

## Chapter 5.33

# TREE PRESERVATION AND PROTECTION

Sections:

- 5.33.010 Definitions.**
- 5.33.020 Jurisdiction and control.**
- 5.33.030 Permit requirements.**
- 5.33.040 Permit procedure.**
- 5.33.050 Appeal procedure.**
- 5.33.060 Tree protection during development and construction.**
- 5.33.070 Other standards.**
- 5.33.080 Licensing and insurance.**
- 5.33.090 Enforcement.**
- 5.33.100 Violations and penalties.**

### **5.33.010 Definitions.**

For the purpose of this chapter, unless it is plainly evident from the context that a different meaning is intended, the following words or phrases mean:

"Arborist" means a person who is accredited by the Western Chapter of the International Society of Arboriculture or a contractor licensed by the state of California who has demonstrated tree work that complies with the standards of the Western Chapter of International Society of Arboriculture.

"Construction related activities" means activities including, but not limited to, the storage of materials, grade changes and trenching or attachment of wire or spikes to or around tree trunks, stems or limbs.

"Damage" (verb) means any action of natural or artificial means, which causes injury, death or disfigurement to a public tree. This includes, but is not limited to, excessive pruning and/or cutting, poisoning, over- or under-watering, relocating or transplanting a protected tree without a permit, or trenching, excavating or paving or the storage of materials or soil compaction within the protected

zone of a tree or by the attachment of signs or artificial material piercing the bark of the tree by means of nails, spikes or other piercing objects.

"Damage" (noun) means any condition whether caused by natural or artificial means, which causes injury, death or disfigurement to a public tree.

"Director of public works" means the director of public works or his/her designee.

"Dripline" means an imaginary line on the ground corresponding to the furthest extension of the canopy (crown) around the circumference of the tree. Typically, the dripline is not a perfect circle.

"Excessively prune or cut" means detaching or removing from a protected tree any live branch or root over one inch in diameter or removing more than fifteen percent of the total live tree canopy or live root system.

"Parkway" means the portion of city property, located between the sidewalk and the roadway.

"Permit" means a written document formally authorized by the public works department that grants permission to proceed in the performance of the work defined on the permit application.

"Person" means any natural person, partnership, firm, corporation, contractor, governmental agency or other legal entity.

"Private property" means land owned by a private interest, and not designated public property.

"Protect(ion)" means the safeguarding of trees through proper maintenance, pruning, treatment, fertilizing, feeding and any other necessary means undertaken according to the standards of the Western Chapter International Society of Arboriculture.

"Protected zone" means the diameter of an area twice the distance from the center of the tree trunk to the farthest edge of the dripline or crown of the tree.

"Public property" means all lands owned, managed or maintained by the city of South Gate including, but not limited to public rights-of-way, parkways, easements, street medians and parks.

"Public tree" means any single or multi-stemmed plant normally reaching mature heights of fifteen feet or more, regardless of its current level of maturity, with one-half or more of its trunk or branches on or above all public property.

"Relocate" means the permanent or temporary moving of a public tree from one location to another by any means.

"Remove" means uprooting, cutting or severing of a tree or any main trunk or limb causing or which may be expected to cause, a tree to die or to be damaged.

"Street fixtures" means street lights, poles, signs, meters, fire hydrants and other apparatus affixed to the street, curb, sidewalk or parkway.

"Tree inspector" means the person designated by the director of public works to inspect and enforce provisions of this chapter.

(Ord. 2009 § 1 (part), 8-13-96)

### **5.33.020 Jurisdiction and control.**

The city of South Gate shall govern use of all public trees and activities which may affect all public trees now or hereafter existing in the city limits and shall have the power to plant, care for, maintain, remove, relocate, prune or cut and replace such public trees and undertake or permit actions in the protected zone of such public trees.

(Ord. 2009 § 1 (part), 8-13-96)

### **5.33.030 Permit requirements.**

1. **Requirements.** No person, but for a person undertaking official business for the city of South Gate, shall plant, remove, relocate, damage, excessively prune or cut or encroach into the protected zone or any public tree within the city of South Gate without first obtaining a permit from the director of public works and paying the required fee. No such permit shall be valid for a period greater than ninety days after the date of its issuance and shall thereafter be null and void unless extended in writing by the director of public works.
2. **Permit Fees.** Permit fees shall be established by the city council and set forth in the South Gate fee resolution (Resolution No. 5010), which is kept on file in the office of the city clerk.
3. **Interference.** No person shall interfere with the legal planting, maintenance, removal and relocation of a public tree or interfere with any legal activity in the protected zone.
4. **Exemptions.** A permit by a peace officer, fire fighter, civil defense official or public utility worker engaged in his/her official capacity is not required to plant, remove, relocate, damage, excessively prune or cut, or encroach into the protected zone of any public tree in an emergency or disaster.

situation. The director of public works shall be notified of the nature of the emergency and action(s) taken within three days after the action.

A permit is not required to remove dead branches, limbs or trees. However, prior to removal, the branch, limb or tree must be confined by the tree inspector to be dead.

(Ord. 2009 § 1 (part), 8-13-96)

#### **5.33.040 Permit procedure.**

1. Upon application for a permit to plant, remove, relocate, damage, excessively prune or cut or encroach into the protected zone of any public tree, the tree inspector shall investigate the site and prepare a written report evaluating the request. The director of public works shall consider the report, public comments or any other relevant information and either part or deny the permit.
2. The director of public works may grant the permit to plant, remove, relocate, damage, excessively prune or cut, or encroach into the protected zone of any public tree, if the applicant has established to the director of public work's satisfaction that the person conducting the work is qualified to perform the proposed work and that, based on the tree inspector's written report, one of the following conditions exists:
  - (a) The public tree is so diseased, infested with insects, or damaged that it is no longer viable or is a threat to other trees or plant species, public health or public safety;
  - (b) The public tree or a portion thereof is in danger of falling and creates a potential safety hazard;
  - (c) The public tree creates a visibility impairment to vehicular traffic or emergency vehicle clearance, obstructs pedestrian traffic, interferes with overhead or underground utilities, interferes with other public or private trees, interferes with street fixtures or is causing damage to hardscape surfaces or a structure, and corrective action to reduce the hazard would seriously disfigure the tree or if the continuing cost of repeated corrections would outweigh the value of the tree;
  - (d) The public tree creates an unreasonable hardship on the property owner by preventing the economic enjoyment of the property or construction of a proposed legal structure or by denying a property right possessed by other property owners in the same vicinity and zone;
  - (e) When necessary to perform required improvements within public, utility or flood control right-of-way;

(f) When necessary to protect or maintain a water pipeline, natural gas line, electric power or communication overhead line or other public utility property;

(g) When an arborist or other person qualified to make such an assessment determines a population of trees is creating excessive fuel load posing a potential fire hazard.

3. The director of public works may, in his/her sole discretion, deny a permit to plant, remove, relocate, damage, excessively prune or cut or encroach into the protected zone of any public tree, if based upon the tree inspector's report or other available information, none of the conditions described in subsection (2) (a) through (g) of this section is found to exist and if one of the following conditions is found to exist:

(a) The proposed work will destroy or seriously injure a public tree;

(b) The species of the public tree is desirable and valuable or the individual public tree has historical significance;

(c) The proposed tree work will substantially reduce the shade, wind protection, or air pollution mitigation for an area will negatively affect the esthetics or general welfare of the neighborhood, or will result in soil erosion, or negatively affect soil retention, water retention or the flow of surface water;

(d) The public tree could be preserved by proper pruning, maintenance and/or relocation;

(e) The public tree is required to be preserved by any precise plan or other city approved plan;  
or

(f) Granting the permit would not be in the best interests of the city.

4. Prior to the removing or relocated any public tree, a courtesy notice of such proposed action shall be posted on or near the subject tree for a minimum of ten days prior to the action being carried out. The notice shall include the statement: "This notice is given as a courtesy to the public and the city retains all rights concerning the maintenance of its public trees."

5. The director of public works may impose any condition he/she deems necessary, to carry, out the purpose and intent of this chapter. The applicant must bear all costs of performing or executing any condition ordered by the director of public works. No permit shall be issued unless the applicant, in writing, accepts the conditions and agrees to observe same. Conditions may include, but are not limited to, any of the following:

- (a) Replacing the public tree with a tree or trees, including a boxed tree or trees, of a species and size designated by the director of public works;
- (b) Relocating the public tree to a location approved in writing by the director of public works. Prior to permit issuance a written report from an arborist shall be submitted to the director of public works describing the relocation method to be used and providing the city with a three year guarantee of survival;
- (c) Payment of restitution for the public tree in the amount determined by the director of public works;
- (d) Any other condition the director of public works deems reasonable and appropriate;

6. The tree inspector shall investigate the public tree(s) after the permit has been issued to determine whether the terms of this chapter and any permit conditions were met.

(Ord. 2009 § 1 (part), 8-13-96)

#### **5.33.050 Appeal procedure.**

1. Any applicant who objects to any condition of a permit or who is denied a permit shall have the right to appeal the decision of the director of public works to the city council, provided a written appeal is received by the city clerk within fifteen calendar days of the date said permit was issued or denied. The appeal shall contain the following:

- (a) Date and signature of the appealing party;
- (b) Appealing party's typed or printed name, address and telephone number;
- (c) The property address where the public tree exists; and
- (d) The reason(s) for the appeal.

2. As soon as practicable after receiving a timely filed appeal, the city clerk shall set a date for hearing of the appeal by the city council which date shall not be not more than sixty days from the date the appeal was filed. A written notice of hearing of the appeal shall be served on appellant at least fifteen calendar days prior to the hearing date. Said notice shall state the date, time and location of the appeal hearing. Service shall be made by sending the appealing party the notice of hearing by first class mail, postage prepaid, to the address stated in the appeal. The failure of the appealing party to receive the notice shall not affect the validity of the proceedings.

3. The city council shall hear and consider all relevant reports, evidence, objections or protests, and shall receive testimony from the appealing party, witnesses, city personnel and any other interested persons, relative to the appeal. Upon the conclusion of the hearing on such appeal, the city council shall, by resolution, affirm, reverse or modify the decision of the director of public works in accordance with the evidence presented at the appeal hearing. All decisions of the city council shall be final and conclusive.

(Ord. 2009 § 1 (part), 8-13-96)

**5.33.060 Tree protection during development and construction.**

1. The following activities require a permit from the director of public works prior to commencement:
  - (a) Compaction of the soil within the dripline of any public tree;
  - (b) Construction, including structures and walls, that disrupts the root system of any public tree;
  - (c) Cutting roots within the dripline of a public tree;
  - (d) All other grading, construction or construction related activities occurring within the dripline of a public tree.
2. Trees covered in this chapter shall be shielded from damage during construction with an appropriate construction barrier enclosing the entire dripline area. Prior to construction activity, the tree inspector shall approve the type of barrier to be used. The protective barrier shall be installed prior to any construction activity and removed only upon approval of the tree inspector.
3. Tree protection guidelines in the street tree master plan and this code shall apply unless otherwise permitted by the director of public works.
4. The director of public works may in his/her sole discretion impose additional conditions necessary to preserve or protect any public tree which is located in a construction or development zone.

(Ord. 2009 § 1 (part), 8-13-96)

**5.33.070 Other standards.**

1. Street Tree Master Plan. The director of public works shall develop and maintain a street tree master plan as approved by resolution of the city council. The street tree master plan shall include a list of tree species approved for planting in streets, parkways and other public areas, and rules and regulations governing the planting, location, spacing and maintenance of public trees.

All trees to be planted or installed upon any portion of any public property shall conform to the street tree master plan, unless otherwise specified by a permit issued by the director of public works.

2. Work Performance. All persons who maintain, plant, remove, relocate, damage, excessively prune or cut, or encroach into the protected zone of a public tree shall do so in accordance with standards recognized by the Western Chapter of the International Society of Arboriculture.

(Ord. 2009 § 1 (part), 8-13-96)

### **5.33.080 Licensing and insurance.**

1. But for any person engaged in this activity while in the course of his/her employment with the city of South Gate and any person engaged in planting, removing, relocating, excessively pruning and cutting, or encroaching into the protected zone, spraying or otherwise treating of any public tree shall produce, prior to commencement of work, and maintain during the period of work activity, evidence of:

- (a) Certification or licensing by a recognized certifier/licensor appropriate for the activity; and
- (b) Public liability and property damage insurance in an amount to be determined by the public works department.

2. The director of public works may also require posting of a performance bond to guarantee the completion of any job in accordance with adopted city standards, rules and regulations. All required evidence of certification/license, insurance and performance bond shall be submitted to the director of public works.

(Ord. 2009 § 1 (part), 8-13-96)

### **5.33.090 Enforcement.**

The director of public works or designee is charged with the responsibility for the enforcement of this chapter and may serve notice to any person in violation thereof or institute legal process as may be required.

(Ord. 2009 § 1 (part), 8-13-96)

### **5.33.100 Violations and penalties.**

1. Any person who violates any of the provisions of this chapter which violation thereof is considered to be a misdemeanor or an infraction, shall be subject to the fines and/or penalties as set forth in Chapter [1.56](#), Penalty Provisions, of this code.



2. Violations of any provisions of this chapter or any permit, may be required to replace the public tree(s) with a tree(s) of a size, species and condition determined by the director of public works.

3. Any person who plants, removes, relocates, damages, excessively prunes or cuts, or encroaches into the protected zone of any public tree without a permit shall be liable to the city for a civil penalty in an amount equal to the tree's full restitution value plus the cost of labor and materials to install the public tree.

4. Other permits issued pursuant to this chapter to a person convicted of a violation of any section of this chapter or of any permit shall be deemed invalid or held by an official notice to stop work until the penalty, for violation has been fulfilled.

(Ord. 2009 § 1 (part), 8-13-96)

***Koelreuteria bipinnata* (Chinese Flame Tree)**

The photo below shows the approximate size of the new 24" box tree that will be planted.



If you would like a larger tree planted at your cost, please contact the Community Forester by e-mail at [community.forester@smgov.net](mailto:community.forester@smgov.net).



City of

## Santa Monica<sup>SM</sup> TREE PLANTING NOTICE

As part of the City's community forest renewal program, a new street tree will be planted in the parkway adjacent to your home within the next 1 to 2 weeks. The new species will be the

*Koelreuteria bipinnata* (Chinese Flame Tree).



This tree has been designated for your street segment in the City of Santa Monica's adopted Urban Forest Master Plan. You can learn more about the tree's growth habit, pruning requirements and watering needs by visiting the City's urban forestry web site at [www.santamonicatrees.com](http://www.santamonicatrees.com).

Over the next 3 years the City will be providing supplemental watering on an infrequent basis and cultivating the structure of the canopy of the tree with periodic pruning treatments. Once it has been determined that the tree is established, it will be incorporated into the City's regular pruning schedule.

Residents are asked to take responsibility for the general care of the new tree by watering it as needed, protecting it from damage and notifying the City if there are problems with the tree. Here are a few guidelines to follow for proper care and maintenance:

- Fill the tree well with water, allow it to percolate into the soil and then repeat the process a second time. Water the tree once a week between the months of October – April and twice per week during the months of May to September. Be sure to not over water the tree as it can kill the tree.
- Do not plant flowers or other annual plants around the base of the tree and always keep the tree well free of weeds and other plants; they will take nutrients away from the tree.
- Keep fertilizer with weed killer at least ten feet away from the tree.
- Do not change the staking as it is necessary for the tree to develop a strong trunk.

If you have any concerns or questions about your new tree, please feel free to contact the City's Community Forester at (310) 458-8974.

Thank you,  
City of Santa Monica  
Public Landscape Division  
Community & Cultural Services Department

## SPECIES DESCRIPTION

### *Koelreuteria bipinnata* (Chinese Flame Tree)

Mature Height 40'  
 Mature Trunk Size 30"  
 Growth Rate Moderate, (2' - 3' per yr & more.)  
 Watering Requirements Moderate  
 Pruning Cycle 3 - 5 year cycle  
 Flowers Yellow blossoms in the summer that turn reddish brown in the fall

## CULTURAL CONSIDERATIONS

This is a deciduous tree that is a moderately fast growing tree that responds to infrequent deep watering with a faster growth rate. They produce bright yellow flowers that start in June and turn reddish brown in the late fall and last until they drop their leaves in the fall. The photo below is an example of a Chinese Flame Tree.

