

**CITY OF PEORIA, ARIZONA  
COUNCIL COMMUNICATIONS**

CC: 1C  
Amend No. \_\_\_\_\_

Date prepared: October 1, 2008

Council Meeting Date: November 18, 2008

**TO:** Carl Swenson, City Manager  
**THROUGH:** Susan Daluddung, Deputy City Manager *[Signature]*  
**FROM:** J.P. de la Montaigne, Community Services Director *[Signature]*  
**PREPARED BY:** Kirk Haines, Parks Manager *K. H.*  
**SUBJECT:** A Proposed Tree Ordinance to be Added to the City Ordinance in Chapter 18, Parks and Recreation

**RECOMMENDATION:**

That the Mayor and Council of the City of Peoria, Arizona amend Chapter 18 entitled "Parks and Recreation" of the Peoria City Code (1992) by repealing Sections 18-50 through section 18-60 which were previously reserved and enacting Section 18-50 pertaining to tree ordinance purpose; Section 18-51 pertaining to definitions; Section 18-52 pertaining to acceptable street tree species; Section 18-53 pertaining to public tree care; Section 18-54 pertaining to responsibility for maintenance; Section 18-55 pertaining to planting, removing or cutting trees on public property; Section 18-56 pertaining to tree topping; Section 18-57 pertaining to removal of stumps; Section 18-58 pertaining to interference with the City Arborist; Section 18-59 pertaining to review by City Manager; and Section 18-60 pertaining to civil sanction and providing for severability and providing for an effective date.

**SUMMARY:**

One of the requirements to achieve the Tree City U.S.A. status is to have an ordinance pertaining to an urban forest tree management program. After conducting an evaluation from other Arizona cities that have a tree ordinance, staff attempted to utilize and adapt information that best suited the City of Peoria. A draft of the ordinance was evaluated by the City Attorney's Office and formatted for the City of Peoria code. The final product addresses the management of an urban forest on property that is owned and maintained by the City of Peoria. Therefore, we are recommending these established parameters to aid in the current management of the urban forest and provide guidance and direction for establishing a more viable amenity in our city.

**ATTACHMENT:** City Code Amendment

**CITY CLERK USE ONLY:**

- Consent Agenda
- Carry Over to Date: \_\_\_\_\_
- Approved
- Unfinished Business (Date heard previous: \_\_\_\_\_)
- New Business
- Public Hearing: No Action Taken

ORD. # 08-32 RES. # \_\_\_\_\_  
LCON# \_\_\_\_\_ LIC. # \_\_\_\_\_  
Action Date: \_\_\_\_\_

ORDINANCE NO. 08-32

AN ORDINANCE OF THE CITY OF PEORIA, MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA, AMENDING CHAPTER 18 ENTITLED "PARKS AND RECREATION" OF THE PEORIA CITY CODE (1992) BY REPEALING SECTIONS 18-50 THROUGH SECTION 18-60 WHICH WERE PREVIOUSLY RESERVED AND ENACTING SECTION 18-50 PERTAINING TO TREE ORDINANCE PURPOSE; SECTION 18-51 PERTAINING TO DEFINITIONS; SECTION 18-52 PERTAINING TO ACCEPTABLE STREET TREE SPECIES; SECTION 18-53 PERTAINING TO PUBLIC TREE CARE; SECTION 18-54 PERTAINING TO RESPONSIBILITY FOR MAINTENANCE; SECTION 18-55 PERTAINING TO PLANTING, REMOVING OR CUTTING TREES ON PUBLIC PROPERTY; SECTION 18-56 PERTAINING TO TREE TOPPING; SECTION 18-57 PERTAINING TO REMOVAL OF STUMPS; SECTION 18-58 PERTAINING TO INTERFERENCE WITH THE CITY ARBORIST; SECTION 18-59 PERTAINING TO REVIEW BY CITY MANAGER; AND SECTION 18-60 PERTAINING TO CIVIL SANCTION AND PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

THEREFORE, it is ordained by the Mayor and Council of the City of Peoria, Arizona as follows:

SECTION 1. Chapter 18 of the Peoria City Code (1992) entitled "Parks and Recreation" is amended by repealing Sections 18-50 through Section 18-60 in their entirety which were previously reserved and enacting the following Sections 18-50 through Section 18-60 which will be known as a Tree Ordinance and which reads as follows:

Sec. 18-50. ~~Reserved.~~ Tree ordinance purpose.

This Ordinance is intended for the City of Peoria to provide guidelines for the care, maintenance, and management of the tree resources in the public right of ways and parks in the City. This Ordinance provides authority for the maintenance of trees located within the right of ways, parks, and public places throughout the City.

Sec. 18-51. ~~Reserved.~~ Definitions.

For the purpose of this Chapter, the following words, terms and phrases shall have the following meanings/definitions ascribed to them, except where the context clearly indicates a different meaning:

City means the City of Peoria, Maricopa County, Arizona and/or the City Manager and the Community Services Department (Parks Division).

City Arborist means an (existing) employee of the City designated by the Director of the Community Services Department. The City Arborist shall be a Certified Arborist by the International Society of Arboriculture. The City Arborist shall serve without any additional compensation other than their current salary.

City Arborist Duties and Responsibilities means to study, investigate, council and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of Street and Park Trees. Such plan will be presented annually to the Community Services Director, or his/her designee. The City Arborist, when requested by the Community Services Director, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of his/her work.

Park Trees means shrubs, bushes and all other woody vegetation, whose individual or combined trunks measure greater than 14" in circumferences at 4' 6" above the natural grade, in public parks and all areas owned by the City, or to which the public has free access as a park.

Street Trees means shrubs, bushes and all other woody vegetation, whose individual or combined trunks measure greater than 14" in circumferences at 4' 6" above the natural grade, on land lying between property lines on either side of all streets, avenues or right of ways within the City and where the landscaping is maintained by the City.

Street Tree Species means acceptable street tree species for the City.

Topping means the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

Sec. 18-52. ~~Reserved.~~ Acceptable Street Tree Species.

The following list constitutes acceptable Street Tree Species for the City. No species other than those included in this list may be planted as Street Trees without written permission of the City Arborist.

\*Acacia anuera

\*\*Acacia berlandieri – Guajillo

\*\*Acacia constricta – White thorn Acacia

\*Acacia craspedocarpa – Leather leaf

Acacia

\*\*Acacia farnesiana – Sweet Acacia

\*\*Acacia rigidula – Blackbrush Acacia

Acacia salicina – Willow Acacia

Eucalyptus spathulata – Narrow leaf gimlet

Fraxinus greggii – little leaf ash

Juniperus scopulorum – rocky mtn. juniper

\*Lysiloma thomberi – Feather tree

Olea europea – olive (fruitless)

\*\*Olneya tesota – Ironwood

\*\*Parkinsonia aculeata – Mexican palo verde

Acacia stenophylla – Shoestring Acacia  
Acacia willardiana – Palo Blanco  
\*\*Caesalpinia cacalaco – Cascalote  
\*Caesalpinia mexicana – Mexican Bird of Paradise  
\*Caesalpinia platyloba – Palo Colorado  
Ceratonia siliqua – carob  
\*\*Celtis pallida – Desert Hackberry  
Celtis reticulata – Western Hackberry  
\*\*Cercidium floridum – Blue Palo Verde  
\*\*Cercidium praecox – Palo Brea  
\*Cercis canadensis mexicana – Mexican Redbud  
\*Cercis occidentalis – Western Redbud  
Chitalpa tashkentensis – chitalpa  
\*Chilopsis linearis – desert willow  
Cupressus sempervirens – Italian cypress  
Dalbergia sisso – Indian rosewood  
Eucalyptus albens – White box  
Eucalyptus campaspe – Silver topped gimlet  
Eucalyptus citriodora – Lemon scented Gum  
Eucalyptus erythrocorys – Red cap gum  
Eucalyptus leucoxydon – White Iron bark  
Eucalyptus microtheca – Coolibah  
Eucalyptus papuana – Ghost gum  
Eucalyptus salmonophloia – Salmon gum

Parkinsonia aculeata X microphyllum  
Desert museum  
Pinus canariensis – Canary Island pine  
Pinus eldarica – Afghan pine  
Pinus halepensis – Aleppo pine  
Pinus pinea – Italian stone pine  
Pistacia atlantica – Mt Atlas pistacia  
\*Pistacia lentiscus – Mastic tree  
\*\*Pithecellobium flexicaule – Texas ebony  
\*\*Pithecellobium mexicanum – Mexican ebony  
\*\*Pithecellobium pallens - Tenaza  
Pittosporum phillyraeoides – willow pittosporum  
Rhus lancea – African sumac  
Quercus buckleyi – Texas red oak  
Quercus ilex – Holly oak  
Quercus virginiana – Southern live oak  
\*Sophora secundiflora – Texas mountain laurel  
Ulmus parviflora – Evergreen elm  
\*Vitex agnus-castus – chaste tree  
Ziziphus jujube – jujube

No Street Trees other than those species identified by an asterisk (\*) in this Section may be planted without written permission of the City Arborist under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility.

Street Trees identified by two asterisks (\*\*) in this Section will not be planted unless there is a separation of at least two (2) lateral feet of their anticipated mature canopy and any pedestrian corridor.

Sec. 18-53. Reserved. Public tree care.

The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The City Arborist may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electrical power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest. This Section does not prohibit the planting of Street Trees by adjacent property owners.

Sec. 18-54. ~~Reserved.~~ Responsibility for maintenance.

Unless there is a specific agreement between the property owner and the City relieving the property owner of responsibility, the property owner shall be responsible for the irrigation and maintenance of the trees planted in public right of ways abutting the owner's property. Maintenance of City authorized trees in medians and parks shall be the responsibility of the Community Services Department.

Sec. 18-55. ~~Reserved.~~ Planting, removing or cutting trees on public property.

No person shall plant, remove, cut above the ground or disturb any tree within any City maintained right of way, park or other public place without first obtaining written permission from the City Arborist. The person obtaining permission shall abide by the standards set forth in this Chapter. Any person maintaining any overhead wires or conduit along or across any street or alley of the City desiring to have any trees that may interfere with any such utility cut, trimmed or pruned must be granted written permission to cut, prune or trim such trees.

Sec. 18-56. ~~Reserved.~~ Tree topping.

It shall be unlawful as a normal practice for any person, firm, or city department to top any Street Tree, Park Tree or other tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempt from this Ordinance at the determination of the City Arborist.

Sec. 18-57. ~~Reserved.~~ Removal of stumps.

All stumps of Street and Park Trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

Sec. 18-58. ~~Reserved.~~ Interference with the City Arborist.

It shall be unlawful for any person to prevent, delay or interfere with the City Arborist, or any of his/her agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any Street Trees or Park Trees as authorized in this Ordinance.

Sec. 18-59. ~~Reserved.~~ Review by City Manager.

The City Manager shall have the right to review the conduct, acts and decisions of the City Arborist and the Community Services Department Director. Any person may appeal from a ruling or order of the City Arborist to the City Manager who may hear the matter and make a final decision.

Sec. 18-60. ~~Reserved.~~ Civil sanction.

Any person violating any of the provisions and/or sections of the Tree Ordinance shall be upon being found in violation or a plea of guilty, deemed to have committed a civil infraction and shall be punished by imposition of a civil sanction not to exceed two hundred and fifty dollars (\$250.00) in accordance with this code.

SECTION 2. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 3. This Ordinance shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona, this 18<sup>th</sup> day of November, 2008.

CITY OF PEORIA, Arizona, an Arizona  
municipal corporation

\_\_\_\_\_  
Bob Barrett, Mayor

\_\_\_\_\_  
Date Signed

ATTEST:

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Mary Jo Kief, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Stephen M. Kemp, City Attorney

Published in: The Peoria Times Publication Dates: November 21 and 28, 2008

Effective Date: \_\_\_\_\_