

MEETING DATE: 06/24/2013

AGENDA ITEM: Adoption of an Ordinance Amending Chapter 9.08, Streets and Sidewalks, and Chapter 9.10, Parks, Public Buildings, and Property, of the Culver City Municipal Code, by Adding a New Subchapter 9.08.200 et seq., and Repealing and Reserving Sections 9.10.025, 9.10.030, and 9.10.040, Relating to Tree Removal.

ATTACHMENT

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1 **SECTION 1.** A new subchapter 9.08.200, et seq., Tree Removal, is hereby
2 added to Chapter 9.08, Streets and Sidewalks, of the Culver City Municipal Code to read
3 as follows:

4 ***Tree Removal***

- 5 § 9.08.200 Definitions.
6 § 9.08.205 Public Works Director Authority and Duties.
7 § 9.08.210 Removal of Trees in Parkways; Application Procedure, Notice and
8 Appeals.
9 § 9.08.215 Removal of Trees in Parkways Related to Private Improvement or
10 Development Project.
11 § 9.08.220 Director-Initiated Removal of Trees in Street Medians and Parkways;
12 Notice and Objections.
13 § 9.08.225 Violations Unlawful; Penalties
14 § 9.08.230 Conflict of Provisions.

15 **§ 9.08.200 DEFINITIONS.**

16 In addition to the definitions contained elsewhere in this Code, the following
17 words and phrases shall, for the purposes of this Subchapter, be defined as follows,
18 unless it is clearly apparent from the context that another meaning is intended.
19 Should any of the definitions be in conflict with any other provision of this Code,
20 these definitions shall prevail.

21 **Applicant.** An Interested Person who has submitted an application for
22 removal of a Parkway tree.

23 **Interested Person.** Except as otherwise provided in this definition, an
24 Interested Person is an owner, occupant or agent of real property located within a
25 100 feet radius of the location of a Parkway tree that is proposed for removal. For
26 purposes of this definition, an Interested Person is limited to owners, occupants and
27 agents of real property located on the same Street on which the proposed Parkway
28 tree is located or on a Street intersecting the Street on which the proposed Parkway
tree is located.

Parkway. That portion of a Street Right-of-Way between the curb and the
sidewalk.

Public Works Director. The City of Culver City Public Works Director/City
Engineer or his/her designee.

Street Median. A raised area containing landscaping, including trees and/or
hardscape features, located in the street between opposing lanes of traffic.

1 **Street Right-of-Way.** Includes all streets, Parkways, sidewalks, highways,
2 avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in the
3 City, which have been or may hereafter be dedicated and opened to public use.

4 **§ 9.08.205 PUBLIC WORKS DIRECTOR AUTHORITY AND DUTIES.**

5 The Public Works Director shall have authority over the City's public
6 right-of-way and shall be in charge of and have control over the planting, trimming,
7 and removal of trees in Parkways and other public places within the City. Except as
8 otherwise provided in this Chapter, the Public Works Director shall follow and be
9 governed by the procedures set forth in the Tree Planting Act of 1931 (the "Act")
10 (California Streets and Highways Code Sections 22000 et seq., as amended),
11 provided, however, that the authority provided to the Board under the Act shall be
12 vested in the City Council.

13 **§ 9.08.210 REMOVAL OF TREES IN PARKWAYS; APPLICATION**
14 **PROCEDURE; NOTICE AND APPEALS.**

- 15 A. The Public Works Director shall have sole authority to cut, trim,
16 prune, replace or remove any tree in or on any Parkway in the City.
17 No other person shall cut, trim, prune, replace, remove, deface, or
18 in any manner injure any tree in or on any Parkway in the City,
19 except as authorized by the Public Works Director in the case of a
20 private improvement project in accordance with Section 9.08.215.
- 21 B. Any Interested Person may request discretionary removal of a
22 Parkway tree by submitting a written application to the Public
23 Works Director, on a form approved by the City. The written
24 application shall state the name and address of the Applicant, the
25 location of the tree, the reason for the request, and any other
26 information required by the Public Works Director. The written
27 application shall be accompanied by a filing fee, established by
28 resolution of the City Council. A filing fee is not required to request
removal of a tree that is suspected to be in a hazardous or unsafe
condition.
- C. The Public Works Director shall review the application and
supporting documentation to determine whether to approve the
removal of the requested tree. In determining whether any tree in
or on the Parkway shall be removed or replaced, the Public Works
Director shall determine whether the removal or replacement is in
the best interest of the City and the public health, safety and
welfare. Such determination shall be based on the criteria set forth
in either Subsection C.1 or Subsection C.2 as follows:

1. If any one of the following criterion is met:

- a. The tree is dead, dying, or weakened by disease, age, storm, fire or other injuries so as to pose an existing or potential danger to persons, properties, improvements or other trees; or
- b. The removal is necessary for construction of a Street improvement project or other public improvement/repair work; or
- c. The removal is necessary for a private improvement or development project. Where the application for removal is related to a private improvement or development project, see Section 9.08.215.

2. If two or more other criteria are met:

- a. The tree is a known problem species or is otherwise found to be an undesirable species for its location based on tree size relative to available area for tree growth.
- b. The tree roots are creating extensive and repeated damage to public and/or private infrastructure, including sidewalks, sewer lines, or other utility lines. A history of sewer line blockages from tree roots does not alone provide sufficient reason for tree removal, but rather suggests the need for sewer repair to stop leaks and the accompanying root intrusion that results.
- c. The tree is creating a public or private nuisance.

D. If a Parkway tree is approved for removal, following review of the criteria listed in Subsection 9.08.210.C, such removal shall be accommodated subject to availability of City resources and funds. In the event that the Applicant desires the approved removal occur prior to when it can be accommodated by the Public Works Director, the Applicant shall be given the option of paying for the removal, in which case the tree will be removed at the first opportunity upon receipt of payment.

E. The decision of the Public Works Director is final, unless appealed by the Applicant, a member of the City Council or an Interested Person. Appeals shall be submitted in writing and filed with the City Clerk within 10 days after the decision date identified in the

1 notice of decision. The notice of decision shall be prepared by the
2 Public Works Director and sent to the Applicant and all Interested
3 Persons with a copy provided to the City Council. The number of
4 days shall be construed as City Hall business days. Time limits will
5 extend to the following City Hall business day, where the last of the
6 specified number of days falls on a weekend, holiday, or other day
7 when City Hall is officially closed. An appeal shall include a
8 general statement, specifying the basis for the appeal, shall be
9 based on an error in fact or dispute of the findings of the decision,
10 and must be accompanied by supporting evidence substantiating
11 the basis for the appeal. Appeals shall be accompanied by a filing
12 fee established by resolution of the City Council.

- 13
14 F. Appeals shall be heard by the City Council, which shall affirm the
15 decision of the Public Works Director, unless the appellant
16 demonstrates, by substantial evidence, that the decision is based
17 on an error in fact or disputed findings. The decision of the City
18 Council on an appeal shall be final.

19
20 **§ 9.08.215 REMOVAL OF TREES IN PARKWAYS RELATED TO PRIVATE**
21 **IMPROVEMENT OR DEVELOPMENT PROJECT.**

- 22 A. An application for removal of an existing Parkway Tree, in
23 accordance with Sections 9.08.210.B and 9.08.210.C.1.c, as a
24 necessity for the construction of a private improvement or
25 development project, shall be accompanied by a report prepared
26 by a registered consulting arborist, for review and approval by the
27 Public Works Director. The report shall explain the necessity of
28 removing the tree and evaluate the feasibility of transplanting the
tree(s) to another location.
- B. If the Public Works Director determines that transplanting the
tree(s) is feasible, the tree(s) shall be relocated, at the sole cost
and expense of the Applicant, to a location specified by the Public
Works Director. Applicant has the option of performing this work or
paying to the City the cost to have the work performed by the City's
contractor.
- C. If the requested tree(s) cannot be transplanted, then the Applicant
shall provide sufficient evidence, to be reviewed and considered by
the Public Works Director, that the private improvement or
development project cannot be reasonably redesigned to avoid the
removal of the tree(s). If the Public Works Director determines that
a project redesign is not feasible, then removal of the tree(s) may
be approved, on the condition that the Applicant shall plant two
new Street Right-of-Way trees or Parkway trees for each tree that

1 is removed. The size and location of the replacement trees shall
2 be determined by the Public Works Director based on what is
3 appropriate for the particular Street Right-of-Way or Parkway.
4 Where feasible and appropriate for the location, the Public Works
5 Director will require 36" box trees or larger for replacement.

6
7 D. At the Applicant's sole cost and expense, the replacement trees
8 shall be planted along the site frontage of the private improvement
9 or development or in other Street Median or Parkway locations in
10 the City at the discretion and direction of the Public Works Director.
11 Applicant has the option of performing this work or paying to the
12 City the cost to have the work performed by the City's contractor.

13 E. All new or transplanted Street Median and/or Parkway trees shall
14 be planted in a tree well with a tree grate, if required, as approved
15 by the Public Works Director. New or transplanted Parkway trees
16 that are located adjacent to the Applicant's Property shall be
17 supplied with irrigation water from the irrigation system located on
18 the Applicant's property, which system shall include a timer and
19 rain sensor. With the exception of single family developments, a
20 landscape/irrigation plan for the new or transplanted Parkway trees,
21 and any other required Parkway landscaping, shall be prepared at
22 the sole expense of the Applicant and submitted to the Public
23 Works Director for review, approval, and permitting.

24 F. Applicant shall be responsible for the maintenance of the
25 transplanted or new Parkway trees that are located adjacent to the
26 Applicant's Property for a period of one year. If a transplanted or
27 new Parkway tree, adjacent to Applicant's property or otherwise,
28 does not survive during the first year, the Applicant shall be
required to plant a replacement tree in accordance with the
requirements of this Section 9.08.215. Applicant shall be
responsible for the maintenance of such replacement tree for a
period of one year.

22 **§ 9.08.220 DIRECTOR-INITIATED REMOVAL OF TREES IN STREET**
23 **MEDIANS AND PARKWAYS; NOTICE AND OBJECTIONS.**

24 A. The Public Works Director has the authority to remove any Street
25 Median tree or Parkway tree if he or she determines such removal
26 is in the best interest of the City and the public health, safety and
27 welfare, based on the criteria listed in Section 9.08.210.C.

28 B. Except as otherwise provided in Section 9.08.220.E, prior to
removal of any Street Median tree or Parkway tree, the Public
Works Director shall provide to all Interested Persons 10 days

1 written notice of the date scheduled for removal of the Street
2 Median tree or Parkway tree.

3 C. Except as otherwise provided in Section 9.08.220.E, if any
4 Interested Person objects to such removal, his or her objection
5 must be in writing and filed with the City Clerk at least three days
6 prior to the date scheduled for removal of the tree. The objection
7 shall state the name and address of the Interested Person, the
8 location of the tree and the reason for the objection.

9 D. Any objection(s) timely filed shall be heard by the City Council at a
10 regularly scheduled public meeting. The City Council shall
11 consider the objections and make a determination as to whether
12 the tree shall be removed. In order to overturn the Public Works
13 Director's decision, the City Council must find the decision was
14 based on an error in fact or dispute the findings that were the basis
15 of the Public Works Director's decision.

16 E. In any case where the Public Works Director determines that a tree
17 poses a manifest public danger and its removal is an immediate
18 necessity, the notice and objection provisions of Sections
19 9.08.220.B and 9.08.220.C shall not apply.

20 **§ 9.08.225 VIOLATIONS UNLAWFUL; PENALTIES; ADMINISTRATIVE**
21 **COST RECOVERY.**

22 A. A violation of any provision of this Subchapter is unlawful.

23 B. The remedies provided by this Subchapter are cumulative and in
24 addition to any other remedies available in law or equity, including those provided in
25 Chapters 1.01 and 1.02 of this Code.

26 C. A violation of any provision of this Subchapter is subject to a civil action
27 brought by the City Attorney, punishable by a civil fine not less than one hundred
28 dollars (\$100) and not exceeding one thousand dollars (\$1,000) per violation for
each day, or part thereof, such violation occurs.

D. A violation of any provision of this Subchapter may, at the discretion of
the City Attorney, be prosecuted as an infraction or misdemeanor and subject to the
criminal penalties provided in Sections 1.01.040 and 1.01.045 of this Code.

E. Causing, permitting, aiding, abetting or concealing a violation of any
provision of this Subchapter shall also constitute a violation of this Subchapter.

1 F. It is the intent of the City Council to recover the costs incurred by the
2 City from: (1) enforcing and obtaining compliance with the provisions of this
3 Subchapter and (2) damage to City property resulting from violations of this
4 Subchapter. Any person, firm or corporation in violation of this Subchapter shall be
5 responsible to the City for the payment of an administrative assessment for all costs
6 associated with said violation, including administrative costs of enforcing and
obtaining compliance with this Subchapter and actual costs of damage to City
property. An administrative assessment may be appealed in the same manner as
an administrative citation, pursuant to the procedures set forth in Section 1.02.045
of this Code.

7 G. In addition to the administrative assessment and civil and criminal
8 penalties attached to violations of this Subchapter, any violation of this Subchapter
9 is hereby declared a public nuisance.

10 **§ 9.08.230 CONFLICT OF PROVISIONS.**

11 In the event of any conflict between this Subchapter and any other provisions
12 of this Code or the Tree Planting Act of 1931, this Subchapter shall control.

13
14 **SECTION 2.** Sections 9.10.025, 9.10.030 and 9.10.040 of the Culver City
15 Municipal Code, relating to street and parkway trees, are hereby repealed and reserved, as
16 the substance of the provisions set forth in those Sections have been moved to new
17 Subchapter 9.08.200, et seq., Tree Removal, in Chapter 9.08, Streets and Sidewalks.

18
19 **SECTION 3.** Pursuant to Section 619 of the City Charter, this Ordinance
20 shall take effect thirty (30) days after the date of its adoption. Pursuant to Sections 616
21 and 621 of the City Charter, prior to the expiration of fifteen (15) days after the adoption,
22 the City Clerk shall cause this Ordinance, or a summary thereof, to be published in the
23 Culver City News and shall post this Ordinance or a summary thereof in at least three
24 places within the City.

25
26 **SECTION 4.** The City Council hereby declares that, if any provision, section,
27 subsection, paragraph, sentence, phrase or word of this ordinance is rendered or declared
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1 invalid or unconstitutional by any final action in a court of competent jurisdiction or by
2 reason of any preemptive legislation, then the City Council would have independently
3 adopted the remaining provisions, sections, subsections, paragraphs, sentences, phrases
4 or words of this ordinance and as such they shall remain in full force and effect.

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6 **APPROVED AND ADOPTED** this ____ day of _____, 2013.

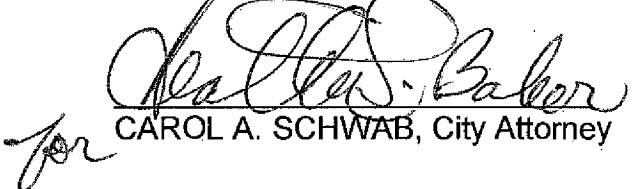
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8 _____
9 JEFFREY COOPER, Mayor
10 City of Culver City, California

11 **ATTEST:**

APPROVED AS TO FORM:

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13 _____
14 MARTIN R. COLE, City Clerk

15 A13-00277

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18 CAROL A. SCHWAB, City Attorney