height and parking standards, were presented to the Planning Commission at their June 16, 2022, meeting (Attachment 4). The Commission did not agree with the premise of SB 9 but understood that it is the law and the City needs to comply with the law. They agreed in creating standards that would limit impacts related to SB 9 and provided the following comments on the standards presented to them:

- Floor Area
They agreed with providing additional floor area above the 800 square-foot minimum if it would incentivize developments to comply with the City's existing residential development standards. Specifically, they agreed with any standards that would provide on-site parking for SB 9 units. They recommended that the additional floor area criteria be included in the ordinance.
- Height
The Commission agreed with limiting SB 9 projects to one-story in height unless they provide a two-car garage. As previously mentioned, the Commission agreed with including standards that would provide on-site parking for SB 9 units to reduce any impacts on residential street parking. They recommended that this allowance be included in the ordinance.

- Parking

SB 9 requires that a maximum of one (1) parking space can be required for each new unit, unless the property is located within one-half mile of a high-quality transit corridor, or a major transit stop. For projects that would be exempt from providing on-site parking, the ordinance could be written to not allow driveways as a mechanism to persuade applicants to provide on-site parking. The Commission understood Staff's approach to not allow driveways for projects exempt from providing parking to encourage on-site parking. However, their main concern was to keep vehicles from having to park on the street. Therefore, they recommended against this option and recommended to allow a driveway to provide a parking pad for parking-exempt projects.

In addition, during the meeting discussion, Staff informed the Commission that some cities were denying annual parking permits for units developed pursuant to SB 9. This was done in an attempt to require SB 9 projects to provide on-site parking. The Commission was not in favor of this procedure and reiterated that while they did not agree with SB 9, understood that the City needs to comply with the law, but Staff should adopt standards to mitigate negative impacts, specifically those related to on-street parking.

On July 26, 2022, after being continued from the July 12, 2022, meeting, the optional standards, along with the Planning Commission's recommendations were presented to the City Council (Attachment 3). The Council discussed the options related to floor area, height and parking and how each standard may affect one another and the overall impact. Options were also discussed to make the ordinance as restrictive as possible to limit impacts to existing single-family neighborhoods. Discussion on standards included:

- Floor Area
 - Limit units from 800 – 1,000 square feet.
 - Allow 1,000 square feet units if they provide a one-car garage or make the units affordable.
- Height
 - Allow two-story units on larger lots or lots that abut to non-sensitive uses such as a drainage channel/wash.
- Parking
 - Allow units up to 1,000 square feet if they provide a one-car garage.

After discussing the options, the City Council directed Staff to bring the item back after conducting additional research and to provide three (3) options that explore units ranging from 800 – 1,000 square feet in floor area based on incentives, allowing two-story units based on lot size and adjacent uses, and an option to allow larger units if they are restricted to affordable income levels. In addition, the direction included that the three options include development incentives ranging from the least to the most restrictive.

On June 13, 2023, after being continued from the March 28, 2023, meeting, the City Council considered the three (3) options (Attachment 2) and voted 5-0 to direct Staff to draft an ordinance that would implement the most restrictive of the three (3) options. The proposed ordinance would limit the second unit to 800 square feet, which is the floor area included in the SB 9 law text and would limit the second unit to one story in height. The Council also directed Staff to include an affordability requirement for the second unit. These three (3) requirements would only be

applicable to the second unit. The primary unit would be allowed to be developed without restrictions but would have to comply with the existing requirements for the single-family residential zone.

DISCUSSION/ANALYSIS

Staff has completed drafts of the two ordinances: Urban Lot Splits and Two-Unit Projects implementing the Council's direction. As part of the process, the City attorney's office reviewed the ordinances to ensure compliance with SB 9 and any other applicable laws. During their review, concerns were raised with the affordability requirement for the second unit in the Two-Unit Projects Ordinance. The concerns consist of:

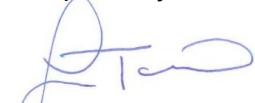
1. Affordability requirements cannot be imposed on ADUs. Therefore, an applicant that creates a new lot through the SB 9 process, where a maximum of two (2) units will be allowed, can circumvent the affordability requirement by building an ADU instead of a second unit. The only situation in which the affordability requirement could not be circumvented is if a Two-Unit project is proposed, with no lot split, where up to four (4) units (primary unit, second unit, ADU, JADU) can be built on one single-family parcel. Under this development scenario, the second unit would have to be affordable. However, Staff doesn't foresee many of these developments occurring, especially if there is an affordable requirement. Since the law went into effect in 2021, the City has received a total of eight (8) SB 9 applications, all of which included a lot split. If the applications were subject to the affordability requirement, all of them could have circumvented the affordable requirement by building an ADU instead of a second unit. In other words, if the affordability requirement is imposed on second units, it is unlikely to ever actually apply to any unit, since developers will simply construct an ADU instead of a second unit.
2. If the City is going to impose an affordability requirement, Government Code 65850(g) requires that the City create an alternative means of compliance that may include, but is not limited to, in-lieu fees, land dedication, off-site construction, or acquisition and rehabilitation of existing units. The City does not have an existing alternative method so a program will have to be created as part of this process. This would delay the SB 9 Ordinance to allow Staff time to research and create the appropriate alternative compliance method, which will take time and City resources, so that the City can impose an affordability requirement that will rarely, if ever, affect any unit, as described in #1 above.
3. The affordability requirement potentially could be considered a governmental constraint to housing development, which could raise several concerns under the Housing Crisis Act and State Housing Element Law. The City could be found to be out of compliance with its Housing Element's commitment to eliminate development constraints. Violations of these State laws may lead to consequences including revocation of housing element certification and/or referral to the California Office of the Attorney General.

While the affordability requirement for second units developed pursuant to SB 9 would make it more restrictive, as the Council preferred, the likelihood that it will lead to the creation of affordable units is minimal. As previously mentioned, all the SB 9 applications that have been submitted include a lot split which creates a loophole to avoid the affordability requirement. Therefore, any benefit of the affordability requirement, which will seldom, if ever, apply to any unit, is outweighed by the City Staff time and resources needed to create an alternative compliance program and the risk created by adopting the affordability requirement.

ENVIRONMENTAL REVIEW

Pursuant to CEQA guidelines Section 15061 (b)(3), CEQA does not apply to this item because there is no potential for causing a significant effect on the environment. Therefore, no additional environmental review is needed at this time.

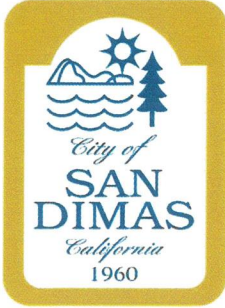
Respectfully submitted,



Luis Torrico
Director of Community Development

Attachments:

1. Senate Bill 9 Law
2. City Council Staff Report – June 13, 2023
3. City Council Staff Report – July 26, 2022
4. Planning Commission Staff Report – June 16, 2022



CITY COUNCIL STUDY SESSION

ACTION MINUTES

MAY 14, 2024, 5:30 PM

Council Members Present: Mayor Emmett Badar, Mayor Pro Tem Ryan A. Vienna, Councilmember Rachel Bratakos, Councilmember Eric Nakano, Councilmember Eric Weber

Staff: City Manager Chris Constantin, Assistant City Manager Brad McKinney, Director of Public Works Shari Garwick, Director of Administrative Services Michael O'Brien, Director of Community Development Luis Torrico, Director of Parks and Recreation Scott Wasserman, City Attorney Jeff Malawy, City Clerk Debra Black

Call to Order: 5:30 PM Recessed: 6:45 PM Reconvened: 10:00 PM Adjourned: 11:48 PM

STUDY SESSION ITEMS	COMMENTS/RECOMMENDATIONS
<p>1. Appointments to Intergovernmental Boards and Commissions; Discussion of Purpose and Function of Intergovernmental Boards and Committees and City's Continuing Participation in Them</p>	<p>The following changes were made:</p> <p>SCAG Delegate: Nakano Alternate: Bratakos</p> <p>SGVCOG Delegate: Nakano Alternate: Weber</p> <p>Metro Gold Line Delegate: Bratakos Alternate: Weber</p> <p>All other appointments remained unchanged.</p>
<p>2. Update on Proposed SB 9 Ordinance</p>	<p>This item was continued to a date uncertain. Council requested that staff provide a cost to create a monitoring and alternate compliance program.</p>
<p>3. Discuss Options to Reduce the Deficit that was Proposed in the First Draft of the 2024-25 Fiscal Year Operating and Capital Improvement Program Budget.</p>	<p>The City Council gave direction to staff to reduce the budget deficit by approximately half through operational cuts and half through use of reserves.</p> <p>Administration</p> <ul style="list-style-type: none"> • Suspend future Audit Consulting Services \$75,000 • Suspend Community Survey \$30,000 • Eliminate Contractual Partnership with Chamber of Commerce \$7,200

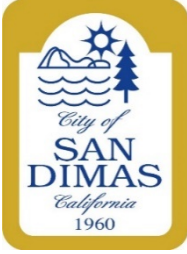
	<ul style="list-style-type: none">• Suspend Contractual Partnership with SGV Economic Dev. \$5,500 <p>Public Works</p> <ul style="list-style-type: none">• Eliminate waste compliance services \$27,000• Suspend \$60,000 for alley design work• Eliminate San Dimas Canyon Road Crossing Design \$15,000• Eliminate matching funds for a grant for underground project \$250,000 <p>Parks & Recreation</p> <ul style="list-style-type: none">• Suspend purchase of new tables \$10,000• Suspend \$10,000 for tree planting expansion• Eliminate the teen center program at the Rec Center \$70,950• Reduce special events funding to \$10,300 – Bowser Bash and Cars and Coffee <p>Community Development</p> <ul style="list-style-type: none">• Suspend Planning Commissioner training for 2025 \$9,500• Reduce supply/publication budgets by \$3,270• Reduce Accela Enhancements by \$5,000• Suspend Building Intern position \$35,000
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Adjourned: 11:48 PM

I, Debra Black, City Clerk attest that these minutes are accurate and reflective of the actions taken by the City Council.



Debra Black, City Clerk



Study Session Agenda Item Staff Report

To: Honorable Mayor and Members of City Council
For the Meeting of November 12, 2024

From: Brad McKinney, City Manager

Prepared by: Luis Torrico, Director of Community Development

Subject: Discussion and Consideration of Potential Revisions to the San Dimas Tree Preservation Ordinance, Chapter 18.162 of the San Dimas Municipal Code.

SUMMARY

On April 23, 2024, the City Council directed Staff to schedule a study session to discuss potential changes to the City's Tree Preservation ordinance. This Staff Report summarizes proposed changes to the Ordinance, which were requested by the Planning Commission and Staff, and explores further changes including, but not limited to application fees, penalties and the creation of an exemption.

RECOMMENDATION

Staff recommends that the City Council provide direction for revisions to the Tree Preservation Ordinance, associated permit fees, and fines for violations.

FISCAL IMPACT

Application fee and Administrative Citation revenues could be reduced if the Council directs Staff to reduce application fees and/or fines for unpermitted tree removals.

BACKGROUND

On July 20, 2023, the Planning Commission considered an applicant-initiated request to amend the Tree Preservation Ordinance, Chapter 18.162 of the SDMC to exempt Specific Plan 11 (SP-11) from some requirements of the ordinance, and other amendments related to review procedures, and replacement requirements that would only be applicable to SP-11. The Commission denied the applicant request to exempt SP-11 from the requirements of the Tree Preservation Ordinance but directed Staff to come back to the Commission with city-wide amendments to the ordinance as a whole.

On September 21, 2023, the Planning Commission considered a City-initiated request to amend the Tree Preservation Ordinance, Chapter 18.162 of the SDMC to remove the Development Review Board's tree removal review authority, create an unprotected tree list, reduce the replacement ratio for tree removal violations, removal of the replacement trees requirement for removal of trees that pose an immediate danger or removal of trees required by the Fire Department, remove the arborist report submittal requirement, revise findings, and move the Tree Preservation Ordinance from Title 18 Zoning to Title 13 Civic Facilities to change the implementation responsibilities of the Ordinance from the Community Development Department to the Parks and Recreation Department, and various associated code clean-up items. The Commission voted against moving the Ordinance from Title 18 to Title 13 and for creating a tree exemption list, and voted to initiate a Municipal Code Text Amendment to Chapter 18.162 as follows:

- Remove the Development Plan Review Board's (DPRB) tree removal review authority and allow Staff to review and approve all tree removals, regardless of the number of trees proposed for removal.
- Change replacement requirement to 1:1 if 24-inch box tree is planted or 2:1 if 15-gallon tree is planted.
- Create two levels of protection
 - Oak tree, and any other tree staff proposes, will need to make findings to remove.
 - All other trees with a 10-inch diameter or greater can be removed without any findings as long as they replace them. In this situation, the Director can reduce replacement ratio if not enough space to plant trees.
- Don't require replacement trees for removal of trees that pose an immediate danger, and removal of trees required by the Fire Department.
- Explore relaxing the Ordinance for backyard trees.
- Don't require arborist report for dead, diseased or dying tree, unless applicant disagrees with Director's determination.
- Revise tree removal findings to make them clear and objective.
- Change the point at which trunk diameter measurements are taken from 38-inches to 54-inches to be consistent with arboricultural standards
- Revise the penalty section of the Ordinance.

After getting direction from the Commission, Staff started the process to amend the Tree Ordinance. This consisted of researching other cities and the American National Standards Institute (ANSI) to identify best practices, and consulting with the City's arborist. On April 23, 2024, the City Council heard a discussion about fines related to community trees. The Council also discussed processes, fees and fines related to private trees. After much discussion, the Council directed Staff to schedule a study session to discuss private trees and provided input for discussion. Some of the items that were mentioned during the discussion, included, but were not limited to:

- Explore reducing or removing fees for single family property owners
- Reconsider enforcement of Ordinance in single-family backyards
- Create an exemption list for private trees; can remove without permits/fees
 - Exempt trees to consider: Eucalyptus, Tree of Heaven, Queen Palm, White Ash, etc.
 - If exemption list is created, consider adding additional trees to protected status
- In situations where we require 4:1 replacement, it may not be appropriate as space and maintenance are a factor.

- Tree ordinance should be easy to follow and not burden residents.
- Creation of a tree fund, funded by residents who remove trees but don't have room for required replacement, that would allow other residents to plant trees at no expense to them.

DISCUSSION/ANALYSIS

The Planning Commission and City Council have engaged the Community Development, and Parks and Recreation Departments in several discussions and hearings related to the enforcement of policies related to trees within the City limits. Trees within the City of San Dimas are regulated under two separate Chapters of the SDMC. Chapter 13.36, the Community Tree Management, regulates policy and enforcement related to City-owned trees located within any park, City right-of-way, median, parkway, planting easement or any other City-owned property, and is administered by the Parks and Recreation Department. Chapter 18.162, the Tree Preservation Ordinance (**Attachment 1**), regulates policy and enforcement related to privately-owned trees, located on privately-owned property, regardless of the established land use, and is administered by the Community Development Department. The table below summarizes the specific provisions, authorities, and enforcement procedures of each ordinance.

Standards and Enforcement	Public Trees (SDMC - Chapter 13.36)	Private Trees (SDMC - Chapter 18.162)
Purpose of Chapter	This chapter establishes responsibility, policy, standards and regulations necessary to ensure that community trees are maintained in a safe and healthy condition through professionally accepted arboricultural standards.	Preserve and protect mature significant trees, as well as other trees which are determined to be desirable, growing within the city.
Care Standards	Community Forest Management Plan updated periodically.	Tree Maintenance (18.162.100).
Permit Required	Tree Removal Request to perform any maintenance on a community tree.	Tree Removal Permit required to remove Mature trees (Oaks: 8" diameter/Any other tree excluding fruit trees: 10" diameter).
Tree Removal Permit Fees	No fee	Tree Permit for Single-Family: <ul style="list-style-type: none"> • For ≤ 3 trees: \$300 • For ≥ 4 trees: \$500 Tree Permit for Other Existing: <ul style="list-style-type: none"> • For ≤ 3 trees: \$350 • For ≥ 4 trees: \$740 Tree Permit for Existing/Proposed Development Proj: \$740

Authority	The Director of Parks & Recreations has the responsibility to supervise planting and maintenance of community trees; review landscaping, construction and development plans when the actions proposed may impact community trees; grant or deny permits for the planting and maintenance of community trees; prepare and keep records for community trees.	The Director of Community Development has the authority to approve removal of up to three trees, and determine replacement ratio/value, and location. DPRB has the authority to approve the removal of four or more trees.
Criteria for Species Specific Protections	Community Forest Management Plan Appendix G – Approved Landscape Plants for Under Oaks.	Oaks: 8” diameter. Other species: 10” diameter
Prohibited Activities	Any action that can directly or indirectly affect the health or welfare of a community tree.	Unpermitted removals or topping of trees.
Criteria for Mature Tree Protection	Maintenance standards established in the Community Forest Management Plan, including standards for planting, pruning, root pruning, removals, hardscape and sewer lateral conflicts, permits, and construction management.	Oaks: 8” diameter/Any other tree excluding fruit trees: 10” diameter.
Enforcement	Violations of Chapter 13.36 are subject to fines, and misdemeanor citation.	Violations of Chapter 18.162 may be subject to misdemeanor citations. Administrative citations may also be issued in lieu of the misdemeanor citations
Penalties and Violations	Subject to SDMC fines of \$100, \$200, \$500; \$1,000 for egregious violations; Heritage trees replaced 4:1; Other trees replaced 2:1; Responsible persons liable for cost of tree removal, disposal, value of tree, and tree replacement.	Administrative citations: \$100 first offense, \$200 second offense, \$500 for each additional offense. Each tree is considered an offense. <u>Up to 4:1</u> or replacement of equal value and size, as determined by the Director.
Appeals	Appeals to City Manager (SDMC – Chapter 13.36.090).	Appeals made to City Council (SDMC – Chapter 18.212).

The table above summarizes the difference between certain standards for the preservation of community and private trees. However, the purpose of this report is to seek direction on proposed changes to Chapter 18.162 which aims to preserve trees located solely on private property. Specifically, Staff is seeking direction from the Council on changes proposed by the Planning Commission and Staff, and further discuss City Council comments from the April 23, 2024, meeting.

Planning Commission Requested Changes

As previously mentioned, on September 21, 2023, the Planning Commission gave Staff direction on amending the tree preservation ordinance. Staff is seeking the Council's input on the following changes proposed by the Commission:

- Removal of DPRB review authority in favor of staff review.
 - The current ordinance requires requests to remove four (4) or more trees to go before the DPRB for approval. The submittal requirements are the same for both the removal of up to three (3) trees, or four (4) or more trees. The only difference is the approval body; the Director of Community Development approves the removal of three (3) or less trees, while the DPRB approves the removal of four (4) or more trees, which also requires Staff to write and present staff report and also requires neighbor notification. Removal of four (4) or more trees require approval from the Board as the removal can have more of an impact on the subject site and/or surrounding neighborhood. However, the Commission stated that Staff can perform the same level of review and make the appropriate determination, regardless of the number of trees proposed for removal. In addition, the Commission raised concerns with delays and allowing Staff to review the removal of four (4) or more trees would streamline the process. It also should be noted that Staff is working on an MCTA to eliminate the DPRB as directed by City Council.
- Change replacement requirement to 1:1 if 24-inch box tree is planted or 2:1 if 15-gallon tree is planted.
- Revise tree protection to create two levels of protection:
 - Oak tree, and any other tree staff proposes, will need to make findings to remove.
 - All other trees with 10-inch diameter or greater can be removed without any findings as long as they replace them. In this situation, the Director can reduce replacement ratio if not enough space to plant trees.
- Don't require replacement trees for removal of trees that pose an immediate danger, and removal of trees required by the Fire Department.
- Explore relaxing the ordinance for backyard trees.
- Don't require arborist report for dead, diseased or dying tree, unless applicant disagrees with Director's determination.
 - The current ordinance requires a written report of a certified arborist, horticulturist or other qualified person to verify if the tree is dead.

Staff Requested Changes

As part of the Commission's request, Staff also presented a list of changes to the Ordinance. Staff is seeking the Council's input on the following changes proposed by Staff:

- Revise tree removal findings to make them clear and objective.
 - The Ordinance requires that findings be made to approve a tree removal application. Per the Ordinance, a minimum of one of the following findings must be met to approve a tree removal application:
 - i. The condition of the mature significant tree(s) with respect to disease, danger of falling, proximity to existing or proposed structures, and interference with utility services warrant removal of the tree.
 - ii. It is reasonable to remove the tree because of its continued existence at the location prevents the reasonable development of the subject property.
 - iii. Removal of the tree will not create a negative impact on the topography of the land, erosion, soil retention, and will not contribute to the diversion or increased flow of surface waters.
 - iv. Based on the number of trees in the neighborhood on surrounding properties or on the site, and the effect of tree removal upon enjoyment of the residents and the general public, and on property values in the area.
 - v. The tree removal is consistent with good forestry practices, such as the number of healthy trees which a given parcel of land will support.

As written, the findings are somewhat subjective and likely applicable to any tree. This can make it difficult for Staff when considering a tree removal application and still comply with the intent of the Ordinance. For example, findings number 3 and 4 could be made for majority of existing trees, and finding number 1 can be very subjective as proximity to structures is not defined. The findings would be revised to meet the intent of the Ordinance but still allow for the removal of trees when necessary.

- Change the point at which trunk diameter measurements are taken from 38-inches to 54-inches to be consistent with arboricultural standards
- Revise the penalty section of the Ordinance to improve implementation of it.
- Create a tree exemption list
 - An exemption list could include trees considered to be invasive, non-native, or otherwise problematic for public safety. These trees could be removed without a permit, fees or replacement requirements. The following is a list of trees that could be included:
 - 1) Fruit and Nut trees
 - 2) Ficuses, except Moreton Bay Fig (*Ficus Macrophylla*)
 - 3) Eucalyptus
 - 4) Tree of Heaven (*Ailanthus Altissima*)
 - 5) Palm Tree
 - 6) Brazilian Pepper (*Schinus Terebinthifolius*)
 - 7) Carob (*Ceratonia siliqua*)
 - 8) European White Birch (*Betula Pedula*)
 - 9) Mulberry (*Morus*)
 - 10) Silver Maple (*Acer Saccharinum*)
 - 11) Italina Cypress (*Cupressus Sempervirens*)
 - 12) Western Cottonwood (*Populus Fremontii*)

- 13) White Alder (*Alnus Rhombifolia*)
- 14) Black Cottonwood (*Populus Trichocarpa*)
- 15) All other varieties and/or hybrids of Cottonwood (*Populus sp.*)
- 16) Arroyo Willow (*Salix Lasiolepis*)
- 17) Sweet Gum (*Liquidambar*)

It should be noted that the Commission recommend against an exemption list and recommended a tiered protection status described earlier in the report.

City Council Direction

On April 23, 2024, the City Council discussed processes, fees and fines related to private trees and directed Staff to schedule a study session to discuss private trees. The items that were specifically raised for discussion included:

- Explore reducing fees for single family property owners by \$150 and increase fines \$150 in order to create a balance between enforcement and compliance.
 - Under the current fee schedule, which was revised on September 26, 2023, and went into effect December 4, 2023, tree removal permits for single family cost \$300 for the removal of three (3) or less trees, and \$500 for the removal of four (4) or more trees. Prior to the change, historically, there was no cost for single family tree removal permits. The fee was imposed as often time Staff is required to conduct site visits and if four (4) or more trees are proposed for removal, a staff report must be written and presented to the DPRB. The fee does not recover 100% of Staff costs but it helps to offset some it.
 - Staff researched cities that have tree preservation ordinances and their fees for single family properties are as follows:
 - La Verne: \$500
 - Alhambra: \$600. Scheduled to be increased to \$1,100 for FY 25-26, and to \$1,510 for FY 26-27
 - Arcadia: \$979
 - Chino Hills: \$1,070 if no tree plan is required. \$2,073 if tree plan is required
 - Diamond Bar: \$1,539 plus a \$2,500 deposit to cover costs for all staff involved.
 - Covina: \$1,128 for removal of one (1) tree, \$2,504 for remove of two (2) or more trees
 - El Monte: \$209, \$963 for trees removed without permit
 - Staff reached out to cities that have tree preservation ordinances, and their fines were as follows:
 - The cities of Diamond Bar, Alhambra, Chino Hills, Covina, Monrovia and La Verne all issue administrative citations which typically start at \$100 and increase to \$200 and then \$500. The City of Covina also have the ability to recover staff costs associated with enforcement and correction, payment into tree fund in an amount equivalent to the value of the trees illegally damaged or removed, require planting of replacement trees in locations on or off the subject site.

- Arcadia: Any of the following: up to \$1,000, value of the removed tree, replacement trees
- El Monte: Appraised value of protected tree up to \$5,000 per tree.
- Reconsider enforcement of Ordinance in single-family backyards. Considering that the benefits of backyard trees are primarily conferred upon the residents of the property, it is unlikely that future removal of backyard trees without requiring replacement would have a significant impact on other residents of the City but could result in some reduction to the overall tree canopy within the City. The Planning Commission also made this recommendation. For reference, the following cities follow this practice or some version of it:
 - The Cities of Alhambra, Monrovia and Duarte exempt trees located in the rear and side yards of single-family residential zones.
 - The City of Arcadia exempts non-Oak and Sycamore trees that are located outside of required setbacks in single-family residential zones.
 - The City of Claremont exempts all trees located on single-family residential zones.
 - The City of Diamond Bar exempts trees located on properties that measure less than ½ acre.
 - The City of Walnut exempts trees on developed properties unless it involves another entitlement requiring Planning Commission review.

It should be noted that if the Council will recommend against enforcing the Ordinance in the backyard of single-family properties, the revisions to the Ordinance should include the requirement of a soil erosion report for backyard trees on sloping properties, or exempt backyard trees from the ordinance with the exception of trees located on sloping property of a specified grade.

- Create an exemption list for private trees which can be removed without permits/fees, and consider adding additional trees to protected status.
 - The Council mentioned the following trees to be considered for exemption:
 - Eucalyptus, Tree of Heaven, Queen Palm, and White Ash.
 - City Staff also recommended creating an exemption list, which was provided earlier in the report.
 - As an alternative, the Council could also decide to limit protection status to certain trees. For example, the following cities have limited protection status:
 - The City of La Verne only protects Oak, Deodar Cedar, Camphor, Black Walnut, and Sycamore trees.
 - The Cities of Covina and Monrovia only protect Oak trees.
 - The City of Diamond Bar only protects Oak, Walnut, Sycamore and Willow trees.
- 4:1 replacement is not appropriate; space and maintenance are a factor.
 - The Commission recommended changing the replacement requirement to 1:1 if 24-inch box tree is planted or 2:1 if 15-gallon tree is planted.
- Creation of a tree fund, funded by residents who remove trees but don't have room for required replacement, that would allow other residents to plant trees at no expense to them. The City's current ordinance doesn't have a tree fund, but it does allow replacement trees to be planted off site and allows the Director of Community Development to require

a security (or "payment") in an equivalent amount needed to plant replacement trees. Staff researched other cities and found that some cities do have a tree fund:

- The Cities of Diamond Bar, El Monte and Covina maintain a tree replacement fund that is funded by tree replacement in-lieu fees and citations issued for tree violations. Diamond Bar and El Monte use these funds solely for planting trees or other vegetation on publicly owned property. Covina uses these funds to plant replacement trees or preserving native trees on property or sites where the City has reasonable assurance of the long-term viability of the trees.

In conclusion, staff recognizes the joint intentions of the Commission and Council to amend the Tree Preservation Ordinance to make it more user-friendly, more flexible for single-family property owners, and easier to enforce while encouraging compliance, and requests clarification or guidance from the Council on the items discussed in this report. For non-single-family properties, the Tree Ordinance requirements would generally stay the same.

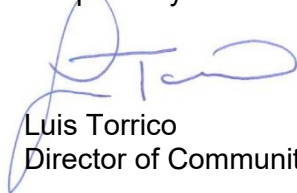
ALTERNATIVES

No alternatives are proposed for this discussion.

ENVIRONMENTAL REVIEW

Pursuant to CEQA guidelines Section 15061 (b)(3), CEQA does not apply to this item because there is no potential for causing a significant effect on the environment. Therefore, no additional environmental review is needed at this time.

Respectfully submitted,



Luis Torrico
Director of Community Development

Attachments:

1. SDMC Chapter 18.162 Tree Preservation

Chapter 18.162

TREE PRESERVATION

Sections:

- 18.162.010 Purpose.
- 18.162.020 Definitions.
- 18.162.030 Permits required—Undeveloped property.
- 18.162.040 Review required—Developed property.
- 18.162.060 Conditions imposed.
- 18.162.070 Required findings.
- 18.162.080 Exceptions.
- 18.162.090 Verification of dead, diseased or dying trees.
- 18.162.100 Tree maintenance.
- 18.162.110 Protection of existing trees.
- 18.162.120 Appeals.
- 18.162.130 Penalties.

18.162.010 Purpose.

The purpose of this chapter is to preserve and protect the mature significant trees, as well as other trees which are determined to be desirable, growing within the city.

Such trees are natural aesthetic resources which help define the character of the city and are worthy of protection in order to preserve the natural environment and to protect the city’s native plant life heritage for the benefit of all citizens.

Mature significant trees, and other desirable trees, are unique because of their size and beauty, and their abundance adds distinction and character to the natural beauty of the community.

It is pertinent to the welfare and safety of all citizens of the city that such trees be protected from indiscriminate cutting or removal, for conservation purposes, as well as for the preservation of the natural beauty which such trees lend to the city.

It is the intent of this chapter that the design concerns of a development should address preservation of the most desirable and significant of the existing healthy trees and the developer is encouraged to utilize creative land planning techniques to achieve this goal. (Ord. 913 § 1 (Exh. A), 1990)

18.162.020 Definitions.

For purposes of this chapter the following definitions shall apply:

A. Mature Significant Tree.

A mature significant tree shall refer to any tree within the city of an oak genus which measures eight inches or more in trunk diameter and/or any other species of trees which measure ten inches or more in trunk diameter and/or a multi-trunk tree(s) having a total circumference of thirty-eight inches or more; the multi-trunk tree shall include at least one trunk with a diameter of a minimum of four inches.

The trunk diameter shall be measured at a point thirty-six inches above the ground at the base of the tree.

B. “Remove” includes any act which will cause a mature significant tree to die, including but not limited to acts which inflict damage upon the root system or other parts of the tree by fire, cutting, application of toxic substances, operation of equipment or machinery, or by changing the natural grade of land by excavation or filling the drip line area around the trunk.

C. “Undeveloped property,” for the purposes of this chapter, refers to any parcel or parcels of land which does not contain physical man-made improvements, and may be improved in conformance with the applicable development standards of the zoning classification where the property is located. Undeveloped property shall also refer to any parcel or parcels of land which may or may not contain improvements and on which development applications including, but not limited to, development plan review board, variance, zone change and subdivision, have been submitted.

D. “Developed property,” for the purposes of this chapter, refers to property which has been improved with structures, buildings, surface materials, landscaping and similar improvements in accordance with all city ordinances. (Ord. 913 § 1 (Exh. A), 1990)

18.162.030 Permits required—Undeveloped property.

A tree removal permit is required. No issuance of any grading or building permits or commencement of work shall be allowed on undeveloped property prior to the approval of a permit. No mature significant tree which conforms to the standards and definitions of this chapter shall be removed or relocated without obtaining the written approval of the director of development services. An application to remove or relocate a mature significant tree shall include the following information as determined as necessary by the director of development services:

- A. A written statement indicating the reason for the removal or relocation of tree(s);
- B. The location of all trees on the site, including those to be removed, shall be identified on a plan or map indicating species, trunk diameter, height, tree spread, drip line, and health;
- C. Photographs of the proposed trees to be removed or relocated shall be included;
- D. A written technical report from a certified arborist regarding proposed trees, when necessary;
- E. Any other information as deemed necessary by the director of development services;
- F. The application shall be accompanied by a fee in an amount as established by resolution of the city council;
- G. The development plan review board, and the planning commission as applicable, may determine that trees on the project site not defined as mature significant trees by Section 18.162.020(A) are desirable to retain. In such case, the provisions of this chapter shall apply;
- H. Where possible, application shall be submitted with the development application and should be in conjunction with a tree preservation maintenance agreement. An application for a permit, variance, zone change or tentative map for a subdivision, including a minor land division and/or a proposed development plan shall be concurrently filed with an application for a tree removal permit as set forth in accordance with this chapter. (Ord. 1165 § 1, 2006)

18.162.040 Review required—Developed property.

Mature significant trees may be removed from developed property with the approval of the director of development services or development plan review board, subject to the following procedures:

- A. Requests to remove or relocate up to, but not exceeding, three mature significant trees may be approved by the director of development services pursuant to the following information:
 - 1. A written statement indicating the reason for the removal or relocation of tree(s);
 - 2. The location of all trees on the site, including those to be removed, shall be identified on a plan or map indicating species and trunk diameter;
 - 3. Photographs of the proposed trees to be removed or relocated shall be included;
 - 4. Action by the director of development services is subject to findings provided for in Section 18.162.070 of this chapter;

5. When, in the sole opinion of the director of development services, circumstances are such that removal of three or fewer trees might have an adverse impact on other properties in the area of the proposed tree removal, the director of development services may refer the matter to the development plan review board.

B. Requests to remove or relocate more than three mature significant trees may be approved by the development review board pursuant to the following information:

1. A written statement indicating the reason for the removal or relocation of tree(s);
2. The location of all trees on the site, including those to be removed, shall be identified on a plan or map indicating species and trunk diameter;
3. Photographs of the proposed trees to be removed or relocated shall be included;
4. Action by the director of development services is subject to findings provided for in Section 18.162.070 of this chapter.

C. The development plan review board, and the planning commission as applicable, may determine that trees on the project site not defined as mature significant trees by Section 18.162.020(A) are desirable to retain. In such case, the provisions of this chapter shall apply. (Ord. 1165 § 2, 2006)

18.162.060 Conditions imposed.

An approval to remove or relocate mature significant trees by the director of development services or the development plan review board are subject to conditions of approval as deemed necessary to implement the provisions of this chapter including, but not limited to:

A. Tree relocation and/or two for one replacement with minimum fifteen-gallon box tree(s), or other replacement of equivalent value and size, within the subject property. The two for one replacement ratio may be reduced as determined by the final decision making body, if a minimum of one of the following additional findings are made:

1. The reduced replacement requirement is consistent with the purposes of this chapter.
2. The tree(s) in question are located where the impact of the tree removal on the community is limited (such as trees in a generally flat portion of the rear yard of a single-family house that are deemed to have less public benefit).
3. The property in question has an adequate number of existing trees therefore a reduced replacement ratio is appropriate.

B. When on-site features, project constraints, and/or other considerations exist which prevent reasonable on-site relocation, relocation to an approved off-site location shall be permitted.

C. If said conditions are imposed, the owner will be responsible for all replacement and relocated trees for a minimum period of two years. If during this time the tree(s) is (are) declared unhealthy by a certified arborist as set forth in Section 18.162.090, the diseased trees shall be removed and replaced at the cost of the applicant, as set forth in Section 18.162.100.

D. A maintenance agreement shall be submitted by the applicant and established for each replaced and relocated tree. The maintenance agreement and maintenance responsibility shall be transferred with the sale of the property if title to the property is transferred within the specified maintenance period. (Ord. 1165 § 4, 2006)

18.162.070 Required findings.

The granting of a permit for the removal or relocation of mature significant trees shall be subject to a minimum of one of the following findings as they pertain to the specific property:

A. The condition of the mature significant tree(s) with respect to disease, danger of falling, proximity to existing or proposed structures, and interference with utility services warrant removal of the tree;

B. It is reasonable to remove the tree because of its continued existence at the location prevents the reasonable development of the subject property;

C. Removal of the tree will not create a negative impact on the topography of the land, erosion, soil retention, and will not contribute to the diversion or increased flow of surface waters;

D. Based on the number of trees in the neighborhood on surrounding properties or on the site, and the effect of tree removal upon enjoyment of the residents and the general public, and on property values in the area;

E. The tree removal is consistent with good forestry practices, such as the number of healthy trees which a given parcel of land will support. (Ord. 1165 § 5, 2006)

18.162.080 Exceptions.

All trees should be protected, but there are a few cases where this chapter does not apply and they are as follows:

A. Trees planted, grown, and/or held for sale by licensed nurseries and/or tree farms or the removal or transplanting of such trees pursuant to the operation of licensed nursery and/or tree farm;

B. Trees within existing or proposed public right-of-way where their removal or relocation is necessary to obtain adequate line-of-site distances as required by the city engineer;

C. Trees which, in the opinion of the city engineer, will cause damage to existing public improvements;

D. Trees which require maintenance or removal action for the protection of existing electrical power or communication lines or other property of a public utility;

E. Trees damaged by thunderstorms, windstorms, flood, earthquakes, fire, widespread organic disease or insect infestation, or other natural disasters and determined to be dangerous by a peace officer, fireman, civil defense official or code enforcement officer in their official capacity;

F. Minor trimming and/or pruning of trees on developed property within the scope of typical and reasonable tree maintenance;

G. Trees declared to be dead, diseased or dying, subject to the requirements of Section 18.162.090;

H. Fruit trees, including citrus, plum, nectarine, cherry, apricot, peach, pear, pomegranate, persimmon, loquat, fig, avocado and other species determined similar by the director of development services. (Ord. 1165 § 6, 2006; Ord. 913 § 1 (Exh. A), 1990)

18.162.090 Verification of dead, diseased or dying trees.

The health of any mature significant tree declared to be dead, diseased or dying shall, prior to removal, be verified by a written report of a certified arborist, horticulturist or other qualified person. (Ord. 913 § 1 (Exh. A), 1990)

18.162.100 Tree maintenance.

The careful management of trees has become an ever increasing factor in the health and care of mature significant trees. When mature significant trees are located on designated scenic or open space areas, the owner of the property shall be exempt from this section. When mature significant trees are located on developed property, whether remaining trees, relocated trees, or new trees planted to replace those removed, the owner of the property shall maintain the trees to preserve and protect their health in accordance with the following measures:

A. The maintenance of trees standing upon private property shall be the responsibility of the owner(s) of those properties.

B. Trees shall be pruned, treated and maintained in such a fashion that the trees will be free of various damage, pests, disease and dead branches. The trees shall be in good biological and aesthetic condition.

C. Where applicable, a bond or cash deposit as determined by the director of development services shall be furnished by the developer for the management and protection of each existing, replanted or relocated tree(s). Said bond or cash deposit shall be refunded upon the successful completion of a tree maintenance program as required by the director of development services.

D. Any tree removal and/or replacement permit granted by the director of development services pursuant to Section 18.162.030 and the development plan review board pursuant to Section 18.162.050 shall include a condition requiring an objectively observable maintenance and care program to be initiated to insure the continued health and care of mature significant tree(s) on the property. Such program shall specify length of maintenance program, maintenance plan and method of inspection. Said tree maintenance program and plan is not required of the applicant when trees are to be relocated to an approved off-site location pursuant to the provisions of this chapter. (Ord. 1165 § 7, 2006; Ord. 913 § 1 (Exh. A), 1990)

18.162.110 Protection of existing trees.

Care shall be exercised by all individuals, developers and contractors working near mature significant trees to be preserved so that no damage occurs to the trees. All construction shall preserve and protect the health of trees to remain in place, to be relocated, and new trees planted to replace those removed and any trees adjacent to the subject property in accordance with the following measures:

A. All trees to be saved shall be enclosed by an appropriate construction barrier, such as chain link fence or other means acceptable to the director of development services, prior to the issuance of any grading or building or building permit and prior to commencement of work. Fences are to remain in place during all phases of construction and may not be removed without the written consent of the director of development services, until construction is complete;

B. Any tree which is adjacent to the subject property and may be potentially impacted by persons or activity on the subject property shall be protected pursuant to the provisions of Section 18.162.110. It shall be the responsibility of the agent of the subject property to obtain the written permission from adjacent property owners prior to action for the protection of trees on adjacent property as required by Section 18.162.110;

C. No substantial disruption or removal of the structural or absorptive roots of any tree shall be performed;

D. No fill material shall be placed within the drip line of any tree;

E. No construction, including structures and walls, that disrupts the root system shall be permitted. As a guideline, no cutting of roots should occur within the drip line of the tree as measured at ground level. Actual setbacks may vary to meet the needs of individual tree species as determined by an arborist or landscape architect. Where some root removal is necessary, the tree crown may require thinning to prevent wind damage;

F. Topping and/or severe pruning of trees that results in significant damage to the tree to the point that reasonable future growth may be limited, as determined by a Certified Arborist, shall constitute a tree removal and is subject to the penalties outlined in Section 18.162.130; and

G. The director of development services may impose such additional measures determined necessary to preserve and protect the health of trees to remain on site. (Ord. 1165 § 8, 2006)

18.162.120 Appeals.

Appeals shall be in accordance with Chapter 18.212 of this title. (Ord. 913 § 1 (Exh. A), 1990)

18.162.130 Penalties.

Violation of any provision of this chapter, or of any provision of any permit issued pursuant to this chapter shall be a misdemeanor punishable as follows:

A. Fines shall be set forth in accordance with Section 1.12.010 of this code. Each tree removed in violation of this chapter shall constitute a separate offense.

B. As set forth in Section 18.162.010, it is the intent of this chapter to preserve to the greatest extent possible those trees which have contributed to the beauty of the city and the welfare of its residents. It is therefore the expressed intent of the city council that, to the extent legally permissible, upon conviction of any person pursuant to subsection A of this section, in lieu of incarceration, conditions of probation be placed upon such violator requiring the replacement of each tree removed in violation of this chapter with up to four trees of a similar species of not less than a twenty-four inch box size, or other replacement of equivalent value and size, whichever is greater. The number, size and location of the equivalent replacement tree shall be determined by the director of development services. For the purpose of this section, a suitable location may include an off-site location.

C. Notwithstanding any other provision of law, no development permit of any kind, including but not limited to, any building permit or certificate of occupancy, shall be issued for any lot on which one or more trees have been removed in violation of the provisions of this chapter, or any permit issued pursuant to this chapter, unless and until the owner of such lot has replaced each such tree, to an on-site or off-site location pursuant to the provisions of this section, with up to four trees of a similar species of not less than twenty-four inch box size, or of equivalent value and size, whichever is greater, or provided security satisfactory to the director of development services that such trees will be planted at such time as determined by the director. (Ord. 1165 § 9, 2006)