



Public Works Department

MINUTES

REGULAR MEETING OF THE URBAN FOREST COMMITTEE

Monday June 11, 2018 7:00 p.m.
El Cerrito City Hall
Hillside Conference Room
10890 San Pablo Avenue

1. Roll Call :

Present: Chair Steve Price, Members, Cathy Bleier, Mike Srago, Mary Torrusio.
Also present; Staff Liaison, Stephen Prée.

Absent: Vice Chair Robert Hrubes, Yan Linhart
Also absent: Council Liaison Rochelle Pardue-Okimoto

2. Committee Member Announcements and changes to the agenda: there were none.

3. Comments from the Public on non-agenda items:

a.) George McRae introduced himself as an applicant to the Urban Forest Committee (UFC); he is concerned with good City tree maintenance and new trees; he cited his past participation with the Friends of Baxter Creek and Friends of El Cerrito Trees. Discussion: agendize discussion of Friends of EC Trees.

b.) Robin Mitchell spoke representing the EC Recreation and Parks Commission and urged the UFC to review and comment on the City's Parks and Facilities Master Plan draft (see [City website](#)).

c.) Ralph Boniello reported that he attended the City of Richmond Urban Forest Advisory Committee and encouraged the ECUFC to explore partnership opportunities with Groundwork Richmond for urban forest activities such as tree planting. Chair Price suggested collaboration with the City of Richmond for the San Pablo Avenue corridor trees.

4. Report from the City Council Liaison: Ms. Pardue-Okimoto was not in attendance. In her absence, the Committee asked Prée for the city arborist's update; he provided a brief summary of recent City contracted tree work, upcoming dead tree removals in the Hillside Natural Area and unauthorized public tree pruning.

5. Update on Revisions to the City Tree Ordinance: Maria Sanders, the City public works department operations and environmental services division manager, and Will Provost, OESD management analyst, provided a summary of the ordinance revision process:

a.) This is a working first draft that requires additional refinement , research and eventual legal review.

- b.) Provost was main author; draft is based on ISA guideline, informed by the UFC tree ordinance outline, and other cities tree protection ordinances to align with the 2007 El Cerrito Urban Forest Management Plan.
- c.) Projected time frame: July through October: UFC & City staff review, redrafts. November- December: enhanced public process, legal review. January: City Council adoption.

A review and discussion of the first draft followed, several items require further refinement; a copy of the draft ordinance that will be emailed to the Committee for additional review and comment. Agendize further discussion for next UFC meeting.

6. Tree Committee Activities, Calendar and Work Plan Update- deferred due to time constraints from discussion of previous agenda item.

7. Action Items

- A. Motion to adopt the minutes from the April 9, 2018 meeting (item deferred in May): Cathy Bleier, 2nd Mike Srago, unanimous.
- B. Annual Election of Officers-
 - I. Motion to nominate Mary Torrusio as Vice Chair: Cathy Bleier, 2nd Mike Srago, unanimous.
 - II. Motion to nominate Steve Price for second term as Chair, Mike Srago, 2nd Mary Torrusio, unanimous.

8. Old/New Business –

- Chair Price announced that he is getting married.
- Prée announce that he would be on vacation during the July meeting and queried the committee on meeting in July without him; undecided.

9. Future agenda items

- Tree Ordinance Revision
- Education and Outreach
- City Street Tree Planting Opportunities - Grants ad-hoc subcommittee
- Tree Pruning Principals Review
- Discussion of Friends of El Cerrito Trees organization

Adjournment- 9:15

ORDINANCE NO. 2018-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL CERRITO
AMENDING SECTION 13.28 OF THE EL CERRITO MUNICIPAL CODE, TREES
AND SHRUBS

The City Council of the City of El Cerrito hereby ordains as follows:

SECTION 1. Section 13.28 of Title 13 of the El Cerrito Municipal Code, Trees and Shrubs, is hereby deleted in its entirety and replaced with a new Section 13.28 to read as follows:

13.28.010 - Title

This chapter shall be known as the "tree and shrub ordinance" and may be cited as such.

13.28.020 – Findings

The City of El Cerrito City Council finds and declares that the existing and future trees and public urban forest located within the City of El Cerrito are a valuable and distinctive natural resource. The trees and public urban forest of the City augment the economic base through provision of resources, community character, and enhancement of the living environment. These resources are a major component of both the highly-localized and area-wide environment. The following environmental consequences are among those which could result from the indiscriminate removal or destruction of trees and tree communities, or the planting of invasive or ill-suited tree and shrub species in the City of El Cerrito:

- (a) Damage to public and private infrastructure, including utilities, sidewalks, and roads.
- (b) Succession of invasive tree and shrub species.
- (c) Modification of microclimates.
- (d) Change or elimination of animal habitat, possibly including habitats of endangered species.
- (e) Change in soil conditions, resulting in modified biological activity and erosion of soils.
- (f) Increased risk of landslides.
- (g) Increased cost of construction and maintenance of drainage system through increased flow and diversion of surface waters.
- (h) Degradation of the human habitat.

- (i) Loss of environmental benefits of trees in neighborhoods, such as heat island effect reduction, noise reduction, oxygen replacement, carbon dioxide reduction, interception of particulates, aesthetic qualities.
- (j) Potential for irreparable wind damage to adjacent trees.

13.28.030 – Purpose and Intent

The purpose of this ordinance is to preserve trees in the public right-of-way or on public property as an important environmental resource, to enhance the appearance of the City, to clearly define responsibility for the maintenance of trees in the public right-of-way and City property and to adopt professional standards for planting and maintenance for use by the City and by private property owners alike, all for purposes of the general public welfare.

13.28.040 – Definitions

In this chapter the following terms shall have the following meaning:

- A. "City of El Cerrito" shall hereinafter be referred to as "City."
- B. "Cutting" shall mean the detaching or separating from a tree any live limb or branch over one inch in diameter, any pruning which changes the shape or natural character of the tree or any branch removal that removes more of the tree canopy than recommended under ISA Standards.
- C. "Damage" or "Mutilation" shall mean any action that causes injury, death or disfigurement to a tree. This may include, but is not limited to, cutting, poisoning, unauthorized relocating or transplanting of a tree, trenching, excavating, or paving within the critical root zone of a tree.
- D. "Disfigurement" or "disfigure" shall mean the unsightly and injurious trimming of a tree. This shall include tree-pruning practices that are not in conformance with the ISA standards. It shall include pruning practices such as stubbing, heading, heading back, stubbing off, pollarding, tipping, hat racking, topping off, de-horning, lopping, or rounding.
- E. "Director" means the Public Works Director of the City of El Cerrito.
- F. "Maintenance" or "maintain," when used in this chapter in reference to trees or shrubs, means and includes clipping, spraying, fertilizing, irrigating, propping, treating for disease or injury, and any other similar acts which promote the life, growth, health or beauty of such trees or shrubs.
- G. "Objectionable," in reference to the definition of "objectionable trees," means all trees which the Tree Program Manager or designee finds are diseased, invasive, or in danger of falling over or becoming a hazard of any kind; or

whose root systems are such that they damage surface or underground utilities.

- H. "Park Trees and Shrubs" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.
- I. "Permit" as used in this chapter means written authorization, issued by the City, to do specified work.
- J. "Person" shall mean any natural person, partnership, firm, corporation, governmental agency other than the City of El Cerrito, or other legal entity.
- K. "Planting Strip" and "Parking Strip" means the area between the curb, or in the case where there is no curb the edge of the roadway, and the abutting property line not improved by surfacing that is intended for the use of pedestrians. Any openings made in a surfaced area between the roadway and the abutting property line for the purpose of planting trees or other vegetation shall be considered part of the planting or parking strip. Grates, unpermitted paving, or other coverings of said areas shall not be considered as surfacing intended for the use of pedestrians.
- L. "Prohibited Tree and Shrub List" shall mean the current prohibited tree and shrub list, which is maintained and updated by the Tree Program Manager.
- M. "Pruning" shall mean the removal of water sprouts, crossed limbs, or other branching structures as designated by the ISA. Such removal shall not change the natural form of the tree, shall not consist of stubbing or heading back branches, and shall in no case consist of removing more of the total tree canopy than recommended under ISA standards.
- N. "Public Street" when used in this chapter means and includes all public streets, avenues, highways, alleys, walks and lanes in the city.
- O. "Public Place" shall include, but is not restricted to, any city-owned or controlled open place, such as parks, as well as the public-right-of-way.
- P. "Public Tree(s)" means a tree located in a place or area under ownership or control of the City, including but without limitation streets, parkways, open space, parkland and City-owned property under the operational control of another entity by virtue of a lease, license, operating or other agreement.
- Q. "Private Tree or Shrubs" means any tree or shrub located on private property
- R. "Street Trees and Shrubs" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the City.

- S. "Topping" means an inappropriate pruning technique used to reduce tree size by cutting back a tree to a predetermined crown limit, or cutting back a limb or leader branch to a stub, a bud, or a lateral branch not large enough to assume the terminal role.
- T. "Tree" means a woody plant that has a single main trunk with clear apical dominance (i.e., one primary stem is significantly larger than the secondary stem(s)).
- U. "Tree List" means the current approved master street tree list, which is maintained and updated by the Tree Program Manager.
- V. "Tree Program Manager" means the City's Operations and Environmental Services Division Manager or his/her designee.
- W. "Urban Forest" shall mean a natural resource composed of all trees on public and private property within the City limit and sphere of influence.

13.28.050 – Determination of Definitions

In any case, the Public Works Director shall have the right to determine whether any specific definition shall be final and not subject to appeal.

13.28.060 – Jurisdiction

Public Trees and Shrubs --The City of El Cerrito shall have control of all street trees, shrubs, and other plantings now or hereafter in any street, park, public right-of-way or easement, or other Public Places within the City limits, and shall have the authority to plant, care for, maintain, remove, and replace such trees, shrubs and other plantings.

Private Trees and Shrubs -- Unless as noted elsewhere in this municipal code, trees, Shrubs, and plants on private property are the responsibility of the property owners to keep, remove and maintain as deemed appropriate by the property owner. However, if a tree protection plan has been approved as a part of a development project, it shall be implemented by the property owner to the satisfaction of the Public Works Director.

13.28.070 – Policy Regarding Trees

It is the policy of the City to build an extensive, healthy urban forest in the public realm and to conduct a consistent and adequate program for maintaining and preserving these trees. In addition, it is the policy of the City to encourage new tree planting on public and private property and to cultivate a flourishing urban forest, in order to provide the following benefits:

- **Social benefits** include creating a sense of place, providing connections to the natural world, creating memorable nodes and entry points as well as facilitating a sense of community for a shared purpose and community building.

- **Environmental benefits** include mitigating impacts of the heat island effect, reducing airborne pollutants, providing habitat, and sequestering carbon dioxide.
- **Economic benefits** include an increase in property values, attraction of business and shoppers, and contribution to the financial standing of the City.

This chapter shall not be construed to prevent a Person from trimming, pruning, planting or removal of any shrub or ornamental plant within the area behind the sidewalk, curb, gutter or street pavement, immediately fronting or adjacent to the real property owned, leased or controlled by such person, firm or corporation

Property owners are expected to maintain everything in the adjacent public right-of-way, including the sidewalk, planting strip, and Public Trees. Maintenance of Public Trees in this instance includes watering, and removing fallen leaves, branches, and fruit debris. However, property owners shall not cut, prune, spray, or remove Public Trees without authorization and without obtaining any necessary permits from the City.

13.28.080 Trees – Planting – Public Places

- A. It is unlawful to plant, prune, or remove any Public Tree, including but not limited to Public Trees in any right-of-way or parking strip, without first obtaining authorization from the Tree Program Manager and an engineering encroachment permit.
- B. The *City's Tree List* and *Prohibited Tree and Shrub List* shall guide the selection of trees and plants on any Public Place. However, an alternate tree may be approved by the Tree Program Manager to ensure suitability for soil conditions, climate, and the proposed location.
- C. The placement of any tree in any Public Place shall be approved by the City as to not interfere with any public or private utility, including, but not limited to, water, sewer, electrical and natural gas infrastructure.
- D. The planting of shrubs and ground cover by an adjacent property owner shall be allowed without permit, if such plants are not on the Prohibited Tree and Shrub List and are of an appropriate nature as to not violate any provisions of this ordinance.

13.28.090 Trees – Planting – Private Property

Using the City's Prohibited Tree and Shrub List is encouraged when planting trees, shrubs, vines or ground cover on private property.

13.28.100 Trees – Native

The planting and preservation of native trees indigenous to the Bay Area, as identified on the City's Tree List, is encouraged on private property and in public spaces.

13.28.110 - Pruning and removing Public Trees and Shrubs

The City may cause any trees, shrubs, plants or vegetation in any parking strip or other Public Place to be pruned or removed, or may require the property owner to trim, prune or remove any trees, shrubs, plants or vegetation in a Parking Strip adjacent to the owner's property. Failure to comply with such requirement by a property owner after fifteen days' written notice shall be deemed a violation of this section. The written notice shall be given by the City in the manner provided in Section 13.28.XXX.

The pruning or removal and planting of any Public Tree by any Person is subject to authorization of the Tree Program Manager and issuance of an encroachment permit.

13.28.120 – Prohibited acts

The following are prohibited acts by any Person under this chapter unless expressly exempted:

- A. To cut, damage, top, disfigure, or mutilate a Public Tree located anywhere in the City.
- B. To plant, prune, or remove any Public Tree, including but not limited to Public Trees in any right-of-way or parking strip, without first obtaining authorization from the Tree Program Manager and an engineering encroachment permit.
- C. To damage the roots of any Public Tree by grading, tearing or grubbing, stockpiling materials, changing soil grade, excavating, trenching, or adding any stone, cement, or plantings within the Public Right of Way.
- D. It shall be unlawful, without first obtaining authorization from the Tree Program Manager and an engineering encroachment permit, for any Person to plant a shrub or place or construct any concrete, brick, asphalt, plastic sheeting or other material impervious to air and water around any Public Tree so as to impede the free access of air and water to the roots of said tree. Impervious materials, except sidewalks and curbs, shall be placed no closer than three (3) feet of the Root Crown of any Public Tree. It shall be unlawful to place any excess soil, building materials, debris, or equipment, or pour any deleterious materials around any Public Tree.

13.28.130 – Damage and mutilation unlawful

It is a violation of this chapter to abuse, damage, destroy or mutilate any tree, shrub or plant in a public parking strip, street median, or any other Public Place, or to nail, drill, or

otherwise attach anything to any such tree, unless explicitly exempt in another section of this chapter. This includes applying:

- A. Any rope or wire, other than a rope or wire customarily used to support young or broken trees or shrubs;
- B. A sign or poster, or other thing; or
- C. Any gaseous, liquid or solid substance which is harmful to such tree or shrub.

13.28.140 – Protecting trees during construction

During the erection, repair, alteration or removal of any private or public building, house structure, or other facility in the City of El Cerrito, no person in charge of such work shall leave any tree, shrub or plant identified for protection in the development approval process without such good and sufficient guards, protectors, or fences, in accordance with ISA standards, as shall prevent injury to said tree, shrub or plant arising out of said erection, repair, alteration or removal as required by the City.

13.28.150 - Obstructing vision, public right-of-ways unlawful

Any tree, shrub, or plant which dangerously obscures the vision of pedestrians or vehicle operators, or which in any manner endangers the security or usefulness of any public street, sewer, utility, or sidewalk, is declared to be a public nuisance. Upon determination by the Tree Program Manager that any such tree or shrub constitutes a public nuisance, he or she shall give written notice to the responsible property owner to trim, remove or otherwise control such tree or shrub in such manner as will abate such nuisance. Said notice shall briefly describe the remedial work required to be done, shall refer to this section, and shall state that said work shall be done within ten working days from the date of service of said notice. The notice shall further state that if the responsible property owner fails to perform the required remedial work within fifteen (15) business days, that the City may cause the work to be done and the cost thereof will be charged and made a lien against the responsible property owner's lands.

The City may cause work to be done through utilization of the nuisance abatement procedures contained in Chapter 8.34 of this code, or pursuant to the provisions of any other applicable state or local law.

13.28.160 –Interference

No Person shall interfere with any City employee or City contractor acting under this chapter.

13.28.170 - Obstruction of sidewalks and streets

All trees, shrubs or plants along the line of any public street or walkway shall be kept trimmed so that no part thereof shall extend over the street or walkway at a height of less

than seven feet. No thorn-bearing plant and no barbed wire fence shall be placed or permitted to remain along the line of any sidewalk or public path within the city.

Upon determination by the Tree Program Manager that any such tree, shrub, plant, or fence constitutes a public nuisance, he or she shall give written notice to the responsible property owner to trim, remove or otherwise control such tree or shrub in such manner as will abate such nuisance. Said notice shall briefly describe the remedial work required to be done, shall refer to this section, and shall state that said work shall be done within fifteen business days from the date of service of said notice. The notice shall further state that if the responsible property owner fails to perform the required remedial work within fifteen (15) business days, that the City may cause the work to be done and the cost thereof will be charged and made a lien against the responsible property owner's lands.

The City may cause work to be done through utilization of the nuisance abatement procedures contained in Chapter 8.34 of this code, or pursuant to the provisions of any other applicable state or local law.

13.28.180 – Appeals

Any action or determination by the Tree Program Manager may be appealed to and heard by the Public Works Director. To be effective, an appeal must be filed within fifteen (15) business days after the decision of the Tree Program Manager. The appeal shall be in writing and shall be filed with the Director. The appeal shall clearly specify the reasons for which an appeal is requested. After review, and within fifteen (15) business days, the Public Works Director shall render his/her decision, which shall be final.

13.28.190 – Penalty for Violation

Violation of Sections 13.28.XXX *{needing to remove plants}*, 13.28.XXX *{obstructing vision}* and 13.28.XXX *{obstructing sidewalk}* shall constitute a public nuisance which may be abated pursuant to the procedures set forth in Chapter 8.34 of this code. Any person, firm or corporation violating one or more of those sections is also guilty of a misdemeanor. The penalty for a misdemeanor is set forth in Chapter 1.08 of this code.

Permitted or unpermitted removal or mutilation of a Public Tree by a Person shall be replaced based on the size and condition of the effected tree as determined by the Tree Program Manager.

13.28.200 – Enforcement

The Director is hereby charged with the responsibility for the enforcement of this ordinance and may serve notice to any person in violation thereof or institute legal proceedings as may be required, and the City Attorney is hereby authorized to institute appropriate proceedings to that end.

13.28.210 – Performance Evaluation for Ordinance

The Tree Program Manager or his/her designee shall collect and maintain all records and data necessary to objectively evaluate whether progress is being made toward the intent, purpose and objectives of this chapter.

13.28.220 – Liability

Nothing contained in this section shall be deemed to impose any liability upon the City, its officers or employees, nor to relieve the owner of any private property from the duty to keep any tree, shrub or plant upon any street tree area on his property or under his control in such condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any street, park, pleasure ground, boulevard, alley or public place within the city.

13.28.230 – Administrative Responsibilities

The Public Works Director shall, by use of City employees or private contractors, plant, maintain and otherwise care for, or if necessary remove trees in any public place in the city. The responsibilities of the of Public Works Director shall include but not be limited to, the following:

1. Establish maintenance standards as they relate to street trees in public places.
2. Establish Criteria and Standard Operating Procedures for consideration of private requests for pruning and removal of street trees.
3. Maintain a list of approved and prohibited trees and shrubs in public places.
4. Inspect the planting, maintenance and removal of all trees in public places.
5. Make determination of tree removals in public places.
6. Evaluate and approve permits for activities that may affect public trees.

SECTION 2. If any section, subsection, sentence, clause or phrase or word of this ordinance is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City hereby declares that it would have passed and adopted this ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional, unlawful or otherwise invalid.

SECTION 3. This Ordinance shall take effect and be enforced thirty (30) days after the date of its adoption, and prior to the expiration of fifteen days from the passage thereof, the ordinance or a summary thereof shall be posted or published as may be required by law, and thereafter the same shall be in full force and effect.

First read at a regular meeting of the City Council on the XXth day of XX, 2018, and passed by the following vote:

AYES: Councilmembers
NOES: Councilmembers
ABSENT: Councilmembers
ABSTAIN: Councilmembers

Adopted and ordered published at a regular meeting of the City Council held on the XX day of XXX, 2018, and passed by the following vote:

AYES: Councilmembers
NOES: Councilmembers
ABSENT: Councilmembers
ABSTAIN: Councilmembers

APPROVED:

Janet Abelson, Mayor

ATTEST:

Cheryl Morse, City Clerk

ORDINANCE CERTIFICATION

I, Cheryl Morse, City Clerk of the City of El Cerrito, do hereby certify that this Ordinance is the true and correct original Ordinance No. 2018-XX of the City of El Cerrito; that said Ordinance was duly enacted and adopted by the City Council of the City of El Cerrito at a meeting of the City Council held on the XX day of December, 2018; and that said Ordinance has been published and/or posted in the manner required by law.

WITNESS my hand and the Official Seal of the City of El Cerrito, California, this XX day of December, 2018.

Cheryl Morse, City Clerk

DRAFT