



Ordinance

OFFICE OF THE
MAYOR
CITY OF SAN LUIS

No. 401

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, ESTABLISHING THE DEPARTMENT OF PARKS AND RECREATION AS THE AUTHORITY FOR THE MANAGEMENT OF TREES IN THE CITY OF SAN LUIS AND PRACTICES FOR THE CARE OF THE TREES AND REMOVAL WHEN IN THE HEALTH, SAFETY AND WELFARE INTERESTS OF THE RESIDENTS; AMENDING THE SAN LUIS CITY CODE; REPEALING ANY CONFLICTING PROVISION; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTIES; AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the Mayor and City Council of the City of San Luis, Arizona, as follows:

Section 1. The San Luis City Code is amended by adding a heading and sections to Title IX: General Regulation, Chapter 94: Parks and Recreation as follows:

CITY TREES

§ 94.30.010 DEFINITIONS.

As used in this Article, the following words and phrases shall have the meanings indicated:

DAMAGE – any injury to or destruction of a tree, including but not limited to: uprooting; severance of all or part the root system or main trunk; storage of material on or compaction of surrounding soil; a substantial change in the natural grade above a root system or around a trunk; surrounding the tree with impervious paving materials; or any trauma caused by accident or collision.

DIRECTOR – the Director of the Department of Parks and Recreation for the city and/or the Director's designee.

NUISANCE – any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles;

or threatens public health, safety and welfare.

GREENWAY – the area along a public street between the curb and the sidewalk; or if there is no curb or sidewalk, the unpaved portion of the area between the street right-of-way line and the paved portion of the street or alley. The greenway may or may not have vegetation on it.

PUBLIC PROPERTY – all grounds and rights-of-way owned or maintained by the city.

PUBLIC TREE – any tree or woody vegetation on city-owned or city-maintained property or rights-of-way.

TOP – the non-standard practice of cutting back of limbs to stubs within a tree’s crown to such a degree as to remove the normal canopy and disfigure the tree.

§ 94.30.020 PURPOSE.

To enhance the quality of life and the present and future health, safety, and welfare of all residents and visitors, to enhance property values, and to ensure proper planting and care of Trees on Public Property, the San Luis City Council delegates the authority and responsibility for managing Public Trees, establishes practices governing the planting and care of Trees on Public Property, and makes provision for the emergency removal of trees on private property under certain conditions.

§ 94.30.030 Authority and power.

- (A) **Delegation** of authority and responsibility. The Director of the Parks and Recreation Department and/or his designee (Director), shall have full authority and responsibility to plant, prune, maintain and remove trees and woody plants growing in or upon all municipal streets, rights-of-ways, city parks, and other Public Property. This shall include the removal of trees that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by fungus, insect, or other pest disease.

- (B) **Coordination** among city departments. All city departments will coordinate as necessary with the Director and will provide services as required to ensure compliance with this ordinance as it relates to streets, alleys, rights-of-way, drainage, easements and other Public Properties not under direct jurisdiction of the Director.

- (C) **Interference.** No person shall hinder, prevent, delay, or interfere with the Director or his agents while engaged in carrying out the execution or enforcement of this ordinance.

§ 94.30.040 Tree planting and care standards.

- (A) Standards. All planting and maintenance of Public Trees shall conform to the American National Standards Institute (ANSI) A-300 "Standards for Tree Care Operations" and shall follow all tree care Best Management Practices (BMPs) published by the International Society of Arboriculture.
- (B) Requirements of franchise utility companies. The maintenance of Public Trees for utility clearance shall conform to all applicable utility industry standards.
- (C) Tree species list. The Director shall develop and maintain an official list of desirable tree species for planting on Public Property in two size classes: Ornamental (20 feet or less in height at maturity) and Shade (greater than 20 feet at maturity). Only trees from this approved list may be planted without written approval from the Director.
- (D) Planting distances. The Director shall develop and maintain an official set of spacing requirements for the planting of trees on Public Property. No tree may be planted within the visibility triangle of a street intersection or within ten (10) feet of a fire hydrant.
- (E) Planting trees under electric utility lines. Only trees listed as Ornamental trees on the official city tree species list may be planted under or within fifteen (15) lateral feet of any overhead utility wire.
- (F) Protection of Public Trees during construction. Any person, firm, corporation, or city department performing construction near any Public Tree must employ appropriate measures to protect the tree, including, but not limited to, placing barriers around the tree to prevent Damage.

§ 94.30.050 Prohibition against harming Public Trees.

- (A) It shall be unlawful for any person, firm or corporation to Damage, remove, or cause the Damage or removal of a tree on Public Property without written permission from the Director.
- (B) It shall be unlawful for any person, firm or corporation to attach any cable, wire or signs or any other object to any street, park, or Public Tree.
- (C) It shall be unlawful for any person, firm or corporation to "Top" any Public Tree. Trees severely damaged by storms or other causes, where best pruning practices are impractical may be exempted from this provision at the determination of the Director.

§ 94.30.060. Adjacent owner responsibility.

- (A) The owner of land adjacent to any city street or highway, when acting within the provisions of this ordinance, may plant and maintain trees in the adjacent greenway area. Property owners are responsible for the reasonable and routine maintenance of trees and other landscaping in the adjacent greenway area.
- (B) No property owner shall allow a tree, or other plant growing on his or her property or within the adjacent greenway to obstruct or interfere with pedestrians or the view of drivers, thereby creating a hazard. If an obstruction persists, the Director shall notify the property owner to prune or remove the tree or plant. If the owner fails to comply with the notice, the City may undertake the necessary work and charge the cost to the property owner.

§ 94.30.070. Certain trees declared a Nuisance.

- (A) Any tree, or limb thereof, on private property determined by the Director to have contracted a lethal, communicable disease or insect; to be dead or dying; to obstruct the view of traffic signs or the free passage of pedestrians or vehicles; or that threatens public health, safety, and welfare is declared a Nuisance and the City may require its treatment or removal.
- (B) Private property owners have the duty, at their own expense, to remove or treat Nuisance trees on their property. The City may remove such trees at the owner's expense if the owner does not comply with treatment and/or removal as specified by the Director within the written notification period.

PENALTY

§ 94.99 Penalty.

- (A) General. Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the class one misdemeanor penalty provisions of § 10.99.
- (B) Alcoholic beverages. Upon conviction for violation of § 94.11, 94.12, 94.13 or 94.14, the sentence to be imposed shall be a fine of not more than \$500 or imprisonment for not more than 30 days, or both. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

- (C) Tobacco products. A person who violates § 94.20 of this chapter is responsible for a civil offense punishable under § 10.99. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.
- (D) Trees. Any person, firm or corporation violating § 94.30.010 through § 94.30.070 shall be subject to the class one misdemeanor penalty provisions of § 10.99 for each offense.

Section 2. In the event of a conflict between the provisions of this ordinance and any other ordinance, resolution, order, regulation, or policy of the City of San Luis, the conflicting provisions are repealed, superseded, and replaced, and the provisions of this ordinance shall govern.

Section 3. If any section, subsection, sentence, clause, phrase or portion 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 4. Whereas it is necessary for the preservation of the peace, health and safety of the City of San Luis, Arizona, an emergency is declared to exist, and this ordinance shall become immediately operative and in force from and after the date of the posting of this ordinance.

PASSED, ADOPTED and APPROVED by the Mayor and City Council of the City of San Luis, Yuma County, Arizona this ____ day of September 2020.

Gerardo Sanchez, Mayor

ATTEST:

APPROVED AS TO FORM:

Sonia Cornelio, City Clerk

Kay Marion Macuil, City Attorney