

STAFF REPORT



COMMUNITY DEVELOPMENT

DATE: February 14, 2023

TO: Justin Hess, City Manager

FROM: Patrick Prescott, Community Development Director
Marisa Garcia, Park, Recreation, and Community Services Director
VIA: Amanda Landry, Senior Planner
Michael del Campo, Landscape and Forestry Services Superintendent

SUBJECT: Introduction of an Ordinance Amending Title 7 (Public Ways and Property), Chapter 4 (Trees and Vegetation) of the Burbank Municipal Code to Protect Trees in Public Right of Ways During Construction Activities and Adoption of a Resolution Amending the 2022-2023 Citywide Fee Schedule

RECOMMENDATION

1. Introduce AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK AMENDING TITLE 7 (PUBLIC WAYS AND PROPERTY) CHAPTER 4 (TREES AND VEGETATION) OF THE BURBANK MUNICIPAL CODE TO PROTECT TREES IN PUBLIC RIGHT OF WAYS..
2. Adopt A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING ARTICLE IX, OF THE FISCAL YEAR 2022-2023 CITYWIDE FEE SCHEDULE TO ADD SECTION 10 TO ESTABLISH A FEE METHODOLOGY TO DETERMINE THE VALUATION OF AN EXISTING PUBLIC TREE FOR THE PURPOSES OF PUBLIC TREE REMOVALS.

BACKGROUND

The City of Burbank (City) has a long-standing commitment to preserving and protecting a healthy, diverse, and resilient tree canopy. Burbank has celebrated over 40 years of being designated an original Tree City USA by the Arbor Day Foundation. Trees are valued for the social, economic, and environmental benefits they provide, such as providing shade, contributing to the character and walkability of neighborhoods, carbon sequestration, reducing energy costs, addressing public health issues, and promoting social equity. To preserve these values, the City has maintained a vibrant and beautiful urban forest of over 33,000 public trees, 125 acres of parkland, and an expansive network of diverse tree-lined streets, which contribute to a safe, beautiful, and thriving community.

However, occasionally, public trees in the parkway are inadvertently damaged or removed without permission during construction activities. Council requested that staff review strategies to further protect parkway trees during construction projects and provide a report on potential amendments to the existing public tree protection measures and update any corresponding administrative policies and procedures related to tree protection, including fees for tree removals and applying those fees citywide. As part of this effort, the City is also taking this opportunity to ensure there are clear objective standards in place to apply to projects.

DISCUSSION

Existing City Regulations:

The public tree preservation regulations are codified in Title 7 (Public Ways and Property), Chapter 4 (Trees and Vegetation) of the Burbank Municipal Code (BMC) (Attachment 2). The regulations establish definitions, review authority responsibilities, and discuss general removal of public trees, removal of public trees for the purpose of construction, prohibited actions, tree protection, and cooperation between City departments and agencies. However, Title 7, Chapter 4 of the BMC was last updated in 1987 and lacks specificity and objective standards that are easily understood, including how to address tree protection and removal during construction, establishing what actions are considered unlawful, and the review authorities and responsibilities of various City departments. This lack of specificity and objective standards causes confusion for both the public and staff.

In addition to the regulations noted above, additional opportunities to identify and protect public trees exist during various permit review processes.

Building Permits

In advance of issuing a building permit, the plans submitted for plan check are routed to multiple reviewers who review the plans for consistency with the regulations under their purview. Arborist staff from the Parks and Recreation Department's Landscape and Urban Forestry Division are responsible for reviewing plans and identifying if public trees may be affected by the scope of work indicated in the plans and provide information to the applicant regarding the tree removal process or the public tree protection requirements. However, there is no formal policy for determining which permits should be routed to Landscape and Urban Forestry Division for review.

Public Right-of-Way

Upon submittal of any permit for work in the public right-of-way, Public Works staff will verify if a public tree is in the area covered by the scope of work of the permit. If so, the applicant is directed to first obtain approval from the Landscape and Urban Forestry Division for the removal of the tree. Approval is required for the permit being issued. If the removal is not approved, the applicant must revise the plans as directed by Landscape and Urban Forestry staff. Staff will also verify what, if any, tree protection methods would be required in association with the permit.

To reduce confusion and better ensure that public trees are protected during construction activities, staff reviewed the objective standards and policies of comparison cities in California with robust public tree protection programs, including Pasadena, Glendale,

Santa Monica, Long Beach, Beverly Hills, and Palo Alto (Attachment 5). Based upon this review and the City's needs, staff proposes that Council adopt the attached ordinance (Attachment 1), of which the substantive changes are summarized below. The full extent of the proposed amendments is depicted in Attachment 4, which is a redline of the existing code text.

Summary of Substantive Proposed Amendments to Title 7 Chapter 4 of the BMC (Trees and Vegetation)	
Code Section	Purpose of Proposed Amendment
7-4-101: Definitions	Introduce new definitions or define existing terms that are not currently defined.
7-4-102: Jurisdiction and Control	Clarify duties and responsibility of the review authority, including enforcement and development review.
7-4-105: Determination of Tree Values	Clarify that property owner(s) are responsible for reimbursing the City the value of trees that are removed or destroyed, defaced, or injured, with the monetary value to be established by a certified arborist using an industry-wide accepted valuation methodology established by the International Society of Arboriculture and American Society of Consulting Arborists (Trunk Formula).
7-4-108: Restricted Removal of Certain Trees	Clarify that this section applies only to public trees
7-4-111: Removal for the Purpose of Construction	<p>Clarify that the City shall be reimbursed for the value of the trees to be removed as well as the replacement trees and that provisions of this section apply to R-1 single family residential zones. R-1 residential zones were previously excluded.</p> <p>Subsection B, pertaining to private trees will be deleted, as it was intended to be removed in association with Ordinance No. 3247, but inadvertently left in the code. Subsection B refers to Subsection 10-1-1113 of the BMC, which no longer exists.</p>
7-4-113: Unlawful to Destroy, Deface, or Injure Tree	Clarify prohibited actions to public trees.
7-4-115: Protection of Trees	Establish a tree protection zone and a requirement to implement professionally accepted standards of tree protection during certain activities.
7-4-117: Cooperation Between City Departments and Agencies	Clarify which activities require review and approval by the Department, and what information the Department needs to specify on the plans.

ENVIRONMENTAL REVIEW

Staff recommends that the City Council find that the proposed City code amendment (the project) is categorically exempt from environmental review under the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) (“CEQA”) pursuant to Sections 15060(c)(2), 15060(c)(3), and 15061(b)(3) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, because there is no possibility that it may have a significant effect on the environment, and because it is not a “project” as that term is defined in Section 15378 of the State CEQA Guidelines.

Staff also recommends that the City Council find that the project is categorically exempt from CEQA pursuant to Section 15308, Class 8, of the CEQA Guidelines pertaining to actions taken by regulatory agencies for the protection of the environment to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. This project involves the adoption of amendments to the BMC, including new objective standards intended to protect public trees during construction activities.

CONSISTENCY WITH THE GENERAL PLAN

The proposed project does not conflict with any of the goals, policies, or programs of the Burbank2035 General Plan. The adoption of these amendments are intended to ensure the protection of public and street trees during construction activities is consistent with Policy 4.3 “Use street trees, landscaping, street furniture, public art and other aesthetic elements to enhance the appearance and identity of neighborhoods and public spaces” and Policy 4.5 “Require that pedestrian-oriented areas include amenities such as sidewalks of adequate width, benches, street trees and landscaping, decorative paving, public art, kiosks, and restrooms.”

FISCAL IMPACT

The City’s existing Fiscal Year 2022-2023 Adopted Citywide Fee Schedule does not include a fee for public tree removals, despite such a fee being mentioned in the BMC. The lack of an actual fee may lead to confusion and inconsistencies in what fee is assessed for tree removals, as well as uncertainty for property owners or developers that may be contemplating a tree removal as part of a proposed development.

As noted above, in the table providing a Summary of Substantive Proposed Amendments to BMC Title 7 Chapter 4 (Trees and Vegetation), staff recommends using an industry wide accepted tree valuation methodology called the “Trunk Formula” (Tree Value = Base Value x Cross-sectional Area x Species Class x Condition Class x Location Class) and has prepared a draft resolution for Council consideration that would include this valuation methodology as the public tree removal fee to the Adopted Citywide Fee Schedule (Attachment 2).

Examples of tree valuations using the Trunk Formula are as follows:

- For a *Schinus molle* (California Pepper) tree with a 6-inch diameter, of average condition, and in a typical neighborhood, the formula may read as (Basic Cost of

$\$4,364.36 \times \text{Species Rating of } 0.6, \times \text{Condition rating of } 0.5 \times \text{Location rating of } .58$) which would equal an the appraised value is \$759.40

- For a *Quercus agrifolia* (Coast Live Oak) tree with a 15-inch diameter, of good condition, in an iconic tree lined street, the formula may read as (Basic Cost of \$13,375.98 x Species rating of 0.9 x Condition rating of 0.8 x Location rating of 0.85) which would equal an appraised value of \$8,186.10.

Adoption and implementation of the proposed code amendments and subsequent administration of the updated regulations will be done by staff and would have a minimal fiscal impact to the City's General Fund.

CONCLUSION

Adoption and implementation of the proposed ordinance would provide clarity to the public and staff who review and approve public tree removal applications by instituting objective standards and establishing formal review procedures, thereby reducing confusion for the public and staff and further the ability of the City to uphold its commitment to preserving and protecting a healthy, diverse, and resilient public tree canopy.

ATTACHMENTS

Attachment 1 - Ordinance

Attachment 2- Resolution

Attachment 3 – BMC Title 7, Chapter 4

Attachment 4 – Redline of BMC Title 7, Chapter 4

Attachment 5 – Summary Table of Public Tree Ordinance Regulations
for Comparison Cities

Correspondence