TREE AND VIEW PRESERVATION ORDINANCE

Chapter 11.12 of the Municipal Code

Sections

11.12.010 - Purpose and Intent
11.12.020 - Definitions
11.12.030 - Protected Trees
11.12.040 - Views
11.12.050 - Enforcement and Penalties

Section 1. Chapter 11.12 of the Sausalito Municipal Code is hereby amended to read as follows:

11.12.010 PURPOSE AND INTENT. The General Plan of the City of Sausalito recognizes the contribution of both trees and views to the character and beauty of the City. The removal of trees without reasonable care would destroy the natural beauty of certain areas, contribute to erosion, increase the cost of drainage systems, reduce protection against wind, and impair residential privacy and quiet. This chapter acknowledges that trees and views, and the benefits derived from each, may come into conflict. This Chapter presents guidelines to resolve such conflicts so as to provide a reasonable balance between trees and views related values. It is the intent of this Chapter to provide an atmosphere in which residents of this community can resolve their differences amongst themselves without City intervention. For these reasons, the City Council enacts these regulations to promote the public health, safety and welfare. All tree work to be performed shall be in accordance to pruning standards of the International Society of Arboriculture Western Chapter. (ISA Copies available at Community Development Department.)

11.12.020 DEFINITIONS. As used in this Chapter, the following terms shall have the meanings set forth in this section unless the context clearly indicates otherwise:

Alterations: Any action which would significantly change or damage the health or appearance of any tree, whether, 1) by cutting of its trunk or branches, or, 2) by filling or surfacing or changing the drainage of the soil around the tree, 3) by the cutting or removal of roots, 4) by removal of the upper portion of the tree's trunk or main leader, or 5) by any other damaging acts.

Arborist: 1) "Certified"Arborist as currently listed by the International Society of Arboriculture, or, 2) "Consulting" Arborist as currently listed as a member of the American Society of Consulting Arborists.

Arborists Report: The report of a Certified or Consulting Arborist on the feasibility and impact of suggested tree work.

~~C.B.H. (Circumference~~ D.B.H. (Diameter at Breast Height): The tree trunk's ~~circumference~~ diameter as measured at 4 and 1/2 feet above the ground. For multi-trunked trees, the ~~circumference~~ diameter of the two largest trunks combined. Claimant: Any individuals or group of individuals who files a claim as required by the provisions of this Chapter.

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Feasible Tree Work: Tree work in which the first priority is the health and appearance of the tree.

Hedge: Any plant material, trees, stump growth, or shrubbery planted or growing in a dense continuous line, so as to form a thicket, barrier or living fence.

Meeting "Noticed": A meeting of which adjacent residents and property owners are notified by the City.

Obstruction: Any blocking or diminishment of a view or sunlight attributable to the growth, appearance, maintenance or location of trees.

Pruning: Normal, seasonal maintenance pruning, trimming, shaping or thinning of a tree necessary to its health, growth and view maintenance. Foliage reduction should not exceed one quarter of the total tree foliage.

Restorative Action: Any specific requirement to resolve a view claim.

Routine Pruning: The removal of any dead parts of a tree. Normal, seasonal maintenance pruning, trimming, shaping or thinning of a tree necessary to its health, growth and view maintenance. Foliage reduction should not exceed one quarter of the total tree foliage.

Shrubs or Shrubbery: A woody perennial plant smaller than a tree, usually having permanent stems branching from or near the ground.

Thinning: The selective removal of entire branches from a tree so as to improve visibility through the tree and/or improve the trees structural condition.

Topping: Removal of the upper portion of a tree's trunk or main leader.

Tree: A highly compartmented, perennial, woody, shedding plant that is usually tall, single stemmed, and long-lived. For the purposes of this Ordinance, trees are of the following classes.

Dedicated Tree: A tree that has special significance as provided for by resolution of the City Council.

Desirable Tree: A tree that has been approved for the specific location by the Tree Committee or City Arborist.

Fast Growing Tree: A tree developing three feet or more in height in yearly growth.

Heritage Tree: A tree which has a ~~C.B.H. of 30"~~ D.B.H of ten (10) inches. No undesirable tree as defined herein is a heritage tree.

Protected Tree: Protected trees are those listed below.

1. On all private property: a) the California or Coastal Live Oak (Quercus agrifolia)measuring ~~12" C.B.H.~~ four (4) inches D.B.H. or larger; b) heritage trees; and c) dedicated trees.
2. On private undeveloped property, a tree measuring ~~12" C.B.H.~~ four (4) inches D.B.H. or larger.
3. All trees and shrubs on City-owned property.
4. No undesirable tree is a protected tree.

Undesirable Tree: Is one of the following: 1) Eucalyptus globulus, (Blue Gum Eucalyptus); 2) Pinus radiata, (Monterey Pine); 3) Cupressus macrocarpa, (Monterey Cypress); 4) Sequoia sempervirens, (Coastal Redwood); 5) Acacia melanoxylon, (Blackwood Acacia); 6) Acacia baileyana, (Bailey Acacia); and 7) Acacia decurrens, (Green Wattle).

Tree Committee: The Committee established under Chapter 2.30 of the Sausalito Municipal Code.

Tree Owner: Any individual owning real property in the City upon whose land are trees that form the basis for the filing of a view claim.

Tree Removal: The destruction of any tree by cutting, girdling, interfering with the water supply, applying chemicals, or regrading around the base of the trunk.

Tree Worker: "Certified" tree worker as currently listed by the International Society of Arboriculture.

Undeveloped Property: Undeveloped property includes:

1. A parcel of private land of which less than ten (10) percent is covered by a structure, including but not limited to residential lots;
2. A parcel of land which can be further divided in accordance with the zoning regulations of the City;
3. A parcel of land on which the structures are about to undergo demolition or relocation.

View: A vista of the San Francisco-Richardson Bay, neighboring communities, surrounding hills, or a nearby or distant wooded area from the primary living areas of the home. "Views" include, but are not limited to skylines, bridges, distant cities, geologic features, hillside terrains and wooded canyons or ridges. The term "view" does not mean an unobstructed panorama of all or any of the above.

View Claim: The written basis for arbitration or court action under the provisions of this Chapter, submitted by the claimant.

11.12.030 PROTECTED TREES.

A. Permit Procedures for Removal or Alteration of Protected Trees. It is unlawful for any person to remove or alter any protected tree as defined herein, without a permit issued and posted as provided in this Chapter except for the purpose of routine pruning. No protected tree may be removed or altered on any undeveloped property on Saturday, Sunday or Holidays or at any time except during regular working hours (8:00 a.m.- 5 p.m.), Monday through Friday.

1. **Applicant's Responsibility:**

   a. Application. A Tree Removal/Alteration Permit shall be obtained from the Community Development Department in any situation which involves the removal or alteration or possible damage to a protected tree or trees, including issuance of a permit for building, grading or demolition. The permit application must be accompanied by an arborist report stating the need for tree removal or alteration based on the Criteria set forth in subdivision B of this Section, and recommending protective measures for any endangered tree. If the applicant is not the owner of the property on which the tree or trees are located, the applicant shall attach the written permission of the property owner.

   b. Posting of Application and Tree Tags. After submission of an application under this section, the applicant shall be issued tree tags, one of which is to be posted on each tree proposed for removal or alteration. Within two (2) working days after making an application for a tree removal or alteration permit, the applicant shall place the tags on the trees and post the application so that it is clearly visible from the street at the front of the lot. The tags and notice shall not be removed for ten working days thereafter.

   c. Posting of Permit. Following issuance of a tree removal permit, an applicant shall post a copy in plain view on the site while tree removal or alteration work is underway. d. Filing Fee The applicant shall pay the filling fee established by the City Council for tree removal or alteration permit.

d. Filing Fee. The applicant shall pay the filling fee established by the city council for tree removal or alteration permit.

1. **City's Responsibility:** The Community Development Department shall be responsible for receiving applications for protected tree removal and/or alteration permits, for confirming that the required information has been provided by the applicant, and for issuing tree tags and notices to the applicant. The Community Development Department shall route all tree removal/alteration applications and arborist's reports to:

   a. The Design Review Board (DRB), if the protected tree(s) is to be altered/removed or endangered as the result of a development proposal requiring DRB approval. The DRB must consider the tree removal/alteration application in considering any plans for the property in question.

   b. all other applications to the Trees and Views Committee, if the protected tree or trees are on private, developed property.

   c. The City Arborist if the tree(s) are on public property. Site inspection shall be made by the esponsible reviewing agency and written comments received regarding the application shall be considered. The responsible reviewing agency may require submission by the applicant of a site plan and/or survey or such other information as is deemed necessary by the responsible reviewing agency.

B. Criteria for Grant or Denial of Application for Removal or Alteration of Protected Trees

1. In order to grant a tree removal or alteration permit, it must be determined that removal or alteration is necessary in order to accomplish any one of the following objectives:

   a. To insure the public safety as it relates to the health of the tree, potential hazard to life or property, proximity to existing or proposed structures, and interference with utilities or sewers.
   b. To allow reasonable enjoyment of the property, including sunlight, and the right to develop the property.
   c. To take reasonable advantage of views.
   d. To pursue good, professional practices of forestry or landscape design.

2. In order to grant a tree removal permit, it must be determined that any one of the following conditions is satisfied:

   a. The tree to be removed will be replaced by a desirable tree.
   b. The Tree Committee waives the above requirement based on nformation provided by the applicant/owner.

3. A finding of any one of the following is grounds for denial, regardless of the finding in "1." above:

   a. Removal of a healthy tree of a desired species can be avoided by:

   1. reasonable redesign of the site plan, prior to construction
   2. a) thinning to reduce density; e.g. "open windows"
   2. b) shaping to reduce height or spread, using thinning cuts only (drop crotch)
   2. c) heading or topping - this is the least preferable method,due to the tree's health and appearance and cost of maintenance.

   b. Adequate provisions for drainage, erosion control, land stability, windscreen, visual screening, privacy and for restoration of ground cover and/or other foliage damaged by the tree work have not been made in situations where such problems are anticipated as a result of the removal or alteration.

   c. The tree to be removed is a member of a group of trees in which each tree is dependent upon the others for survival.

d. The value of the tree to the neighborhood is greater than its inconvenience to the owner. The effects on visual, auditory, and wind screening, privacy and neighboring vegetation must be considered.

e. The need for protection of privacy for the property on which the tree is located and/or for adjacent properties.

C. Conditions of Approval for Protecting Trees During Construction.

Adequate protection shall be provided during the construction period for any protected trees which are to remain standing. Measures deemed necessary by the reviewing agency in consideration of the size, species, condition and location of the protected trees to remain, may include any of the following.

1. Before the start of any clearing, excavation, construction or other work on the site, every protected tree deemed to be endangered by the work shall be securely fenced off at the "protected perimeter", which shall be either the outer limits of the branches of such protected tree (the drip line) or such greater limits as may be established by the reviewing agency. Such fences shall remain in place for the duration of all such work. All protected trees to be removed shall be clearly marked. A plan shall be established for the removal and disposal of logs, brush, earth and other debris which will avoid injury to any protected tree.

2. Where proposed development or other site work is to encroach upon the protected perimeter of any protected tree, special measures shall be incorporated to allow the roots to breathe and obtain water and nutrients. Any excavation, cutting, filling, or compaction of the existing ground surface within the protected perimeter shall be minimized. No asphalt or other paving materials shall be added. No change in existing ground levels shall occur within four feet of the base of any protected tree at anytime. No burning or use of equipment with an open flame shall occur near or within the protected perimeter.

3. No storage or dumping of oil, gas, chemicals or other substances that may be harmful to trees shall occur within the protected perimeter of any protected trees, or any other location on the site from which such substances might enter the protected perimeter. No heavy construction equipment or construction materials shall be operated or stored within the protected perimeter. Wires shall not be attached to any protected tree, except as needed for support of the tree. No sign, other than a tag showing the botanical classification, shall be attached to any protected tree.

4. Periodically during construction, the leaves of the protected trees shall be thoroughly sprayed with water to prevent buildup of dust and other pollution that would inhibit transpiration.

5. If any damage to a protected tree should occur during or as a result of work on the site, the contractor, builder or owner shall promptly notify the City of such damage. If such a protected tree can not be preserved in a healthy state, the reviewing agency shall require replacement of any protected tree removed with another tree or trees on the same site deemed adequate to compensate for the loss of the tree that is removed.

D. Issuance of Permit

Consideration of and action on the Permit Application shall be made by the Board or Official to whom the Permit Application is routed in accordance with subsection 11.12.030(A)(2), above and that Board or Official shall either approve, conditionally approve or deny the permit with reason for such action stated. If an application for tree removal/alteration is approved, a permit shall be issued to the applicant by the Community Development Department in conjunction with any other permit related to the work in question. However, no tree

ITEM NO. 1 PAGE 6

removal/alteration permit will be issued until all related building permits are approved.

E. Liabilities

1. The issuance and exercise of a permit pursuant to this chapter shall not be deemed to establish any public use or access not already in existence with regard to the property to which the permit applies.

2. The issuance of a permit pursuant to this Chapter shall not create any liability of the City with regard to the work to be performed, and the applicant for such permit shall hold harmless the City and its officers and employees from any damage or injury that may occur in connection with, or resulting from, such work.

F. Emergency Tree Removal or Alteration

If personal injury or property damage is imminently threatened, the Fire Chief, the Chief of Police or the City Arborist may authorize the removal or alteration of a protected tree without compliance with other provisions of this Chapter. The removal or alteration of a protected tree under emergency conditions shall be reported to the Community Development Department on the first business day following the emergency tree work.

G. Public Utilities Pruning

A yearly tree removal permit shall be required for removal or alteration of protected trees as defined in this Chapter by any public utility, emergencies excepted. This permit may be revoked at any time if the following conditions are not met:

1. The Community Development Department must be informed of all pruning, detailing street addresses, tree types and extent of work, two weeks in advance of the work date.

2. A weekly work location must be provided to the City Arborist for each crew so that the work can be supervised.

3. All work must be under the daily supervision of an Arborist and the work actually performed by either an Arborist or a Certified Tree Worker; and

4. Defined pruning methods must be used for all utility pruning work; a copy is available at the Community Development Department.

H. Appeal of Denied Permit Applications

The decision of the Design Review Board and the Trees and Views Committee is final with regards to Applications subject to the jurisdiction of those Boards. With regard to applications subject to the jurisdiction of the City Arborist, the decision of the City Arborist may be appealed as follows:

The Community Development Department shall maintain a list of three Consulting Arborists qualified to make determinations required of this section. Those on the list shall be Consulting Arborists who have established through reputation in the community the ability to be fair and impartial in making determinations required in this section and who have agreed to serve as arbiters for purpose of implementing this section. A party aggrieved by the decision of the City Arborist may request that the City select one of the three listed arbiter/arborists to reconsider the application (so long as the selected arbiter/arborist has had no prior involvement with the instant application). The aggrieved party will be required to pay the fee of the arbiter/arborist in advance and the City shall then select the arbiter from the list on a rotational basis. The arbiter/arborist will consider the merits of the application

pursuant to the provisions of this section, and will render a decision in writing either approving the application, conditionally approving the application, or denying the application. The decision of the arbiter/arborist will be final.

There is no City Council appeal of the decision of any board, official or arbiter/arborist of any Tree Removal application made pursuant to this section.

11.12.040 VIEWS.

A. Unreasonable Obstruction of View or Sunlight Prohibited

A tree, shrub, hedge or other vegetation shall not be maintained in such manner as to unreasonably obstruct the view from or the sunlight reaching other property.

B. Procedure: Private Tree

1. Initial Reconciliation: Any claimant who believes in good faith that the growth, maintenance and/or location of trees, shrubs, hedges or other vegetation situated on the property of another unreasonably diminishes the beneficial use, economic value, sunlight or enjoyment of the view from the claimant's property shall notify the tree owner in writing of these concerns. The claimant should consult an Arborist and obtain a report for a feasible solution to the view problem. The notification to the tree owner should include the arborist's report, and should also be accompanied by personal discussions, if possible, to enable the claimant and the tree owner to attempt to reach a mutually agreeable solution, both long term and short term, to the alleged unreasonable obstruction. If any tree involved is a protected tree, a tree removal/alteration permit must be obtained prior to work being done.

2. Mediation: If the initial reconciliation attempt is unsuccessful, and all parcels involved are private property, the complaining party shall propose mediation. Acceptance of mediation shall be voluntary, but the tree owner shall have no more than 30 days from service of a written request for mediation to accept or reject the offer of mediation, unless otherwise extended by complainant. If mediation is accepted, the parties shall mutually agree upon a Mediator within 10 days.

   It is recommended that the services of a professionally trained mediator or mediation service be employed. The City shall provide, upon request, for review and consideration for selection by the parties a list of mediators and mediation services accompanied by the qualifications provided by such individuals or entities. The fee for mediation services will be determined by the mediator and the parties. The mediator shall not have the power to issue binding orders for restorative action but shall strive to enable the parties to resolve their dispute at this stage in order to eliminate the need for binding arbitration, fact finding and advisory decision, or litigation. If any tree involved is a protected tree, a tree removal/alteration permit must be obtained prior to work being done.

3. Arbitration: In those cases where the parties are unable to reach agreement through the Initial Reconciliation process or with the assistance of a mediator, either the claimant or the tree owner may offer in writing to the other party to submit the dispute to binding arbitration. The initiating party shall serve on the other party by personal service or certified mail, return receipt requested, an agreement executed by the initiating party to submit the dispute to binding arbitration. If the non-initiating party concurs, he/she shall execute the agreement within 30 days from service. Failure to execute the agreement shall be deemed a rejection of binding arbitration.

   If the agreement is accepted, the initiating party shall submit a view claim to the City of Sausalito's Community Development Department. The filing fee for such a claim shall be established by the City Council. The Trees and Views Committee serves as a board of arbitration at a noticed public meeting

which shall be held within forty five (45) from the date of the filing of the view claim. The arbitration proceeding shall be based on available evidence and testimony. Either party to the action may either be represented by an Arborist or present an arborist's written report to the Trees and Views Committee fifteen (15) days prior to the meeting date. The Trees and Views Committee may recommend the services of other experts to either or all parties. Each party shall have the right to present witnesses and to question witnesses presented by any other party. The Trees and View Committee shall reasonably attempt, as a group, to inspect the premises of both the claimant and the tree owner(s) prior to the arbitration meeting.

The Trees and Views Committee shall submit a written decision to the parties. The decision shall include the Trees and Views Committee's findings with respect to the Standards listed in subsection C-3 and 4 of this Section and required restorative actions. All mandated restorative actions shall be initiated within thirty (30) days of the rendition of the arbitration report, unless the health of the growth involved mandates a later date. The written decision of the Trees and Views Committee mandating restorative action shall constitute the tree removal/alteration permit required for the specified work. The decision of the Trees and Views Committee shall be final and binding and enforceable pursuant to the provisions of Code of Civil Procedure Section 1280 et seq.

4. Fact Finding and Advisory Decision: In those cases where the parties are unable to reach agreement through the Initial Reconciliation process or with the assistance of a mediator or agree to binding arbitration, the claimant or the tree owner may elect Fact Finding and an Advisory Decision of the Trees and Views Committee. The applicant shall submit a view claim to the City of Sausalito's Community Development Department. The filing fee for such a claim shall be established by the City Council. The Trees and Views Committee serves as the Fact Finding Board and shall render an Advisory Decision to the parties. A noticed public meeting shall be held within forty five (45) days from the date of the filing of the view claim. The proceeding shall be based on available evidence and testimony. Either party to the action may either be represented by an Arborist or present an arborist's written report to the Trees and Views Committee fifteen (15) days prior to the meeting date. The Trees and Views Committee may recommend the services of other experts to either or all parties. The Trees and Views Committee shall reasonably attempt as a group to inspect the premises of both the claimant and the tree owner(s) prior to the arbitration meeting.

The proceeding need not be postponed if any party refuses permission to inspect the premises or refuses to participate in the proceeding and produce evidence.

The Trees and Views Committee shall submit a written Advisory Decision to the parties. The Decision shall include the Trees and Views Committee's findings with respect to the Standards listed in subsection C-3 and 4 of this Section and recommended restorative actions as well recommending allocation of costs for the same. In the event litigation is required to enforce the decision of the Trees and Views Committee, there shall be a rebuttable presumption in favor of the Trees and Views Committee's decision. The party bringing any private civil action under this Ordinance must promptly notify the City of Sausalito's Community Development Department in writing of such action. Such notification shall be placed in the property file of the properties where the trees are located.

C. Arbitration of View Claim

1. **Responsibility of Claimant in Arbitration**
   The claim shall submit a view claim on a form prescribed by the City. The report of an Arborist shall be submitted with the view claim. If the claimant is not the owner of the property to be benefited by the claim, the claimant shall attach the written permission of the affected property owner.

2. **Responsibilities of Tree Committee in Arbitration**
   The Trees and Views Committee:

a. Shall conduct a site visit as a group to properties involved.
b. May request additional data.
c. Shall conduct a public hearing on the view claim. At least ten (10) days prior to the hearing, notice thereof shall be mailed to the affected parties and to the owners of the property within a radius of one hundred (100) feet of the boundaries of the property upon which the trees are located. Notice of the hearing shall also be published and posted at City Hall at least ten (10) days prior to the hearing.
~~d. Shall record in the County Recorder's office any final decision of the Tree Committee which provides~~ for limitations on the property of a tree owner.

3. **Standards for Resolution of Claims in Arbitration**
The Tree Committee shall, as a group, inspect the premises of both claimant(s) and tree owner(s) to verify the nature and extent of the alleged view obstruction. For purposes of this section, the Tree Committee and/or any involved Arborist may enter upon the property of either or both parties. The Tree Committee shall evaluate the Standards set forth below based on the site visit, the property file on record at City Hall, the submitted data and the public meeting.

a. The character of the view:

1) The vantage point from which the view is sought.
2) The extent to which the view might be diminished by factors other than growth involved in the claim.
3) The extent of the view that existed at the time claimant(s) purchased the property. (Is the party attempting to create, enhance or restore a view?)

b. The character of the view obstruction:

1) The extent of the alleged view obstruction as a percentage of the total view (estimate).
2) The impact on the beneficial use, economic value and enjoyment of the claimant's property caused by the growth.

c. The extent of benefits and/or burdens derived from the growth in question:

1) The visual quality, including but not limited to species, size, growth, form and vigor.
2) Location with respect to overall appearance, design and/or use of the tree owner's property.
3) Visual, auditory, wind screening and privacy provided by the growth to the owner and the neighbors.
4) Effects on neighboring vegetation provided by the growth.
5) The impact of the beneficial use, economic value and enjoyment of the tree owner's property caused by the growth

d. Restorative actions shall be limited to the following:

1) No action.
2) Thinning to reduce density e.g., open windows.
3) Shaping to reduce height or spread, using thinning cuts only (drop crotch).
4) Heading or topping.
5) Tree removal with necessary replacement planting.

e. Each type of restorative action shall be evaluated based on the above findings and with consideration given the following factors:

1) The effectiveness of the restorative action in restoring the view.

2) Any adverse impact of the restorative action on the benefits derived from the growth in question.
3) The cost of the restorative action as obtained from the view claim. The Tree Committee may determine that additional estimates are required.
4) The effects upon the privacy of the tree owner. Values of quiet and privacy should receive equal consideration with values of view and sunlight.

f. All restorative actions shall be undertaken with consideration given to the following factors:

1) All restorative actions must be consistent with subsection C-3, subparagraphs "d" and "e" of this Section.
2) Restorative actions shall be limited to shaping, thinning, and/or heading of branches where possible.
3) When shaping and/or thinning of branches is not a feasible solution, heading or topping shall be preferable to tree removal if it is determined that the impact of topping does not destroy the visual proportions of the tree, adversely affect the tree's
growth pattern or health, or otherwise constitute a detriment to the tree in question (arborist's advice required).
4) Tree removal shall only be considered when all other restorative actions are judged to be ineffective. Replacement planting can be required on the property of the parties.
5) An arborist's report is required in determining the nature and cost of replacement plant materials, installation of such plant materials, and time required for such plant materials to become well established.
6) In those cases where tree removal eliminates or significantly reduces the tree owner's benefits of visual screening, windscreening or privacy, replacement screen plantings shall, at the tree owner's option, be established prior to tree removal;
notwithstanding the provisions of sub-paragraph "e" above, the tree owner may elect tree removal with replacement planting as an alternative to shaping, thinning, heading or topping.
7) All shaping, thinning, heading, topping and tree removal required under this Chapter must be performed under the daily supervision of an Arborist.

4. **Implementation of Decision**
Within thirty (30) days of the arbitration decision, the tree owner will obtain at least three bids for the prescribed work from Arborists and shall present all bids to claimant. Within fifteen (15) days after presentation of the bids, the claimant shall deposit with the tree owner an amount equal to the percentage of the lowest bid deemed appropriate by the Tree Committee. The tree owner shall, at his sole discretion, choose the company by which he wishes the work done and shall order the work done within fifteen (15) days after receiving the claimant's deposit. The tree owner shall pay the difference between the deposit amount and the bid amount of the company he has chosen. The authorized work of correction shall be done by an Arborist under the sole direction and control of the tree owner.

5. **Allocation of Costs in Arbitration**
To be determined by the Arbitration Committee according to the standards set forth under Section C, sec. 3-4.of this section, and the individual circumstances brought before the Committee.

D. Procedure - City Trees

The Trees and Views Committee does not have jurisdiction over claims concerning trees on public property. The procedures for handling claims concerning trees on public property are as set forth in this subsection.

1. Filing of View Claim: A claimant who believes in good faith that the growth, maintenance, or location of trees situated on City property diminishes the beneficial use, economic value, sunlight, or enjoyment of views naturally accruing to the claimant's property may apply to the City on a form approved by the City Arborist. The application form shall be accompanied by a filing fee as established by the City

ITEM NO. 1 PAGE 11

Council. If the claimant is not the owner of the property that is proposed to benefit from this claim, the claimant shall attach the written permission of the property owner.

2. Investigation: Upon receipt of a view claim, the City Arborist shall investigate the claim and shall consider the public interest in maintaining the public environment created by the existing trees and landscaping; additionally, the Arborist may take into consideration the Standards set forth in subsection C-3 of this Section and shall issue his or her decision to the claimant within thirty (30) days of receiving the view claim. The decision of the City Arborist shall be in writing but no findings are required. Appeal of the decision of the City Arborist shall be as set forth in Section 11.12.030 H.

3. Public Posting and Input: All City trees affected by a view claim shall be individually tagged by the City within five (5) working days of receipt of a view claim. Such notices shall be posted in clear view of passersby, and shall contain the phone number which citizens can call to obtain information regarding the view claim. All written public input received by the City shall be considered.

4. Restorative Action: All view claims found by the City to be valid shall be subject to restorative action in accordance with subsection C-3, subparagraphs "d" of this Section. Restorative action shall be as recommended by and performed under the daily supervision of an Arborist selected by the City and under City supervision. The restorative action including the costs of the Arborist services shall be paid by the claimant.

11.12.050 ENFORCEMENT AND PENALTIES

A. The first violation of any of the provisions of this Chapter shall be chargeable as an infraction, punishable by a fine not exceeding one hundred dollars ($100). Subsequent violations by the same person shall be chargeable as a misdemeanor. Every violation determined to be a misdemeanor is punishable by a fine not exceeding one thousand dollars ($1,000) for each offense.

B. The City Manager or any employee designated by the City Manager is authorized and directed to issue a stop work order to any person found to be removing or altering a protected tree without the authority required by this Chapter.

(Ordinance history: Ords. 812, 912, 1050, 1107, 1114, 1122)

SEE ORDINANCE NO. 1146 FOR AMENDED WORDING OF SECTION 11.12.050