

## Chapter 37 TREE PLANTING, PRESERVATION AND PROTECTION

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\* Prior history: Code 1964, §§ 7-9.05—7-9.07 and 7-9.10—7-9.16; Ord. Nos. 491, 612, 656, 954, 964, 1369 and 2020.

### Article 37.01 ADMINISTRATIVE PROVISIONS

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#### 37.01.010 Introduction and purpose of chapter.

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The City of Davis acknowledges the importance of trees to the community's health, safety, welfare and tranquility. Much of the city's admired and valued appearance and ambiance is due to its tree canopy, a dominant visual and spatial element of the landscape and urban form. Trees maintain an aesthetically pleasing environment and can provide environmental, aesthetic, social and economic benefits. Specifically, trees increase property values, provide visual continuity, provide shade and cooling, decrease wind velocities, provide erosion control, conserve energy, reduce stormwater runoff, act as filters for airborne pollutants, reduce noise, provide privacy, provide habitat and food value and release oxygen. The community forest shall be prudently protected and managed to secure these benefits.

It is the intent of this chapter to establish regulations for the planting of new trees and the preservation and protection of street trees, city trees (trees in parks, greenbelts, open spaces, on city property or easements, etc), landmark trees, trees of significance, parking lot trees, and certain private trees in order to retain and augment the health of the existing community forest. (Ord. 2099 § 1, 2002)

#### 37.01.020 Definitions.

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The following words are defined for purposes of this chapter as follows:

**Arborist** means an individual certified as an arborist by the International Society of Arboriculture (ISA), the California Arborist Association (CAA), or other nationally recognized tree research, care and preservation organization approved by the director.

**Arborist report** means a report prepared by a certified or consulting arborist containing specific information on the location, condition, potential impacts of development, recommended actions and mitigation measures regarding one or more trees on an individual lot or project site with the arborist's signature and seal.

**Building permit** refers to any permit required by the community development and sustainability department for any construction (above ground or underground).

**City arborist** means the arborist employed by the city, and designated by the director, responsible for review, evaluation and/or preparation of reports, permits and requests regarding pruning, construction damage, removing and/or relocating city-owned or other protected trees. In performing these duties and responsibilities, the city arborist may conduct field inspections independently as an authorized representative of the city.

**City master tree list** refers to the city-adopted tree list for street trees and parking lot trees. It is available

from the community development and sustainability department and/or the community services department.

**City tree** means any tree, other than a street tree, planted or maintained by the city within a city easement, right-of-way, park, greenbelt, public place or property owned or leased by the city.

**City tree management program** refers to the identified portion of the city budget that is used for street tree and city tree planting, replacement, establishment and maintenance.

**City tree planting and maintenance specifications** are the city-adopted standards for care of trees, including, but not limited to, tree planting, young tree care, pruning, mulching, fertilization, irrigation, pest management and removal and replacement. They are available from the community services department.

**Community forest** refers to all publicly and privately owned trees within the city, its open space areas and surrounding planning area(s).

**Community forest management plan (CFMP)** is the city's long term plan for comprehensive management of the community forest. As adopted and approved by the city council, the CFMP shall be available from the community development and sustainability department and/or the community services department.

**Cost-of-cure** refers to the approved evaluation method for appraising the value of existing trees, setting bond amounts, and/or assessing costs associated with tree repair and/or restoration to correct damage(s) resulting from improper tree protection.

**Cutting** means the trimming, detaching or separating of any limb, trunk, root or any other part of a tree, including cutting into the trunk of a tree.

**Damage** means any action undertaken that causes injury, death or disfigurement of a tree. Damage may occur by, among other means, cutting, poisoning, overwatering relocating or transplanting a tree, or trenching, excavating or paving within the tree protection zone of a tree.

**Diameter at breast height (DBH)** means the diameter of a tree measured at four feet six inches above ground level. The diameter may be calculated by use of the following formula:  $DBH = \text{circumference at breast height} \div 3.14$ . DBH is one factor used for many forms of tree evaluation, such as determining trees of significance, and is a factor in establishing replacement fees and penalties for violations, among others.

**Director** means the director of the community services department or designee.

**Discretionary project** means any non-ministerial development project that is subject to the approval of either the city council, the planning, historical resources management or tree commissions, subdivision committee, or by city staff through an approved administrative process. Discretionary projects include, but are not limited to, conditional use permits, tentative maps or waivers thereof, rezones, design review, minor modifications, modifications to historic resources, minor improvements, sign permits, variances or planned developments.

**Encroachment** means any activity conducted within the tree protection zone or drip line of a protected tree.

**Grading** means the removal, movement or addition of soil or earth material.

**Irrigation** means application of water by artificial means.

**Landmark tree** means a tree that has determined by resolution of the city council to be of high value because of its species, size, age, form, historical significance, or some other professional criterion. The landmark tree list, available from the community services department, lists these identified trees.

**Modification** refers to direct (e.g., pruning) and indirect (e.g., grade changes, trenching) impacts to a tree and to changes to trees in the surrounding area that result in physical impacts upon a tree.

**Parking lot shading guidelines** refers to the informational handout for design and shading of new and/or reconstructed parking lots, as per Section [37.04.020](#). The guidelines are available from the community

development and sustainability department and/or the community services department.

**Private tree** means any tree privately owned and growing on private property, which may include landmark trees and/or trees of significance.

**Protected tree** means trees protected under this article: landmark trees, trees of significance, city-maintained street trees, city trees and trees identified to become a city tree.

**Prune** shall refer to both above surface and underground cutting; to cut off or cut back parts to enhance health and structure. All pruning shall conform with tree pruning guidelines (ISA) or pruning standards (ANSI-A300).

**Prune substantially** shall apply to both above-surface and underground cutting. For branches, it shall mean the removal of more than twenty-five percent of the leaf area of the tree or removal of any limb with a diameter of four inches or a circumference of 12.6 inches or greater at any point on such limb. For roots, “prune substantially” shall include the cutting of any root two inches or greater in diameter.

**Removal** means removal of a tree by cutting to the ground, complete extraction, or killing by spraying, girdling, or any other means.

**Single-family or duplex dwelling** means up to two buildings on a lot designed for and/or occupied by one family per dwelling.

**Street tree** means any tree planted and/or maintained by the city, or recorded as a street tree, adjacent to a street or within a city easement or right-of-way on private property, within the street tree easement.

**Street tree easement** refers to the ten-foot zone behind the sidewalk or between curb and sidewalk (or if no sidewalk exists, behind the street curb, gutter, edge of street or property line at street) within which a street tree or private tree may exist or be planted.

**Street tree planting requirements** are the standards and requirements for subdividers to provide and plant street trees and street tree fees for each lot fronting a public street, as per Section [37.02.010](#) and as per information available from the community development and sustainability department and/or the community services department.

**Subdivider** means any developer or individual creating new single-family, duplex or multifamily lots or developing multifamily or commercial property fronting a public street.

**Topping** means removal of the highest part of a tree by use of large heading cut.

**Tree** means any woody perennial plant having one or several main stems commonly achieving ten or more feet in height and capable of being pruned and shaped to develop a branch-free trunk at least nine feet in height. Reference to any tree indicates the entire plant, including both visible (canopy, trunk) and below grade (roots).

**Tree modification application** refers to the completed application required prior to consideration for a tree modification permit.

**Tree modification permit** is a permit granted by the City of Davis community services department and/or the community development and sustainability department for tree-related work to be performed within the tree protection zone of a protected tree or the tree itself under Section [37.02.050](#).

**Tree of significance** means any tree included but not limited to those listed as per Section [37.03.050](#) as small and large trees which measure five inches or more in diameter (DBH).

**Tree preservation fund** refers to the tree management and reservation fund maintained by the director for use as needed for specialized preservation of the community forest.

**Tree preservation and protection standards** are the standards for preservation and protection of trees during construction, as per Section [37.03.070](#) and Article 37.05 and the standards available from the City of Davis community services department and/or the community development and sustainability department.

**Tree protection zone (TPZ)** means the outermost edge of a tree’s canopy (or drip line), as measured

accurately at the time of application for a building permit, discretionary project review, tree modification permit or other discretionary approval. When depicted on a map, the TPZ will appear as an irregular-shaped circle that follows the contour of the tree's branches as seen from overhead. In certain instances, the TPZ may extend beyond the drip line, as determined by the director.

**Tree removal request** means an application to the director to remove a street or city tree or other protected tree under Section [37.02.070](#). (Ord. 2099 § 1, 2002; Ord. 2390 § 3, 2012)

#### **37.01.040 Responsibility of community services director.**

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The director shall be charged with the enforcement of this chapter and shall be responsible for the planting, maintenance, preservation and protection, and removal of street trees, city trees, public trees or other plants in any public way or public place in the city in accordance with the provisions of this chapter. The director shall coordinate with other city departments and/or local agencies non-profit/private groups as necessary to enforce this chapter, including, but not limited to, the community development and sustainability, police and public works departments, and Tree Davis or other private partners. (Ord. 2099 § 1, 2002; Ord. 2390 § 3, 2012)

### **Article 37.02 STREET TREES AND CITY TREES**

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#### **37.02.010 Street trees planted by subdivider.**

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Subdividers are hereby required to provide and plant street trees within the city street tree easement, according to the city's street tree planting requirements, for each lot fronting a public street. Furthermore, the subdivider is required to deposit a street tree fee, as established by the city council by resolution, for use by the city during the initial three-year establishment period. During the initial three-year establishment period, the city may provide, among other services, street tree pruning and training in the planting of street trees, paid for by the street tree fees. The time of payment shall be concurrent with the recordation of the final map or as required by law. The subdivider is encouraged to provide street trees that will provide shade of up to fifty percent of total street paved surface at fifteen year growth of the tree canopy. (Ord. 2099 § 1, 2002)

#### **37.02.020 Street trees and street tree fees associated with building permits or discretionary projects.**

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(a) Any person who constructs or causes to be constructed any building or dwelling, remodels or substantially improves any existing structure within the city as part of a project requiring a building permit or a discretionary project review in a manner that may require tree removal or may adversely affect any existing street tree or city tree shall submit to the director the required tree removal request (for city trees the request will require the signatures of adjacent property owners impacted by the potential removal) and/or tree modification permit, as per Sections [37.02.050](#) and [37.02.070](#), at the same time as the building permit application or request for discretionary project review is submitted.

(b) The applicant may be required to plant a street tree(s) and/or pay, prior to the issuance of a building permit, a street tree fee to the city (according to Section [37.02.010](#)), unless adequate street trees already exist. Determination as to whether adequate street trees exist at the time of the issuance of such a permit shall be made in each instance based upon site conditions, canopy coverage, existing tree species/health, etc., by the director, according to the city's street tree planting requirements. Street tree fees may be assessed based upon the type of improvement necessary to plant the street trees. The director may require an independent arborist's report addressing existing trees, paid for by the applicant, property owner or developer. An independent arborist's report may be required in, but are not limited to, the following

circumstances: when a particularly valuable specimen is involved; more than three street trees will be planted; highly visible trees will be planted; the tree(s) will be shared by more than one property owner; and when an existing tree(s) could be put at risk. The director may require a security deposit, of an amount determined by the director and based upon International Society of Arboriculture (ISA) appraisal guidelines (or other approved method such as cost-of-cure) to ensure the safety and/or health of existing trees to be protected. If the director approves another method of appraisal guidelines, the director shall provide notice of the approved appraisal guidelines to a permit applicant(s) at the time the permit application is issued. If a tree is damaged, the director may require all or a portion of the security to be paid into the tree preservation fund.

(c) Any requirements imposed under this chapter including protection of existing trees, new tree planting requirements, street tree fees and/or an independent arborist's report shall be completed, or performance secured, to the satisfaction of the director and the community development and sustainability department, prior to issuance of the building permit or discretionary project permit. (Ord. 2099 § 1, 2002)

### **37.02.030 Right and obligation of private property owners for street trees and city trees.**

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(a) Private property owners shall be responsible for irrigating street trees that exist on their property, and are subject to the restrictions contained in Section [37.02.040](#).

(b) Private property owners may place and maintain plants on their property adjacent to or within the tree protection zone (TPZ) of street trees or city trees adjacent to their property unless otherwise prohibited by this chapter. However, any such placement within the TPZ of a street tree or city tree will be at the risk of the property owner, as the city is not liable for damage of any items, including landscaping, located within the TPZ of a street tree or city tree. Street trees and city trees shall assume priority over other vegetation. The director may require removal of other vegetation at owner's expense if the director determines that such vegetation is harmful to a street tree(s) or a city tree(s). (Ord. 2099 § 1, 2002)

### **37.02.040 Prohibited acts.**

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It shall be unlawful for any person other than the director to cut, prune, spray, brace, plant, move, remove, replace or damage any street tree or city tree or to cause the same to be done, except as authorized pursuant to this chapter. Acts prohibited by this chapter include, but are not limited to, the following:

- (a) Pruning a street tree or a city tree even if done to make room for a private tree or to clear branches overhanging private property;
- (b) Knowingly causing or permitting any wire charge with electricity to come into contact with any street tree or city tree;
- (c) Placing, applying, attaching or keeping attached any wire, rope, sign, nail, paint or other substance or structure to any street tree or city tree or to any guard or stake intended to protect such tree;
- (d) Placing or maintaining any stone, pavement or other substance so that it substantially impedes the free access of water or air to the roots of any street tree;
- (e) Cutting so many or so large a root(s) as to cause the street tree or city tree's health to decline or cause a safety hazard;
- (f) Any other activity causing damage as defined in Section [37.01.020](#) of this Code;
- (g) Placing fencing around a street tree;
- (h) Grading around the trunk or within the tree protection zone of a street tree or city tree;
- (i) Altering the landscaping or grade of the property including trenching, in a manner that could damage, or potentially and adversely affect the well being of a street tree or city tree. (Ord. 2099 § 1, 2002)



### **37.02.050 Tree modification permit.**

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(a) **Tree modification permit application.** Any person desiring to perform any activity, except for removal, to a street tree, a city tree or any tree protected under this chapter that is prohibited by Section [37.02.040](#) shall make written application to the director for a tree modification permit to do so, along with a processing fee, as established by the city council by resolution. The applicant shall complete a tree modification permit application and describe the act intended to be done, and the number, species, size, and location of trees to be affected. The applicant shall also explain in the tree modification permit application the purpose and proposed manner of doing the act and such other information as the city may require.

(b) **Approval of permit.** The director shall review the permit application and determine whether the proposed modification(s) will adversely affect the health of the tree or the surrounding trees. The director shall also evaluate whether the permit applicant can achieve its goals without modifying a tree and shall consult with the applicant if the director believes such alternative action is feasible. If the director finds that the health of the tree will not be adversely affected by the modification and that no alternative, other than modifying the tree is available to meet the applicant's goals, the director may issue a tree modification permit. A tree modification permit shall be issued by the director if the proposed act and the proposed method complies with generally accepted standards of tree care, such as those published by the International Society of Arboriculture or other standards adopted or approved by the director. If the director approves standards of tree care, the director shall cause those standards to be noticed to the permit applicant at the time the permit application is issued.

(1) The director may require security, of an amount determined by the director and based upon the International Society of Arboriculture (ISA) appraisal guidelines (or other approved method such as cost-of-cure), to ensure the safety or health of the tree(s) during pruning, construction or other activities covered by the tree modification permit. If a tree is damaged, the director may require all or a portion of the security to be paid into the tree preservation fund.

(2) The permittee or its agent shall conspicuously post the tree modification permit on the job site at all times that work is occurring. The permit shall be provided to any city representative, upon demand, for verification of permitted work. A person who receives a tree modification permit shall follow all conditions outlined in the tree modification permit. If such conditions are not met, the director may immediately stop any and all work undertaken by the permittee or its agent. Upon presentation of a written order of revocation of the permit by the director, the permittee's permit shall be immediately revoked.

(c) **Denial of permit.** If a tree modification permit is denied, the director shall cause a written denial to be provided to the applicant. The denial shall set forth the reasons for the denial, and a copy of such denial shall be delivered to the tree commission and the city manager.

(d) **Appeal of permit denial.** Within ten calendar days from receiving the written denial, the applicant or other interested party may file a written appeal of the decision made by the director to the tree commission. If the tree commission denies the permit, the applicant may appeal the decision in writing to the city council pursuant to Chapter 40 of this Code. (Ord. 2099 § 1, 2002)

### **37.02.060 Tree permits for public utilities.**

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The director may issue a comprehensive permit to any public utility for the pruning or other maintenance tasks of street trees and city trees, in accordance with this section and the city public utility easement agreement (Ordinance 242, adopted on March 25, 1959) to be valid for a period of one year from the date of issuance. A public utility may request that a street tree or city tree be removed, pursuant to Section [37.02.070](#) of this chapter. (Ord. 2099 § 1, 2002)

### **37.02.070 Tree removal request.**

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(a) **Permit application.** Any person desiring to remove a street tree or city tree shall complete the tree removal request form and submit it along with a processing fee, as established by the city council by resolution, to the director. The applicant shall identify the tree(s) to be removed, including species, size, condition, and location. If appropriate, the applicant shall also explain the purpose and proposed manner of removing the tree(s) and other pertinent information as the director may require.

(b) **Permit approval by director.** The director shall review the application. Pursuant to Section [37.02.020](#), the director may approve or deny the application if the application is submitted in conjunction with a building permit or other type of discretionary project. In evaluating the application, the director shall consider the health, age and species of the tree and whether the proposed removal will adversely affect the health of the surrounding trees. The director shall also evaluate whether the permit applicant can achieve its goals without removing the tree and shall consult with the applicant if the director believes such alternative action is feasible. The director may also approve or deny the application in the event of an emergency (when a tree is imminently hazardous or dangerous to life or property). As a condition of granting a permit pursuant to this section, the director may require a replacement tree(s) to be planted on site or at a nearby site, and/or may require an in-lieu payment to the tree preservation fund. In any instance in which the director has the authority to approve an application, the director shall have the discretion to refer the application to the tree commission for its review. For all other applications for tree removal, the director shall review the application and then submit the application to the tree commission for approval or denial.

(c) **Permit approval by tree commission.** If the tree commission deems the request to be appropriate, the tree commission may approve the request. The tree commission may require a replacement tree(s) on site or at a near-by site, and / or may require an in-lieu payment to the tree preservation fund. All decisions of the tree commission, with respect to tree removal may be appealed to the city council.

(d) **Denial of permit.** If a request is denied, a written denial shall be issued to the applicant setting forth the reasons for the denial.

(e) **Appeal of permit decision.** Within ten calendar days from receiving a decision from the director, the applicant or other interested party shall have the opportunity to file a written appeal of the decision to the tree commission. An appeal of a decision of a permit application by the tree commission may be made within ten calendar days from receiving a decision. Such appeal shall be made to the city council pursuant to Chapter 40 of this Code. (Ord. 2099 § 1, 2002; Ord. 2269 § 2, 2006; Ord. 2271 § 1, 2006)

## **Article 37.03 LANDMARK TREES AND TREES OF SIGNIFICANCE LOCATED ON CERTAIN PRIVATE PROPERTY**

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### **37.03.010 Applicability.**

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This article relating to landmark trees is applicable to all properties that have a city council approved landmark tree on the property. This article relating to trees of significance is applicable to all private properties within the city, with exception of those used for single-family or duplex dwellings. However, any type of tree(s) located on a single-family or duplex parcel that has been preserved as a condition of approval or as part of a project description of a planned development zone shall be subject to the regulations relating to trees of significance. Also, when a tree(s) exists on single family or duplex properties associated with an application for a building permit or a discretionary project review, the standards of Section [37.03.070](#) shall apply. Unimproved property zoned for single-family or duplex development is subject to the regulations relating to trees of significance. (Ord. 2099 § 1, 2002)

### **37.03.020 Landmark tree designation criteria.**

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(a) Any person may and is encouraged to submit a proposal to designate a tree as a landmark tree. Property owners of trees under consideration shall be notified that a proposal has been submitted and shall have the opportunity to be fully involved in the designation process. Proposals shall be reviewed by the director and sent to the tree commission for its review. Upon recommendation of the tree commission and approval of the city council, a tree may be designated as a landmark tree if it meets any of the following criteria:

- (1) The tree is an outstanding specimen of a desirable species;
- (2) The tree is one of the largest or oldest trees in Davis;
- (3) The tree is of historical interest;
- (4) The tree is of distinctive form; or,
- (5) The tree is an unusual species, significant grove or is otherwise unique.

The director shall notify, in writing, the person who submitted the proposal and the tree owner (if different from the applicant) of the city council's decision.

(b) When considering designating, removing designation (per Section [37.03.040](#)) or removing (per Sections [37.03.060](#) and [37.03.070](#)) landmark trees of historic value, the historical resources management commission shall be given the opportunity to comment on the proposal prior to tree commission review. (Ord. 2099 § 1, 2002)

### **37.03.030 Landmark tree designation—Benefits to property owners.**

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Owners of property of a landmark tree(s) are eligible to receive benefits for the care and maintenance of their landmark tree. Typical benefits may include:

- (a) Discounts by participating local contractors and arborists for work on landmark trees. The city does not guarantee that discounts will be given in all cases but may work with landmark tree owners in securing a contractor discount on an individual basis.
- (b) Owners shall receive a resolution of appreciation from the City of Davis.
- (c) Free consultation and advice from the city arborist for the landmark tree. (Ord. 2099 § 1, 2002)

### **37.03.040 Landmark tree designation—Removal of designation.**

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(a) Only property owners of landmark trees may request removal of the landmark tree designation. The property owner shall submit a removal of designation application to the director and identify the purpose and reasons for the request for removal of the designation. The property owner shall be exempt from any permit fees related to this request.

(b) The tree commission will review the request for the removal of the landmark tree designation from a landmark tree and recommend that the designation be removed if the tree has died, been damaged, is diseased or for reason(s) indicated in the removal of designation application. The tree commission shall notify the property owner, the historical resources management commission, and the director, in writing of the change and forward its recommendation to the city council. The tree commission shall work with property owner to establish a reasonable course of action that may include removal of the landmark tree designation. (Ord. 2099 § 1, 2002)

### **37.03.050 Trees of significance—Identification and classification.**

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All trees of significance are considered significant at five inches or greater in diameter (DBH). The following



list of potential trees of significance divides tree species into two separate categories based upon their potential size at maturity; however, this list is not exhaustive. Should a property owner not know how a specific tree(s) five inches or greater may be affected by this section, (such as identification of species or species not on the list), the property owner may contact the city arborist. Not all trees on the following lists are appropriate for street trees or parking lot trees. For recommended street trees and parking lot trees, the City of Davis master tree list should be consulted.

### SMALL TREE SPECIES

Including, but not limited to:

<b>Botanical Name</b>	<b>Common Name</b>
Acer palmatum	Japanese Maple
Aesculus californicum (California native)	California Buckeye
Arbutus unedo	Strawberry Tree
Citrus	Any Citrus
Chilopsis linearis (California native)	Desert Willow
Cordyline australis	Cabbage Tree
Crataegus lavalleyi	Carriere Hawthorn
Crataegus phaenopyrum	Washington Hawthorn
Eucommia ulmoides	Stonecotton Tree; Chinese Thread Tree
Feijoa sellowiana	Pineapple Guava
Firmiana simplex	Chinese Parasol Tree
Lagerstroemia indica	Crape Myrtle
Laurus nobilis	Grecian Laurel
Magnolia soulangiana	Saucer Magnolia
Magnolia stellata	Star Magnolia
Malus spp.	Flowering Crabapple
Persimmon (Diospyros spp)	Persimmon
Photinia fraseri	Photinia
Pistacia vera	Pistachio
Podocarpus macrophyllus	Podocarpus
Prunus lyonii (California native)	Catalina Cherry
Prunus mume	Flowering Apricot
Prunus serrulata	Flowering Cherry
Punica granatum	Pomegranate
Xylosma congestum	Xylosma

## LARGE TREE SPECIES

Including, but not limited to:

<b>Botanical Name</b>	<b>Common Name</b>
<i>Acer buergeranum</i>	Trident Maple
<i>Acer rubrum</i>	Red Maple
<i>Acer saccharinum</i>	Silver Maple
<i>Brachychiton populneus</i>	Bottle Tree
<i>Carpinus betulus</i>	European Hornbeam
<i>Casurina cunninghamiana</i>	Beefwood
<i>Cedrus deodara</i>	Deodar Cedar
<i>Celtis australis</i>	European Hackberry
<i>Celtis sinensis</i>	Chinese Hackberry
<i>Eucalyptus melliodora</i>	Yellow Box Eucalyptus
<i>Eucalyptus sideroxylon</i>	Ironbark Eucalyptus
<i>Fraxinus holotricha</i>	Moraine Ash
<i>Fraxinus oxycarpa</i>	Raywood Ash
<i>Fraxinus uhdei</i>	Evergreen Ash
<i>Fraxinus velutina</i>	Arizona Ash
<i>Gleditsia triacanthos</i>	Honey Locust
<i>Grevillea robusta</i>	Silk Oak
<i>Gymnocladus dioica</i>	Kentucky Coffee Tree
<i>Koelreuteria paniculata</i>	Golden Raintree
<i>Liriodendron tulipifera</i>	Tulip Tree
<i>Magnolia grandifolia</i>	Southern Magnolia
<i>Maytenus boaria</i>	Chile Mayten
<i>Melia umbraculiformis</i>	Texas Umbrella
<i>Pinus canariensis</i>	Canary Island Pine
<i>Pinus pinea</i>	Italian Stone Pine
<i>Pistacia chinensis</i>	Chinese Pistache
<i>Platanus acerifolia</i>	London Plane
<i>Platanus racemosa</i> (California native)	California Sycamore
<i>Quercus agrifolia</i> (California native)	Coast Live Oak

Quercus douglasii (California native)	Blue Oak
Quercus lobata (California native)	Valley Oak
Quercus palustris	Pin Oak
Quercus robr	English Oak
Quercus sube	Cork Oak
Quercus wislizenii (California native)	Interior Live Oak
Robina a. idahoensis	Idaho Locust
Salix matsudana	Globe Willow
Sapium sebiferum	Chinese Tallow
Schinus molle	California Pepper
Sequoia sempervirens (California native)	Coast Redwood
Tilia cordata	Little Leaf Linden
Ulmus parvifolia	Chinese Elm
Zelkova serrata	Zelkova

(Ord. 2099 § 1, 2002)

### **37.03.060 Landmark trees and trees of significance—Removal or modification not associated with building permits or discretionary projects.**

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(a) **Modification or removal.** No person shall cut down, remove, prune substantially, encroach into the tree protection zone, top or relocate any landmark tree or any tree of significance unless a valid tree removal request and/or tree modification permit has been approved pursuant to the procedures contained in Sections [37.02.050](#) and [37.02.070](#) and, if applicable, Section [37.03.070](#). The director shall have the discretion to grant or deny any permit application for the removal or modification of a tree of significance and may in his or her discretion, refer such permit application to the tree commission.

(b) **Emergencies.** In the event of an emergency (when a tree is imminently hazardous or dangerous to life or property) the tree may be pruned or removed, whichever is appropriate, upon notification to the director. If, due to the immediacy of the emergency, notification prior to the pruning or removal is infeasible or impossible, notification shall be given to the director on the next day following the pruning or removal.

(c) **Removal by public utility.** A public utility may submit a permit application to remove landmark trees that interfere with the safe and efficient operation of the public service for which they are responsible, as per the city public utility easement agreement and Section [37.02.070](#). (Ord. 2099 § 1, 2002)

### **37.03.070 Landmark trees and trees of significance—Removal or modification associated with building permits or discretionary projects.**

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(a) This section shall govern requests for removal or modification of landmark trees and trees of significance, except those not subject to this article under Section [37.03.010](#), in all cases where removal or modification is for the purpose of: (1) constructing or adding to a structure, including, but not limited to, fences, sheds, decks and retaining walls; (2) providing parking; (3) trenching; or (4) any other activity requiring approval of a building permit or any discretionary project.

(b) An application for a building permit or discretionary permit, when there are trees equal to or greater than five inches DBH exist on or within fifteen feet of the site, shall include a tree preservation plan with the project plans including:

- (1) A scale drawing that designates the location, species, and trunk diameter measured at DBH of applicable trees on the site, with each tree's tree protection zone accurately depicted, and indicates the tree(s) proposed for removal or modification;
- (2) Location of proposed existing structures and/or improvements, including, but not limited to, trenching, paving grade changes, building heights, etc.;
- (3) An arborist prepared inventory of all trees on site, their health or hazard condition and recommendations for the treatment for each tree;
- (4) Project contact (name, phone, and address) who shall be responsible for implementing and maintaining the approved tree preservation plan.

Photos of the general site conditions may be required to be submitted with the project plans. Existing trees may be required to be located in the field by a licensed surveyor and reflected on the project plans. In addition, at the expense of the applicant, an independent arborist's report may be required, which shall contain specific information on tree location, health, and condition, an analysis of potential impacts of development, recommended actions, mitigation measures, and monitoring regarding one or more trees on an individual lot or project site. An independent arborist's report may be required in, but is not limited to the following circumstances: when a particularly valuable species is involved in the project; when more than three trees will be affected; when a highly visible tree will be affected; when a tree(s) that is shared or enjoyed by more than one property owner is involved; or when circumstances could put an existing tree at risk and require an arborist's recommendation for prudent care.

A bond or other security satisfactory to the city may be required as a condition of approval, of an amount determined by the community development and sustainability department in coordination with the director and based upon the International Society of Arboriculture (ISA) appraisal guidelines (or other approved method such as cost-of-cure), to ensure the safety/health of tree(s) during project planning and construction. If the director approves another method of appraisal guidelines, the director shall publish notice of that approval and notify the permit applicant at the time the permit application is issued. If a tree is damaged, the applicant may be required to pay all or a portion of the bond into the tree preservation fund.

(c) A flow chart of significant steps included in the application and review process is available from the community development and sustainability department. Applications shall be considered, and a determination made whether or not and under what conditions, the permit should be granted, by the entity or official listed below:

- (1) By the planning commission, as part of any application requiring planning commission approval;
  - (2) By the community development and sustainability director, or designee, for any building permit or discretionary project application requiring approval by the community development and sustainability department;
  - (3) By the director, for applications submitted directly to the community services department, with review by the tree commission where applicable as per this chapter.
- (d) Standards and provisions to be observed considering a permit under this section are as follows:
- (1) The design and placement of development should attempt to incorporate existing healthy trees into the site design.
  - (2) All trees to be removed shall be mitigated as required in the permit, with options as follows:
    - (A) Replanting a Tree(s) On-Site. Trees shall be planted in number and size so that there is no net loss in tree diameter at breast height (DBH). For example, if one tree is removed with a twelve-inch DBH size, mitigation may consist of a replacement of equal size, two trees each

six-inch DBH, or four trees each three-inch DBH. The replanted tree(s) shall be minimum five-gallon size and of a species that will eventually equal or exceed the removed tree in size.

(B) Replanting a Tree(s) Off-Site. If there is insufficient space on the property for the replacement tree(s), required planting shall occur on the other property in the applicant's ownership or in city-owned open space or park, subject to the approval of the city arborist and authorized property owners.

(C) Payment to the Tree Preservation Fund in Lieu of Replacement. If in the city arborist's determination no feasible alternative exists to plant the required mitigation, or there are other considerations for alternative mitigation, the applicant shall pay into the tree preservation fund an amount determined by the director based upon the ISA appraisal guidelines or other approved method. If the director approves another method of appraisal guidelines the director shall publish notice of that approval and notify the permit applicant at the time the permit application is issued.

(3) Removal or modification shall not be approved unless one of the following shall apply:

(A) The tree(s), due to its location in respect to topography and required setbacks and easements, prevents reasonable development of permitted uses. Existing development on similar sites in the same zone and having similar characteristics shall be considered when determining reasonable development of permitted uses.

(B) The condition of the tree(s), with respect to general health; disease; maturity; structural integrity; proximity to existing structures; parking; high pedestrian traffic areas; activity areas or interference with utility services, cannot be controlled or remedied through reasonable preservation procedures and practices.

(C) Good forestry practice suggests a reduction in the number of trees due to incapacity of the property to sustain the present number in healthy condition.

(4) The visual prominence and function of each tree on the site shall be considered prior to a decision on the application.

(5) If the application is approved, such conditions shall be imposed as are deemed necessary to fulfill the standards of this chapter.

(e) Construction shall not be done in a manner that negatively affects the growth or health potential of any tree required to be preserved. To improve the chances of long term survival of any tree required to be preserved on a development site, the tree preservation and protection standards, shall be followed. In such cases, an independent arborist or the city arborist shall be on site to observe and monitor work that impacts the tree(s) and, at completion of such work, submit a certification letter acknowledging compliance.

(f) Appeals of any discretionary action shall follow the procedures set forth in Chapter 40 of this Code, under the section that applies to said discretionary action. (Ord. 2099 § 1, 2002; Ord. 2390 § 2, 2012)

## **Article 37.04 PARKING LOT TREES**

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### **37.04.010 Applicability.**

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Regulations contained within this article relate to all improved off-street parking lots within the City of Davis. Per Section [40.25.100](#) of the Davis Municipal Code and the parking lot shading guidelines, fifty percent of the paved parking lot surface shall be shaded with tree canopies within fifteen years of the acquisition of a building permit. (Ord. 2099 § 1, 2002)

### **37.04.020 Parking lot shading tree selection and shading plan.**

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Tree selection shall be in accordance with the provisions of the parking lot shading guidelines and the city master tree list; only trees identified as parking lot shade trees may be planted unless otherwise approved by the director. The tree species should be varied, but are not required to be, throughout the parking lot.

A parking lot shading plan and related shade calculations shall be submitted to the community development and sustainability department along with the building permit or discretionary project permit for all new and/or reconstructed parking lots. (Ord. 2099 § 1, 2002)

#### **37.04.030 Parking lot planting/maintenance standards.**

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Parking lot planter design, materials, planting and irrigation details shall be as per the city tree planting and maintenance specifications and the parking lot shading guidelines. (Ord. 2099 § 1, 2002)

### **Article 37.05 PROTECTION OF TREES DURING NEW CONSTRUCTION**

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#### **37.05.010 Protection while trenching, grading, performing construction, or other related site work.**

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Prior to any demolition, trenching, grading, construction, repair, alteration, removal or moving of any building, house or structure, or other site work, all trees to be preserved in compliance with this chapter shall be protected in accordance with the tree preservation and protection standards, and as follows:

- (a) Approved development plans and specifications shall state protection procedures for trees that are to be preserved as outlined in the tree protection specifications and shall be available at the project site. From the conception of plans, developers, architects, landscape architects, engineers and/or planners shall accurately locate and identify all existing trees on proposed project site plans and shall comply with the city policies for tree preservation. Tree care practices, such as the cutting of roots, pruning the top, etc., shall be described in the approved tree modification permit, tree preservation plan or project conditions.
- (b) It is the responsibility of the property owner or his or her designated representative to ensure that all trades/subcontractors and utility companies abide by the preservation conditions of this provision.
- (c) Violation or failure to comply with the requirements of this section or the condition of permit approval may result in a penalty pursuant to Section [37.06.040](#). (Ord. 2099 § 1, 2002)

### **Article 37.06 VIOLATION OF CHAPTER AS PUBLIC NUISANCE**

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#### **37.06.010 Right of inspection.**

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The director may inspect any tree or other plant on private property in the city in accordance with law, to determine whether the same or any portion thereof is in such a condition as to constitute a public nuisance and, to consider abating or correcting any condition or thing declared to be a public nuisance under this chapter. When a public nuisance is declared relating to any city tree, street tree, protected tree or private tree, the director (and/or the tree commission, as per the provisions of this chapter) shall determine the appropriate course of action, including, but not limited to, tree or root pruning, site modification, or tree removal. (Ord. 2099 § 1, 2002)

#### **37.06.020 Public nuisance—Certain conditions designated.**

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The following are declared public nuisances:

- (a) Any tree or other plant or part thereof growing upon private property but overhanging the street or interfering with the use of any street, which in the opinion of the director endangers the life, health, safety or property of the public.
- (b) The continued existence of any tree or other plant on private property within the city that is dead, infected with disease or infested with pests which constitute a threat to or may be injurious to trees or other plants in the surrounding area.
- (c) Any tree or other plant more than thirty-six inches in height measured from the curb gutter and planted in a triangular area measured twenty-five feet along the curb in either direction from the sidewalk curb intersection.
- (d) Any plant that interferes with, impairs or destroys any street improvement (including traffic signs or lights), sidewalk, curb, gutter, sewer, street trees or any public improvement.
- (e) Vines, ivy, or climbing plants growing on, into, or over any street tree or any public hydrant, pole, or electrolier (i.e., street lights, greenbelt lights, etc).
- (f) Any plant that impedes sidewalks and bike paths, or by being lower than eight feet over pedestrian and bike paths, or any plant which is lower than fourteen feet over a traffic lane.
- (g) Non-permeable paving added within the tree protection zone of a tree covered under this chapter after the tree was planted for the city.
- (h) Street trees with invasive root systems or surface roots resulting in damage to private paving. In this situation, city is responsible for street tree related work when private paving (excluding city rights-of-way but including, for example, private driveways and walkways) are disrupted, but the city is not responsible for private paving removal or replacement work. Repairs to private paving shall be the responsibility of the property owner. The city offers property owners the opportunity to decide where a street tree(s) will be planted and cannot control the soil conditions, watering practices, and other cultural impacts that determine where roots will grow. The city arborist or designee shall work with the property owner to remove or modify the root(s) that cause the paving removal or replacement work to occur, so long as such removal or other modification complies with Section [37.02.040](#). (Ord. 2099 § 1, 2002)

### **37.06.030 Public nuisance—Abatement notice—Liability of city, etc.**

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Any condition constituting a public nuisance as defined in Section [37.06.020](#) may be abated pursuant to the procedures provided by Chapter 23 of this Code, or its successor ordinance. This remedy is cumulative of any other remedy provided by law for the abatement of public nuisances. (Ord. 2099 § 1, 2002)

### **37.06.040 Violation—Enforcement.**

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- (a) Any person who violates any of the provisions of this chapter or any of the conditions of any permit issued hereunder is guilty of a misdemeanor.
- (b) In addition to criminal penalties and civil nuisance enforcement authorized by this code, any person who violates any provision of this chapter may be liable for a civil penalty for each day or part thereof that said violation occurs pursuant to the process provided by Chapter 23 of this Code. Further, if such violation results in unauthorized removal, destruction or disfigurement of trees, the responsible person may be liable for a civil penalty equal to the value of the removed, destroyed or disfigured tree as set forth in the current edition of *The Guide for Plant Appraisal* as published by the International Society of Arboriculture (ISA) or other approved method. The city attorney is authorized to bring a civil action in any court of competent jurisdiction to recover such civil penalties and associated costs of the city. Penalties can be met through a combination of replacement trees and/or in-lieu payments into the tree preservation fund, as approved by

the director.

(c) Whenever any construction or work is being performed contrary to the provisions of this chapter, the director and/or the community development and sustainability department personnel may issue a written notice to the responsible party to stop work on the project on which the violation has occurred or upon which the danger exists. The notice shall state the nature of the violation or danger, and no work shall be allowed until the violation or danger has been rectified and approved by the community development and sustainability director or designee and the director. (Ord. 2099 § 1, 2002; Ord. 2390 § 2, 2012)

## **Article 37.07 APPENDICES**

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### **37.07.010 Documents available on request.**

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The following documents referred to in Chapter 37, Tree Planting Preservation and Protection, are available at city offices upon payment of an appropriate fee, if applicable:

- (a) Community Forest Management Plan;
- (b) Tree Preservation Standards;
- (c) Street Tree Planting Requirements;
- (d) Parking Lot Shading Guidelines;
- (e) City Tree Planting and Maintenance Specifications;
- (f) City Landscape Specifications and Standards;
- (g) City Master Tree List;
- (h) Landmark Trees List;
- (i) Street Tree Removal Request;
- (j) Tree Modification Permit;
- (k) Flow Chart of Application and Review Process;
- (l) Other city permits, including but limited to building permits and discretionary project applications.  
(Ord. 2099 § 1, 2002)

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View the [mobile version](#).