

**ORDINANCE NO. 22-931**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARTESIA ADDING CHAPTER 4 (TREE PROTECTION) TO TITLE 7 (PUBLIC WORKS) OF THE ARTESIA MUNICIPAL CODE**

THE CITY COUNCIL OF THE CITY OF ARTESIA FINDS AND DECLARES:

**WHEREAS**, pursuant to the authority granted to the City of Artesia ("City") by Article XI, Section 7 of the California Constitution, the City has the police power to regulate the use of land and property within the City in a manner designed to promote public convenience and general prosperity, as well as public health, welfare, and safety; and,

**WHEREAS**, on September 29, 2022, the Beautification and Maintenance Commission held a duly noticed Special Meeting where they reviewed the proposed Tree Protection Ordinance and recommended forwarding to Council for approval.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ARTESIA DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Recitals.** The City Council hereby finds that the foregoing recitals are true and correct and incorporated herein by this reference as substantive findings of this Ordinance.

**SECTION 2. CEQA.** The City Council, based on its independent judgment, finds the proposed Tree Protection Ordinance (Project) exempt from the requirements of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines. The Project qualifies as exempt under State CEQA Guidelines Section 15304, as it involves minor alterations in the condition of land and protects against removal of Heritage Trees. The Project is also exempt pursuant to State CEQA Guidelines Section 15307 and Section 15308, as it involves an Ordinance for maintenance, protection and enhancement of the environment and a natural resource. None of the exceptions to the categorical exemptions listed above apply to the Project.

**SECTION 3. Amendment.** A new Chapter 4 (Tree Protection) shall be added to Title 7 (Public Works) to read as follows:

**"Chapter 4 Tree Protection**

**7-4.01 Purpose.**

**7-4.02 Definitions.**

**7-4.03 Authorizing the City Manager.**

**7-4.04 Responsibility of Property Owners.**

**7-4.05 Tree Advisory Board.**

**7-4.06 Preparation of Urban Management Plan.**

**7-4.07 Abuse or Mutilation of Trees.**

**7-4.08 Planting in Public Areas**

**7-4.09 Designation of Heritage Trees.**

**7-4.10 Pruning and Removal Permit Required.**

**7-4.11 Permit Application and Processing**

**7-4.12 Appeals.**

**7-4.13 Protection During Construction.**

**7-4.14 Nuisance Abatement.**

**7-4.15 Liability.**

**7-4.16 Violations and Penalties.**

**7-4.17 Tree Fund.**

**7-4.01 Purpose**

The purpose of this Chapter is to establish rules and regulations relating to the maintenance and promotion of Artesia's community trees, which includes all trees

within the public rights-of-way in parks and at City facilities. This Chapter identifies the City's commitment to preserving and protecting the urban forest.

#### **7-4.02 Definitions**

For the purposes of this Chapter, certain words and phrases used in this Chapter are defined in this section.

- (a) *ANSI A300* shall refer to the standards set forth by the American National Standards for performing tree care operations.
- (b) *ANSI Z133* shall refer to the safety standards set forth by the American National Standards for performing tree care operations.
- (c) *ANSI Z60.1* shall refer to the nursery stock standards set forth by the American National Standards.
- (d) *Arborist* shall refer to an individual certified as an arborist by the International Society of Arboriculture (ISA).
- (e) *Certified Arborist* an individual certified as an arborist by the International Society of Arboriculture (ISA).
- (f) *City Manager* means the City Manager or their designee.
- (g) *Community Tree* refers to any tree planted in the public rights-of-way, which includes trees planted in parkways, medians, parks, and at City facilities.
- (h) *Diameter at breast height (DBH)* means the diameter of the tree fifty-four (54) inches above the natural grade or the average of DBH of a multi-stemmed tree.
- (i) *Dripline* shall refer to an imaginary vertical line that extends downward from the outermost tips of the tree branches to the ground.
- (j) *Heritage Tree* refers to any tree on public or private property designated as a heritage tree under 7-4.08 of this code.
- (k) *Maintain* or *Maintenance* when used in reference to street trees, shall mean and include pruning, spraying, mulching, cultivating, propping, supporting, treating for disease or injury, or any other similar act, except watering unless specifically so stated, which promotes the life, growth, health, or beauty of street trees.
- (l) *Property Owner* shall mean the owner of the real property on which the tree is situated as shown on the most recent county assessor's roll and includes any successor in interest to the owner.
- (m) *Pruning* shall mean the selective removal of plant parts to meet specific goals and objectives, including but not limited to safety and risk reduction; clearance; health maintenance; aesthetic improvement; growth control; and to enhance performance or function by developing and preserving tree structure and health. All pruning shall be in accordance with the current version of ANSI A300-Part 1 Tree, Shrub and Other Woody Plant Management-Standard Practices, (Pruning).
- (n) *Regulated Activities* shall refer to any activity which would adversely impact the health of a street tree or heritage tree, including, but not limited to, cutting, pruning, moving, removing, grading, irrigating and trenching.
- (o) *Removal* shall mean the physical removal of a tree or causing the death of a tree through damaging, poisoning, or other direct or indirect action, including excessive trimming, pruning or mutilation that sacrifices the health, destroys or diminishes the aesthetic quality, or diminishes the life expectancy of the tree(s).
- (p) *Street Tree* shall refer to trees that are planted in the parkway between the curb and sidewalk or in areas with no parkway within the public rights-of-way.
- (q) *Top* or *Topping* shall refer to a reduction of tree size by cutting live branches and leaders to stubs without regard to long-term tree health or structural integrity.
- (r) *Tree Protection Zone (TPZ)* shall refer to an area shown on a tree preservation plan and field inspected where construction activities are prohibited or restricted to prevent injury to preserved trees, especially during pre-construction and construction, and includes the critical root zone and/or beyond.
- (s) *Tree Advisory Board* shall consist of the Beautification and Maintenance Commission.

- (t) *Utility easement* refers to any area within fifteen (15) feet of overhead distribution lines and within ten (10) feet behind the curb and gutter for underground utilities (including water meters, sewage lines, and gas lines)

#### **7-4.03 Authorizing the City Manager**

- (a) The City Manager or their designee shall be authorized to supervise the inspection, planting, maintenance, removal, pruning, and root pruning for all trees located in any street, sidewalk, parkway, park, or other public property within the City.
- (b) The City Manager or their designee shall remove overhead limbs from any tree, regardless of the location of such tree, if in their opinion such removals are necessary in the interests of public safety.
- (c) No person other than the City Manager or their authorized agent shall cut, top, damage, trim, prune, fertilize, treat, brace, plant, move, remove, or replace any tree in public rights-of-way, unless and until a written permit to do so shall have been first obtained from the City Manager.
- (d) The City Manager or their designee shall have the authority to supervise all work done under a permit issued in accordance with the terms of this Chapter.
- (e) No person shall interfere or delay the City Manager or persons acting under their authority, while engaged in planting, mulching, pruning, treating, or removing trees in any street or public place.

#### **7-4.04 Responsibility of Property Owners**

- (a) Owners of private property shall be responsible for watering street trees in streets, parkways or other public places abutting such private property.
- (b) Owners of private property shall be responsible for the normal care of the parkway strip, including weed control and debris removal.
- (c) Owners of private property shall be responsible for maintaining private trees extending over any street or alley to maintain clearance of fourteen (14) feet above any street or alley and eight (8) feet above any sidewalk area.
  - (i) If owners of private property fail to maintain clearance of private trees extending over any street or alley, such trees shall be declared a public nuisance per Title 5, Chapter 1 of Municipal Code and the City Manager or their designee shall follow procedures set forth by Title 5, Chapter 1.

#### **7-4.05 Tree Advisory Board**

- (a) The Tree Advisory Board of the City of Artesia is hereby created and shall consist of the members of the Beautification and Maintenance Commission.
- (b) The Tree Advisory Board shall have the following powers and duties:
  - (i) Designate trees as "heritage trees" as defined by Section 7-4.09
  - (ii) Act as a decision-making body for tree permit appeals as set forth in Section 7-4.12
  - (iii) Make recommendations to the City Council regarding modifications to Title 7 Public Works and other municipal code pertaining to community trees.
  - (iv) Make recommendations to the City Council for the adoption of a tree canopy cover goal.
  - (v) To assist in the dissemination of news and information regarding the protection, maintenance, removal, and planting.

To act as advocates for the City's annual observance of Arbor Day and undertake an ongoing program of public outreach and education in order to promote public understanding of the City's urban forest and public adherence to the standards and procedures established under this title

#### **7-4.06 Preparation of Urban Forest Management Plan**

An Urban Forest Management Plan shall be established and be prepared by the City Manager for consideration and adoption by the City Council. Such Urban Forest Management Plan may from time to time be changed, modified, altered, and amended by the City Council.

#### **7-4.07 Abuse or Mutilation of Trees**

No person, including the property owner, shall:

- (a) Willfully injure, deface, mutilate, top, poison, destroy, or any other practice that is considered unacceptable under the current ANSI A 300 standard of a street tree.
- (b) Place or maintain any stone, concrete, cement, asphalt, brick or other substance or object within the dripline of a street tree so as to impede free access of water and air to the roots of the tree.
- (c) Cause or allow any substance deleterious to tree life, including but not limited to oil, dye, brine or any other substance, to pour, flow or drip on any street tree or around the base of any such tree.
- (d) Place, attach, or keep attached to any street tree or to a guard or stake intended for the protection thereof any wire, rope, twinkle/holiday lights, sign, bicycle, or other thing or device of any kind.
- (e) Build any fire or station any engine in any place in such a manner that the heat, vapors or fumes therefrom may injure any street tree.
- (f) Plant annuals within the parkways.
- (g) Cause damage to trunk or buttress roots, including by use of string trimmer or other means.

#### **7-4.08 Planting in Public Areas**

- (a) No person other than the City shall plant any plant or tree within the public rights-of-way without first applying for a planting permit and obtaining written permission from the City Manager or their designee.
- (b) No person shall plant in or remove from any public rights-of-way or public easement any plant or tree without complying with the following requirements:
  - (i) Trees shall be a species of trees specified on the City's official list of approved trees.
  - (ii) Trees shall be planted in accordance with ANSI Z60.1 and ANSI A300 standards.
  - (iii) Trees shall not be planted within the utility easement.
    - (1) Trees planted near overhead distribution shall be species that comply with the City's official approved species list that are identified as appropriate species for planting adjacent to overhead utilities.

#### **7-4.09 Designation of Heritage Trees**

Any Artesia resident may nominate a tree within the rights-of-way or private property to be considered for heritage tree designation. A nominated tree shall be in such a condition that it can be maintained in the landscape so as to not create an unreasonable risk. All nominated heritage trees shall be reviewed by the Tree Advisory Board. The recommendation of the Tree Advisory Board shall be forwarded to the City Council for consideration for official heritage tree designation. Criteria for heritage tree designation:

- (a) Shall be in a condition that the tree can be maintained in the landscape so as not to create an unreasonable risk.
- (b) Shall be at least twelve (12) inches in diameter (DBH).
- (c) Shall have the consent of the property owner. For a tree on City-owned property, the City Manager or their designee must consent; and
- (d) Shall meet at least one of the following criteria:
  - (i) Specimen tree of significant habitat value for migratory birds and butterflies.
  - (ii) California native species.
  - (iii) Historical or cultural significance.
  - (iv) A tree that plays an important functional role in the City parks or for City planning and maintenance.

#### **7-4.10 Pruning and Removal Permit Required**

- (a) No person shall conduct any regulated activities affecting any street tree or heritage tree without first receiving authorization from the City Manager or their designee through submitting a written application to the City Manager or their designee for such a permit, along with payment of a permit application fee as established by City Council.
- (b) All pruning and removal of street trees shall be undertaken by employees or contractors of the City. Any person desiring to initiate special maintenance or removal of a street tree by the City, shall pay the costs of service, should the request be granted. Any such request will be considered based on the provisions of this Chapter, street tree removal criteria, other ongoing street tree work, and available resources.
- (c) Any person who conducts any regulated activity on a street tree or heritage tree without a permit or beyond the scope of an approved permit shall be in violation of this Chapter.
- (d) Any authorized personnel of utility companies who determines that a tree(s) has, or will imminently, interfere with utility services where such interference cannot be controlled or remedied through reasonable modification, relocation or repair of the utility service or the pruning of the root or branch structure of the tree may remove or prune that tree in accordance with ANSI Z133 Utility Trimming Standards and as required by a public utility to comply with California Public Utility Commission (CPUC) or Federal Energy Regulatory Commission (FERC) rules or regulations. Unless there is an imminent threat to the public health, safety or welfare, the City Manager or their designee shall be notified prior to the removal by a public utility of a City or heritage tree.
- (e) If an emergency condition arises whereby immediate action is necessary because of disease, or danger to life or property, a street tree or heritage tree may be removed, pruned or trimmed by order of the City Manager or their designee.
  - (i) If any person fails to obtain an order for the City Manager or their designee and/or if such actions go beyond the scope of an order, that person shall be in violation of this Chapter and subject to 7-4.16.

#### **7-4.11 Permit Application and Processing**

- (a) Application submittals shall include the following minimum information for staff review:
  - (i) A completed tree permit application and payment of fee.
  - (ii) Indication of street tree and/or heritage tree.
  - (iii) The correct botanical identification of the tree.
  - (iv) A statement of the reason for the requested action.
  - (v) A written description of the proposed pruning and/or removal to be used consistent with the most current version of ANSI A300 and Z133.
  - (vi) Photographs of the tree, indicating as best possible where pruning is to occur or why a tree should be removed.
  - (vii) If required by the City Manager or their designee, a certified arborist written report describing the proposed pruning.
  - (viii) Any other pertinent information determined necessary by the City Manager or their designee.
- (b) When removal or pruning of a street tree or heritage tree is proposed as part of or in conjunction with new development, the application shall also include:
  - (i) A site plan showing the location of buildings, structures, and proposed site disturbances.
  - (ii) The location of all street trees on the site.
  - (iii) The City or heritage trees on the site that would be removed or pruned. An authorized representative of the department shall inspect any street tree or heritage tree or site subject to this section and shall file a written report and his or her recommendations to the City Manager or their designee.
- (c) Upon receipt of an application, the City Manager or their designee shall review the application for accuracy and completeness and approve or deny a permit based on the following criteria:

- (i) Public safety concern that cannot be mitigated by pruning or other means.
  - (ii) Poor health, including disease and/or decay.
  - (iii) Structural issues that cannot be corrected.
  - (iv) Invasive species.
- (d) If a permit to remove is approved, unless it is an emergency pursuant to 7-4.09 subsection d, City staff shall post a notice on the intent to remove subject tree(s), clearly visible to the public and in proximity to, and on the City's website for ten (10) days, so any person may file a written objection with the City Manager or their designee.
- (e) If it is determined by the City Manager or their designee or the Tree Advisory Board that the adverse effects of tree removal can be mitigated, conditions shall be imposed on the removal based on, but not limited to, one or more of the following standards:
- (i) Two replacement trees. Applications approved by the City Manager or their designee based on the determination that the tree(s) should be removed for reasons of health, safety, proximity to existing structures, walkways and/or traffic areas, or by the condition of the tree as a host to a plant or insect or disease which endangers other adjacent healthy trees, and where the impact cannot be mitigated without removal, shall require replacement at a ratio of two replacement trees for each removal with a trees of similar stature and species on the approved species list. At least one replacement tree shall be planted on site and the other may be planted elsewhere at the discretion of the City Manager or their designee.
  - (ii) Payment in lieu of replacement. As an alternative to on-site planting, an applicant may request to submit payment to the City of Artesia of costs equivalent to the value of the removed tree(s) or the cost of the numbers of replacement tree(s) as determined by the *Council of Tree & Landscape Appraisers Guide for Plant Appraisal, 10<sup>th</sup> Edition* or newer. The payment shall be deposited into the Tree Fund and be used to plant additional trees off site in a location approved by the City Manager or their designee.

#### **7-4.12 Appeals**

- (a) Any person aggrieved by a decision on a requested removal, may appeal the decision by filing a written notice of appeal with the City Clerk stating the grounds for the appeal, and paying the requisite appeal fee, as established by Council resolution, within fifteen (15) calendar days after the notice of the decision is posted. A member of the City Council or Tree Advisory Board may appeal a decision and may be exempt from payment of the appeal fee if the appeal is not related to a tree removal on the property of a member of the City Council or Tree Advisory Board.
- (b) Development-related tree permit appeals shall be heard by the City Council. Non development-related appeals shall be heard by the Tree Advisory Board.
- (c) An appeal shall automatically stay issuance or denial of the permit until the appeal has been completed.
- (d) Upon receipt of such appeal, the Tree Advisory Board or City Council shall, after receiving a report from the City Manager or their designee, render a decision sustaining, amending, or overruling the action of the City Manager or their designee on such matter within thirty (30) calendar days of the written objection.
- (e) The decisions of the Tree Advisory Board and City Council shall be final. Notice of the decision shall be incorporated into the findings report. The denial of a permit shall be with prejudice, and neither the owner nor any applicant shall reapply for the removal of the same street tree or heritage tree for a period of two (2) years from said denial.

#### **7-4.13 Protection During Construction**

- (a) Any development proposal which includes a proposal to conduct regulated activities, must be accompanied by a tree protection plan and a tree permit,

- which shall insure the preservation of trees where possible and the protection of trees during construction so as to maximize the chances for their survival.
- (b) The tree protection plan shall be prepared in accordance with ANSI A300 Part 5 by a qualified arborist or other qualified person.
  - (c) The tree protection plan shall include all the information specified by 7-4.10 and the following additional information:
    - (i) Diameter, species, condition, average crown radius, location of each tree that is within thirty (30) feet of any proposed development areas, including any areas where trenching or paving is proposed or any trees on adjacent parcels.
    - (ii) Site maps with the dripline of each tree and the proposed Tree Protection Zone (TPZ) and the location of any excavation, proposed root pruning, material storage, path of vehicular traffic, equipment and machinery storage areas.
    - (iii) Mitigation measures proposed to insure the survival of trees that will be preserved, including pre-development tree care, tree protection fencing, type of fencing, signage, and appropriate measures to irrigate the tree(s) through the duration of the project.
  - (d) The City Manager or their designee shall review the tree protection plan and shall provide conditions of approval, including but not limited to amending tree protection plan and requiring replacement plantings or in lieu fees.
  - (e) All persons shall comply with the following:
    - (i) Prior to commencement of construction, install fencing around tree protection zones (TPZ) as specified in the tree protection plan and prohibit any storage of construction materials or other materials, equipment cleaning, or the parking of vehicles.
    - (ii) The TPZ shall not be altered in any way.
    - (iii) Prohibit all construction activities with the TPZ, including but not limited to: excavation, grading, drainage and leveling.
    - (iv) Prohibit the disposal or depositing of any deleterious substances including, but not limited to oil, gasoline, chemicals or other harmful materials within the TPZ or in drainage channels, swales or areas that may lead to the TPZ.
    - (v) Prohibit the attachment of wires, signs, or ropes to any tree being preserved.
    - (vi) Notify the City Manager or their designee should any damage occur to trees being preserved during construction so that proper treatment may be administered.
  - (f) In case of nonconformance with the tree protection plan, the City Manager or their designee shall issue a Stop Work Order until all requirements have been met and may issue a fine in an amount not to exceed \$5,000 per tree or the replacement value of each tree as determined by the *Council of Tree & Landscape Appraisers Guide for Plant Appraisal, 10<sup>th</sup> Edition* or newer, whichever amount is greater.
  - (g) The City Manager or their designee and project arborist shall be notified of any damage that occurs to a street tree or heritage tree during construction so that proper treatment may be administered.

#### **7-4.14 Nuisance Abatement**

The City Manager or their designee can require a private tree be removed at the owner's expense if a tree is determined to be a threat to public safety and/or dead, dying, or diseased.

#### **7-4.15 Liability**

Nothing in this article shall be deemed to impose any liability for damages or a duty of care of maintenance upon the City or upon any of its officers or employees. The owner of any private property shall have the duty to keep heritage trees upon the property in a safe, healthy condition. Unless subject to an exemption from a permit pursuant to this article, any person who believes that a tree located on property possessed, owned, or controlled by them is a danger to the safety of themselves,

others, or structural improvements on-site or off-site shall secure the area around the tree or support the tree, as appropriate, to safeguard both persons and property from harm pending compliance with this title.

#### **7-4.16 Violations and Penalties**

- (a) Any person or contractor or other entity who violates any provisions of this Chapter is an infraction which is punishable pursuant to Title 1, Chapter 2.
- (b) The loss of or damage to any unlawfully removed or damaged street tree or heritage tree will require restitution. In addition to any applicable penalties, any person who willfully injures, damages, destroys, removes, or relocates any street tree or heritage tree in violation of the terms of this Chapter shall be responsible for proper restitution in the form of replacement trees or fees in lieu of replacement as determined by 7.4.11 subsection e.

#### **7-4.17 Tree Fund**

The City shall administer and use the Tree Fund to:

- (a) Purchase and maintain trees.
- (b) Perform and maintain a City-wide tree inventory.
- (c) Educate residents and developers on the preservation, care, maintenance, benefits, and value of trees within the community.
- (d) Support program for the public purpose of increasing the tree canopy within the community.
- (e) Voluntary contributions for tree planting shall be placed in the Tree Fund.”

**SECTION 3. Effective Date.** This Ordinance shall become effective 30 days after the Council adopts this Ordinance.

**SECTION 4. Severability.** Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance, and, to that end, the provisions hereof are severable. The City Council of the City of Artesia declares that it would have adopted all the provisions of this Ordinance that remain valid if any provisions of this ordinance are declared invalid.

**SECTION 5. Adoption, Certification, and Publication.** The City Clerk of the City of Artesia shall certify the passage and adoption of this Ordinance and shall cause the same, or a summary thereof, to be published and/or posted in the manner required by law.

**SECTION 6. Record of Proceedings.** The documents and materials associated with this ordinance that constitute the record of proceedings on which these findings are based are located at 18747 Clarkdale Avenue, Artesia, California, 90701. The City Clerk is the custodian of the record of proceedings.

**PASSED, APPROVED AND ADOPTED** by the City Council of the Artesia, California, at a regular meeting of the City Council held on the 14<sup>th</sup> day of November, 2022.

  
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MELISSA RAMOSO, MAYOR

ATTEST:



JENNIFER ALDERETE, ACTING CITY CLERK

APPROVED AS TO FORM:



BEST BEST & KRIEGER, CITY ATTORNEY

I, Jennifer Alderete, Acting City Clerk of the City of Artesia, do hereby certify that the foregoing Ordinance was adopted at the Regular City Council Meeting held on the 14<sup>th</sup> day of November 2022, by the following roll call vote:

AYES:	COUNCIL MEMBERS:	TREVINO, TAJ, LIMA, MANALO, RAMOSO
NOES:	COUNCIL MEMBERS:	NONE
ABSENT:	COUNCIL MEMBERS:	NONE
ABSTAIN:	COUNCIL MEMBERS:	NONE



JENNIFER ALDERETE, ACTING CITY CLERK