

**No. 401**

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, FOR THE MANAGEMENT OF TREES 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; AND IMPOSING A PENALTY.**

**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 an article called “City Trees” article to Title IX: General Regulation, Chapter 94: Parks and Recreation. The “City Trees” article consists of the sections as follows:

**CITY TREES**

**§ 94.30.010** New businesses and subdivisions landscape is being provided in conjunction with the development of the projects in accordance with the landscape chapter of the Zoning Regulations. Any remodeling or development triggers landscape retrofit for commercial properties and must be in accordance with the zoning regulations. The City of San Luis should consider installing or rebuilding landscape as part of street improvement projects in accordance with this chapter.

**§ 94.30.020 DEFINITIONS.**

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

***CITY TREES ARTICLE*** – this article of the San Luis City Code.

***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 to a tree caused by accident or collision.

**DIRECTOR** – references to a director (whether the Director of Parks and Recreation or the Director of Public Works, the Director of Planning and Zoning or the Fire Chief) include the director’s designee or designees.

**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.

**NUISANCE** – any tree, or limb of a tree, that has an infectious disease or insect infestation; 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.

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

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

**TOP** – to cut back limbs to stubs within a tree’s crown to such a degree as to remove the natural canopy and disfigure the tree.

**§ 94.30.030 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 Public 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 Public Trees on Public Property, and makes provision for the emergency removal of trees on private property under certain conditions.

**§ 94.30.040 POWERS, AUTHORITY AND RESPONSIBILITIES**

(A) *City’s powers.* The city has the power under A.R.S. § 9-240 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, including 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) *Authority and responsibility and delegation.* The Director of Parks and Recreation

and the Director of Public Works share the authority and responsibility for the powers described in the above-subsection (A).

- (1) The Director of Parks and Recreation or said director's designee or designees have primary authority and responsibility where parkland and facility landscaping are involved.
- (2) The Director of Public Works or said director's designee or designees have primary authority and responsibility where utility lines, rights-of-way and infrastructure are involved.
- (3) This City Trees Article does not repeal or change the authority and responsibilities of the Director of Planning and Zoning (also referred to as the Zoning Administrator) as described in the Land Usage Title of the San Luis City Code. The Director of Planning and Zoning or said director's designee or designees have responsibilities described under this City Trees Article.

(C) *Coordination among city departments.* All city departments shall coordinate as necessary with the Director of Parks and Recreation, the Director of Public Works and the Director of Planning and Zoning. All city departments shall provide services as required to ensure compliance with this City Trees Article as it relates to streets, alleys, rights-of-way, drainage, easements and other Public Properties.

(D) *Interference.* No person shall hinder, prevent, delay, or interfere with the Director of Parks and Recreation or the Director of Public Works or the Director of Planning and Zoning or their staff or agents while engaged in carrying out the execution or enforcement of this article.

#### **§ 94.30.050 TREE PLANTING AND CARE STANDARDS.**

The Director of Parks and Recreation approves all planting of Public Trees.

- (A) *Standards.* All planting and maintenance of Public Trees should conform to the American National Standards Institute (ANSI) A-300 "Standards for Tree Care Operations" and shall follow all tree care Best Management Practices (B.M.P.s) 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.* After consulting with the Director of Planning and Zoning for consistency with the city's land-use regulations, the Director of Parks and Recreation 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 at maturity) and Shade (greater than 20 feet at maturity). Only trees from this approved list may be planted on Public Property. Requests to plant a tree species not on the list must be approved in writing

by both the Director of Planning and Zoning and the Director of Parks and Recreation.

- (D) *Planting distances.* After consultation with the Director of Public Works, the Director of Planning and Zoning, and the Fire Chief or their designees, the Director of Parks and Recreation shall develop and maintain an official set of spacing requirements for planting trees on Public Property. No tree may be planted within the visibility triangle of a street intersection or within ten feet (10') 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 lateral feet (15') 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 shall employ appropriate measures to protect the tree, including, but not limited to, placing barriers around the tree to prevent Damage.

#### **§ 94.30.060 PROHIBITION AGAINST HARMING PUBLIC TREES.**

- (A) It shall be unlawful for any person, firm or corporation to Damage, remove, or cause the Damage or the removal of a tree on Public Property without written permission from the Director of Parks and Recreation, the Director of Public Works, or the Director of Planning and Zoning. Before granting or denying permission, said directors shall consult with each other.
- (B) It shall be unlawful for any person, firm or corporation to attach any cable, wire or sign or any other object to any 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 section as determined by the Director of Parks and Recreation or the Director of Public Works if utility lines, rights-of-way and infrastructure are involved.

#### **§ 94.30.060. ADJACENT OWNER RESPONSIBILITY.**

- (A) The owner of land adjacent to any city street or highway, when acting within this article's provisions, 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) Property owners shall not allow a tree or other plant growing on their property or within the adjacent Greenway to obstruct or interfere with pedestrians or the view of drivers, creating a hazard. If an obstruction persists, the Director of Parks and

Recreation or the Director of Public Works or the Director of Planning and Zoning shall notify the property owner to prune or remove the tree or plant. Each director shall provide the other two directors with copies of the notice under this section. If the owner fails to comply with the notice, the city may undertake the necessary work and charge the cost to the property owner.

#### **§ 94.30.080. CERTAIN TREES DECLARED A NUISANCE.**

- (A) Any tree, or limb on a tree, on private property determined by the Directors of Parks and Recreation, Public Works and Planning and Zoning
- to have contracted a communicable disease or insect infestation lethal to trees;
  - to be dead or dying;
  - to obstruct the view of traffic signs or the free passage of pedestrians or vehicles;  
or
  - to threaten public health, safety, and welfare

is declared a Nuisance. The city may require treatment or removal of any trees that fit this section's description of a declared Nuisance.

- (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 or removal or both, as specified by the Director of Planning and Zoning within the written notification period.

**Section 2.** The San Luis City Code is amended by adding an article called "Penalties" to Title IX: General Regulation, Chapter 94: Parks and Recreation. The "Penalty" article consists of one section, Section 94.99, titled "Penalty." Section 94.99 is amended by adding subsection "D" as follows:

### **PENALTIES**

#### **§ 94.99 PENALTY.**

- (D) *City Trees.* Any person, firm or corporation violating § 94.30.010 through § 94.30.070 shall be subject to the misdemeanor penalty provisions of § [10.99](#) for each offense.

**Section 3.** The San Luis City Code is amended by adding an article called "Hazardous Trees" to Title IX: General Regulation, Chapter 91: Nuisances. The "Hazardous Trees" article consists of one section, Section 91.71, as follows.

### **HAZARDOUS TREES**

**§91.71** Certain trees are declared nuisances as nuisance is defined under § 94.30.010. Such trees are regulated under § 94.30.070 and penalized under § 94.99(D).

**Section 4.** With the exception that it is intended that this ordinance shall harmonize with any ordinance or regulation under Title XV: Land Usage of the San Luis City Code regarding Public Trees as defined by this ordinance; 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. The provisions of this article shall govern.

**Section 5.** 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 article.

**PASSED, ADOPTED and APPROVED** by the Mayor and City Council of the City of San Luis, Yuma County, Arizona, this \_\_ day of November 2020.

\_\_\_\_\_  
Gerardo Sanchez, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

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Sonia Cornelio, City Clerk

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Kay Marion Macuil, City Attorney