

ARTICLE III. PRESERVATION OF HERITAGE, SIGNIFICANT AND SPECIMEN TREES*

***Editor's note:** Ordinance No. 1126, § 1, adopted Aug. 16, 1994, has been treated as superseding the provisions of former Article III, §§ 28-61--28-73, which pertained to similar subject matter.

Cross references: Buildings and building regulations, Chapter 5; preservation of historic resources, § 5-351 et seq.

Sec. 28-61. **Purpose.**

This article is adopted to establish regulations for the preservation and protection of heritage, significant and/or specimen trees within the city located on both private and public property. The city council finds that such trees are worthy of preservation in order to enhance the scenic beauty of the city, provide wind protection, prevent soil erosion, promote urban forestation, conserve the city's tree heritage for the benefit of all, and thereby promote the public health, safety and welfare.

(Ordinance No. 1126, § 1, 8-16-94)

Sec. 28-62. **Projects subject to this article.**

For the purposes of this article only, development projects that require the following apply: a subdivision of property and/or a project requiring design advisory board review and/or a design review. Additionally, all heritage trees so designated by city council resolution, or endangered species as specified by federal or state statute are also covered by this article. A reversion of acreage subdivision project is not subject to this article.

(Ordinance No. 1126, § 1, 8-16-94)

Sec. 28-63. **Definitions.**

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Certified arborist means a person who has been issued a certification from the International Society of Arboriculture of the care and maintenance of trees and is an active member.

Drip line means the area measured from the trunk of the tree outward to a point at the perimeter of the outermost branch structure of the tree and which identifies that location where rainwater tends to drip from the tree.

Excellent rating means a tree which has been judged to have a rating of 90 percent or greater.

Firewood harvest/stump regrowth means a tree(s) that has been trimmed to produce firewood or has been cut down and the stump has produced sucker re-growth.

Heritage tree means any tree which:

- (1) Is of historical value because of its association with a place, building, natural feature or event of local, regional or national historical significance as identified by city council resolution; or
- (2) Is representative of a significant period of the city's growth or development (windrow tree, European Olive tree); or
- (3) Is a protected or endangered species as specified by federal or state statute; or
- (4) Is deemed historically or culturally significant by the city manager or his or her designee because of size, condition, location or aesthetic qualities.

Protected tree means any heritage, significant or specimen tree subject to this article or other such tree identified by a federal or state agency as endangered or sensitive species.

Protection means the safeguarding of trees, through proper maintenance, pruning, treatment, fertilizing, feeding and any other necessary means providing for healthy growth.

Removal means the uprooting, cutting or severing of the main trunk or structural branches of the tree, or any act which causes or may be reasonably expected to cause a tree to die or to be seriously damaged, including but not limited to damaging the root system by machinery, storage of materials or soil compaction, substantially changing the grade above the root system or trunk, excessive pruning, excessive or inadequate irrigation, or paving with concrete, asphalt or other impervious material in the vicinity of the tree or in a manner which may reasonably be expected to kill a tree.

Significant tree means any tree that is one of the following species:

TABLE INSET:

Genus/species	Common name
<i>Juglana californica</i>	Southern California black walnut
<i>Quercus agrifolia</i>	Coast live oak
<i>Cedrus deodora</i>	Deodora cedar
<i>Plantanus racemosa</i>	California sycamore
<i>Plantanus acerifolia</i>	London plane

Provided, however, the term "significant trees" shall not include any tree located on a private parcel of property of less than one acre zoned for residential use.

Specimen tree is defined as a mature tree (which is not a heritage or significant tree) which is an excellent example of its species in structure and aesthetics and warrants preservation, relocation or replacement as provided in sections 28-66, 28-67 and 28-68. Specimen trees shall not include any tree located on a private parcel of property of less than one acre zoned for residential use.

Staff means community development director or his designee.

Tree rating means the rating given to a tree which takes into account the species, the trunk diameter, the height, the canopy and the structure. The tree rating is based on a scale of ten percent to 100 percent.

Windrow means a series of trees (minimum of four), usually a variety of eucalyptus, planted in a closely spaced line no more than ten feet apart to provide a windbreak for the protection of property and/or agricultural crops.

(Ordinance No. 1126, § 1, 8-16-94; Ordinance No. 1320, §§ 8--10, 5-16-00)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 28-64. Permit required for removal of heritage, significant and specimen trees.

Except as provided in section 28-65, no person shall remove or cause the removal of any heritage, significant or specimen tree unless a tree removal permit is first obtained.

(Ordinance No. 1126, § 1, 8-16-94)

Sec. 28-65. Tree replacement and permit not required.

No permit or replacement shall be required for:

- (1) Removal of trees planted, grown and/or held for sale by licensed nurseries and/or tree farms or the removal or transplanting of such trees pursuant to the operation of a licensed nursery and/or tree farm.
- (2) Emergency or routine trimming or pruning to protect or maintain overhead public utility lines, existing subsurface water lines, sewer or utility lines.

- (3) Removal of damage parts of a heritage, significant or specimen tree which has sustain an injured trunk, broken limbs, or uprooting as a result of storm damage or other acts of God, which create a hazard to life or property.
 - (4) Removal of trees which are determined to be diseased and/or dead by a certified arborist and approved by the staff.
 - (5) Removal of trees which are determined to be hindering the safe application or installation of traffic control devices or roadway improvements in the public right-of-way or trees which hinder the line of site as determined by the city engineer.
 - (6) Removal of trees which are determined to be within the ultimate right-of-way as shown within the circulation element of the city's general plan.
- (Ordinance No. 1126, § 1, 8-16-94)

Sec. 28-66. Protective measures.

To preserve heritage, significant and specimen trees during development or redevelopment activity, the following measures are to be established:

- (1) All heritage, significant and specimen trees shall be enclosed by an appropriate construction barrier such as a chainlink fence or other means acceptable to the staff, prior to the issuance of any grading or building permit and prior to commencement of work. Fences are to remain in place during all phases of construction and may not be removed without the written consent of the staff.
- (2) No grading, construction or construction-related activities shall occur within the drip line of a heritage, significant or specimen tree as defined by this chapter, including, but not limited to, storage of materials, grade changes, or attachment of wires to or around tree trunks, stems or limbs.
- (3) No structure or impervious paving shall be located within the drip line or within a six-foot radius of the trunk perimeter, whichever is greater, of any heritage, significant or specimen tree. Staff may approve designs which incorporate porous surfaces (i.e. tree grates, decorative pavers, etc.).
- (4) No substantial disruption or removal of the structural or absorptive roots of any heritage, significant or specimen tree shall be performed.
- (5) No grade alteration of more than two feet shall be made within 30 feet of the dripline area of any heritage, significant or specimen tree unless approved by a certified arborist and/or the staff.
- (6) The staff may impose such additional measures determined necessary to preserve and protect the health of heritage, significant or specimen trees which are designated to remain, to be relocated or to be planted to replace those removed pursuant to a removal permit.

(Ordinance No. 1126, § 1, 8-16-94)

Sec. 28-67. Tree replacement or relocation.

(a) Heritage, significant or specimen tree preservation on the site is preferred to relocation or replacement. Relocation is subject to a written report by a certified arborist on the feasibility of transplanting the subject tree. In the event that a permit is issued by the city for the removal of any heritage, significant or specimen tree as provided in sections 28-64 and 28-68, such trees removed shall be replaced with a species designated by the staff according to the following guidelines, unless the staff determines that replacement is inappropriate:

- (1) Where existing eucalyptus windrows are to be removed along the existing or ultimate public right-of-way (R.O.W.), as shown within the circulation element of the city's general plan, they shall be replaced with appropriate street trees to be determined by the staff of not less than a 15-gallon size in a ratio of one tree from the city's approved tree list for every one removed. Eucalyptus

windrow trees not along the existing public right-of-way which cannot be preserved or relocated shall be replaced according to the guidelines established in subsection (a)(2) of this section.

(2) All heritage and significant trees shall be replaced with a species designated by the designated staff according to the species, age, size, structure, and trunk diameter, graded on a scale from ten percent to 100 percent according to Table No. I.

Heritage and Significant Tree Replacement Table No. I1
for Trees Under Seven Inches in Diameter
Trunk Diameter² (Approximate)/Replace With

TABLE INSET:

Scale Rating (10% to 100%)		0.75"/	2"/	3.25"/	4.5"/	6"/
Very poor	Below 45%	1/15 gal.	1/15 gal.	1/15 gal.	1/15 gal.	1/15 gal.
Poor	45%-- 55%	1/15 gal.	1/15 gal.	1/15 gal.	1/15 gal.	1/15 gal.
Average	60%-- 70%	1/15 gal.	1/24" box	1/36" box	1/48" box	1/60" box
Very good	75%-- 85%	1/15 gal.	1/24" box	2/36" box	2/48" box	2/60" box
Excellent	90%--100%	1/15 gal.	1/24" box	3/36" box	3/48" box	3/60" box

1 Species Ratings and Condition Ratings in Tree Value Assessment by Alden Kelley, Consulting Arborist, December 1991.

2 Trunk diameter (caliper) is measured as six inches above ground level up to and including four-inch caliper size; at 12 inches above ground level above four-inch caliper and at or below eight-inch caliper; at 54 inches above ground level for all trees above eight-inch caliper size.

Heritage and Significant Tree Replacement Table No. II3
for Trees Seven Inches in Diameter or Greater

TABLE INSET:

Scale Rating (10% to 100%)		Number Removed	Replace With	Minimum Size
Very poor	Below 45%	1	1	15 gallon
Poor	45%--55%	1	1	15 gallon
Average	60%	1	4	24" box
	65%	1	4	24" box
	70%	1	4	36" box

Very good	75%	1	4	36" box
	80%	1	4	48" box
	85%	1	4	48" box
Excellent	90%	1	4	60" box
	95%	1	4	60" box
	100%	1	4	72" box

3 Species Ratings and Condition Ratings in Tree Value Assessment by Alden Kelley, Consulting Arborist, December 1991.

(b) Specimen tree replacement. The staff shall determine which trees shall be considered as specimen trees and/or in conjunction with an excellent rating by a certified arborist. Specimen trees shall be replaced per the heritage and significant tree replacement table no. II above with a species to be designated by staff.

(c) All other trees which are not heritage, significant, or specimen tree shall be replaced. The size of the replacement tree(s) shall be based on a scale of ten percent to 100 percent. Staff may require that the ratings be performed by a certified arborist. The arborist report will be approved by staff.

Other Tree Replacement Table No. III
for Trees Under Seven Inches in Diameter
Trunk Diameter (Approximate)/Replace With

TABLE INSET:

Scale Rating (10% to 100%)		0.75"/	2"/	3.25"/	4.5"/	6"/
Very poor	Below 45%	1/15 gal.	1/15 gal.	1/15 gal.	1/15 gal.	1/15 gal.
Poor	45%-- 55%	1/15 gal.	1/15 gal.	1/15 gal.	1/15 gal.	1/15 gal.
Average	60%-- 70%	1/15 gal.	1/15 gal.	1/24" box	1/36" box	1/48" box
Very good	75%-- 85%	1/15 gal.	1/24" box	1/36" box	1/48" box	2/48" box
Excellent	90%--100%	1/15 gal.	1/24" box	1/36" box	2/48" box	3/48" box

Other Tree Replacement Table No. IV
for Trees Seven Inches in Diameter or Greater

TABLE INSET:

Scale Rating (10% to 100%)	Number Removed	Replace With	Minimum Size
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Very poor	Below 45%	1	1	15 gallon
Poor	45%--55%	1	1	15 gallon
Average	60%	1	4	24" box
	65%	1	4	24" box
	70%	1	4	36" box
Very good	75%	1	4	36" box
	80%	1	4	48" box
	85%	1	4	48" box

(d) The replacement trees for heritage, significant and/or specimen trees shall be exclusive of the trees required as part of the standard landscape requirements.

(e) The replacement trees shall be guaranteed for one year. The applicant shall file a cash bond with the city community development department in an amount to be determined by the staff to assure performance of this guarantee.

(f) A tree that is determined by a certified arborist to be firewood harvested or stump regrowth shall be removed and replaced with one 15-gallon tree of a species to be determined by the staff.

(g) In lieu of the replacement trees as required by subsections (a), (b) and (c), a cash equivalent as determined by the staff may be deposited with the city in the tree account. This account is established to purchase, plant or relocate trees in public areas, conduct surveys of trees in public areas, design master landscape plans to include trees in public areas, and maintain existing heritage, significant and/or specimen trees.

(Ordinance No. 1126, § 1, 8-16-94)

Note: Cash equivalent costs to be updated yearly by the staff through surveys of the landscape industry (Southern California Nurseries; Landscape Contractors Association).

Sec. 28-68. **Application for permit.**

(a) Prior to the granting of a heritage, significant or specimen tree removal permit, an application for removal shall be submitted to the community development department. The application shall be in the form required by the community development department and shall be accompanied by the fee established by resolution of the city council. The permit application shall contain:

(1) A statement as to the reasons for removal or relocation.

(2) The number, species, diameter (reference note 2) and height of the tree.

(3) The location of all onsite heritage, significant or specimen trees on a plot plan in relation to structures and improvements, (e.g., streets, sidewalks, fences, slopes, retaining walls, etc.). If the application is associated with a proposal for development, the location of all protected trees on the site shall be plotted on the precise grading plan, including all trees to be protected within proposed public rights-of-way.

(4) Photographs of the heritage, significant or specimen trees proposed to be removed or relocated.

(5) If a heritage, significant or specimen tree is proposed to be relocated, the relocation site shall be identified and site preparation and relocation methods described.

(6) In addition, the staff may cause to be prepared, at the applicant's expense, a report by a certified arborist to assist in making a determination as to information related to disease, infestation or

general condition of heritage, significant or specimen trees listed on a tree removal permit application.

(Ordinance No. 1126, § 1, 8-16-94)

Sec. 28-69. Inspection

Upon determination by the staff that a complete heritage, significant or specimen tree removal application has been filed, the staff will conduct an on site inspection.

(Ordinance No. 1126, § 1, 8-16-94)

Sec. 28-70. Approval of permit.

Following the on-site inspection, the staff may approve or deny the application. The findings required for authorization of heritage, significant or specimen tree removal shall be one or more of the following:

- (1) The protected tree(s) is so damaged or diseased that it cannot be effectively preserved, or its presence is a threat to other protected trees.
- (2) The applicant has demonstrated that retention or relocation of the protected tree(s) prevents all reasonable use of the property on which it is located.
- (3) The applicant has demonstrated that the retention of the protected tree(s) would pose a threat to the health, safety or welfare of the inhabitants of the property in question or the public in general.
- (4) The removal of the protected tree(s) is necessary to construct required improvements within the public street right-of-way or within a flood control or utility right-of-way.
- (5) The protected tree(s) are or are not required to be preserved by any specific plan, community plan, condition of approval, or designation as an historic landmark.

(Ordinance No. 1126, § 1, 8-16-94)

Sec. 28-71. Imposition of conditions of approval for the removal of heritage, significant or specimen tree.

Heritage, significant or specimen tree removal permits may include such conditions as are appropriate to effect the purposes of this article. Such conditions may include but are not limited to the following:

- (1) Replacement of the protected trees proposed for removal with trees of a suitable size, number and species.
- (2) Implementation of a comprehensive protection program consisting of any combination of the following sufficient to satisfy the approving body:
 - a. A calculation of the number of protected trees and a list by species of the replacement trees provided in the ratios set forth in section 28-67 (a)(2) and (b).
 - b. A program to monitor and protect the heritage, significant and specimen tree stock from damages resulting from construction, irrigation or incorrect pruning.
 - c. A one-year maintenance program secured by a cash bond or other security meeting the satisfaction of the staff.
 - d. Development of conditions, covenants and restrictions, landscape easements, assessment district or other tools to protect all heritage, significant and specimen trees.
 - e. Standards and specifications for heritage, significant and specimen tree locations, replacement and new planting, provided for both cosmetic improvements and development of stands or groves approximating natural conditions.
 - f. The retention of a certified arborist to supervise all pruning, relocation and trimming of heritage, significant or specimen trees.

(Ordinance No. 1126, § 1, 8-16-94)

Sec. 28-72. Appeal procedure.

Appeal of the staff decision may be made to the city council by filing a written notice of appeal with the city clerk, together with any appeal fee within ten calendar days following the staff's decision. The city council will consider the matter not sooner than 21 days or not later than 45 days after the date of appeal and may affirm or reverse wholly or partly, the action of the staff.

(Ordinance No. 1126, § 1, 8-16-94)

Sec. 28-73. Permit time limits.

Tree removal permits shall be effective following expiration of the last ten-day appeal period and shall be valid for a period of 180 days. Where the tree removal permit is associated with a proposal for development, the 180 days shall start from the date of final map recordation or grading permit, whichever comes first.

(Ordinance No. 1126, § 1, 8-16-94)

Sec. 28-74. Penalties.

Each and every violation of this article shall be a misdemeanor, punishable as provided in section 1-7. A person shall be guilty of a separate offense for each and every heritage, significant or specimen tree illegally damaged or removed.

(Ordinance No. 1126, § 1, 8-16-94)

Secs. 28-75--28-90. Reserved.