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Chico, CA Code of Ordinances

## **Chapter 14.40 STREET TREES4**

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### **ARTICLE I. GENERALLY**

#### **14.40.010 Short title.**

This chapter may be officially referred to and cited as the “Tree Law of the City of Chico.”  
(Prior code § 23.50 (Ord. 852 §10))

#### **14.40.020 Regulations generally.**

The commission may adopt by resolution, such standards, specifications and other regulations controlling and governing the planting, removal and maintenance of trees and shrubs as are not inconsistent with other provisions of this code and as are necessary or convenient for carrying

out the purposes of this chapter. Such standards, specifications and regulations so adopted shall be kept on file in the office of the public works department and in the office of the community development department.

(Prior code § 23.51 (Ord. 852 §11, Ord. 2364 §155), Ord. 2439 §91)

#### **14.40.030 Adoption of street tree plan.**

The commission shall adopt as a resolution a city-wide street tree plan controlling and governing the planting of trees and shrubs in public areas. Such plan shall specifically set forth the several species of trees or shrubs which may be planted or placed in the specified areas or locations in the city. Copies of such plan shall be filed in the office of the public works department and in the office of the community development department. Copies of such plan shall at all times be made available in such offices to property owners within the city.

(Prior code § 23.51-1 (Ord. 852 §12, Ord. 2364 §156), Ord. 2439 §92)

## **ARTICLE II. DEFINITIONS**

#### **14.40.040 Generally.**

For the purposes of this chapter, the words and phrases defined in Sections 14.40.050 to 14.40.110 shall have the meanings respectively ascribed to them in such sections.

(Prior code § 23.49 (Ord. 852 §2))

#### **14.40.050 Commission.**

“Commission” shall mean Bidwell Park and Playground commission of the city.

(Prior code § 23.49 (Ord. 852 §2))

#### **14.40.055 Director.**

“Director” shall mean the director of the public works department.

(Ord. 2364 §157, Ord. 2439 §93)

#### **14.40.060 Enforcing authority.**

“Enforcing authority” shall mean Bidwell Park and Playground commission, acting through the director.

(Prior code § 23.49-2 (Ord. 852 §4, Ord. 2364 §158))

**14.40.070 Planting area.**

The phrase “planting area” shall include (A) all public rights-of-way; (B) the area between the private property line and the adjacent street curbing; if no curbing exists, then “curbing” shall mean the line where a curb would be installed under existing regulations of the city; (C) other public areas and ways set aside for planting.

(Prior code § 23.49-3 (Ord. 852 §5, Ord. 2364 §159))

**14.40.080 Street tree list.**

“Street tree list” shall mean a list of species of trees or shrubs adopted by the Bidwell Park and Playground commission pursuant to this chapter, available for planting in different areas of the city in accordance with the street tree plan. Copies of such list shall be kept on file in the office of the public works department and the office of the community development department.

(Prior code § 23.49-4 (Ord. 852 §6, Ord. 2364 §160), Ord. 2439 §94)

**14.40.090 Street tree plan.**

“Street tree plan” shall mean a uniform city-wide plan for street tree planting of shrubs or trees, as adopted by the Bidwell Park and Playground commission, pursuant to this chapter, a copy of which shall be filed with the general services department and the office of the building and development services department. Such plan may consist of several parts adopted at different times for different sections of the city.

(Prior code § 23.49-5 (Ord. 852 §7, Ord. 2364 §161))

**14.40.100 Superintendent.**

*Repealed by Ord. 2364 §162*

(Prior code § 23.49-6 (Ord. 852 §8))

**14.40.110 Property owner.**

“Property owner” shall mean the owner of property abutting the planting area upon which the removal or planting is to be performed. In case of doubt, the owner shall be deemed to be the person or persons shown to be the owner of such property upon the last equalized assessment roll of the county unless, in case of actual transfer, notice containing the name and address of the new owner or owners shall have been received by the city.

(Prior code § 23.49-7 (Ord. 852 §9))

**ARTICLE III. PLANTING OR REMOVING**

**14.40.120 Permit - Required.**

No trees or shrubs shall be planted in or removed from any planting area in the city unless:

A. A written permit therefor is authorized by the commission or the city council and is issued by the director; or

B. Such planting or removal is required by order of the commission or the city council.

The director shall bring all applications for permits to the attention of the commission and shall issue such written permit when and as directed by the commission or the city council.

The planting of a tree or shrub in conformity to the street tree plan as adopted and amended by the commission shall be deemed to be authorized by the commission and no further authorization for the granting of a permit shall be necessary.

(Prior code § 23.52 (Ord. 852 §13, Ord. 2364 §163))

**14.40.130 Permit - Application.**

Every person required to have a permit pursuant to Section 14.40.120, shall apply to the director, using the appropriate forms as prescribed by the city manager. As relates to such tree or shrub, only those defined as a property owner, a public utility, or a person acting in a governmental capacity shall apply.

(Prior code § 23.53 (Ord. 852 §14, Ord. 2268, Ord. 2364 §164))

**14.40.140 Permit - Fee.**

At the time of making such application the applicant shall pay to the city such fees, if any, as may be determined by the commission and adopted by resolution thereof.

(Prior code § 23.53-1 (Ord. 852 §15))

**14.40.150 Permit - Conditions upon issuance.**

All regulations adopted by the commission pursuant to this chapter are conditions upon the issuance of any permit, unless specifically waived by the commission, or the council. The director may impose upon the granting of such permit such additional conditions as the director deems reasonable. Among others, the director may require, as such a condition upon the granting of a removal permit, the replanting of a tree or shrub in place of that removed. The director shall, when removal is being permitted for convenience of owner to make way for construction, require, as a condition, that the removal shall not take place until the work of construction is commenced, unless otherwise authorized by the commission or the council.

(Prior code § 23.53-2 (Ord. 852 §16, Ord. 2268, Ord. 2364 §165))

**14.40.160 Permit - Conditions imposed deemed order by commission.**

The imposition, by the director, of conditions upon the granting of a permit, shall be deemed to be an order of the commission for the purposes of Section 14.40.330.

(Prior code § 23.53-3 (Ord. 852 §17, Ord. 2364 §166))

**14.40.170 Removal by city - City's expense.**

Whenever, pursuant to a permit granted or commission order, a tree or shrub is to be removed, such removal shall be by the city and at city expense, unless the commission shall find that such tree or shrub is not dead or dying and its continued existence does not create a dangerous or defective condition upon public property, in which case its removal shall be deemed to be for the convenience of the property owner.

(Prior code § 23.54 (Ord. 852 §18))

**14.40.180 When property owner responsible for cost of removal.**

Whenever removal is for the convenience of the property owner, the work of removal shall be done by the property owner at such property owner's expense. However, the city may perform such work at the request of property owner and charge the cost thereof to the property owner.

(Prior code § 23.54-1 (Ord. 852 §19, Ord. 2268))

**14.40.190 Cost of planting generally.**

All planting or replanting, pursuant to this chapter, shall be done by the city or at city expense, except when replanting has been a condition of the granting of a permit. In the latter case, the city shall perform such work either at the request of the property owner or after such property owner's neglect to perform, the cost of such work to be charged to the property owner as herein provided. The terms "work" and "cost of such work" as used herein include not only labor but the supplying of the tree or shrub to be planted. This section shall not apply to planting required pursuant to the subdivision law of the city.

(Prior code § 23.54-2 (Ord. 852 §20, Ord. 2268))

**14.40.200 Neglect of property owner to perform work - Action by city.**

Should the property owner be required, as a result of any conditions imposed pursuant to this chapter, to perform work as defined in Section 14.40.190, and neglect to perform such work for a period of sixty days after the removal for which this planting is a condition, then the director, shall, upon order of the commission, cause such work to be performed by the city and charge the property owner the cost thereof.

(Prior code § 23.54-3 (Ord. 852 §21, Ord. 2364 §167))

**14.40.210 Manner of sending notice for cost of work - Hearing.**

In all cases wherein the work of removal, planting, or replanting is performed by the city and at the expense of the property owner, upon completion of such work, the finance director shall cause a notice of the cost of such work, which shall include the cost of any tree or shrub or other materials used, to be given by mailing a postcard to the property owner at such property owner's last known address, as the same appears on the last equalized assessment roll pursuant to which city taxes were last assessed, or the name and address of the person owning such property as is shown on the records in the office of the city clerk. The notice shall specify the following:

- A. An itemized statement of the costs being so charged to the property owner; and
- B. The day, hour and place when the commission will hear and pass upon the report of the director of the cost of such work, together with any objections or protests, if any, which may be raised by any property owner liable to be assessed for the cost of such work, and any other interested person.

At such hearing, the commission, after hearing all objections and protests made, shall have the power to finally fix and determine the amount required to be paid by such property owner. The amount so determined to be owed by such property owner, shall be due and payable and shall constitute a lien against such property from and after 10 days after the conclusion of such hearing and the making of such determinations. However, if this hearing shall be deemed to be a hearing pursuant to Section 14.40.330 and the property owner shall have a right to appeal to the council pursuant to Section 14.40.340. If such appeal shall be brought pursuant to Section 14.40.340, then such amount as determined by the commission shall not become due nor shall a lien be imposed as hereinabove set out. Upon such council's determination of the matter as provided in Section 14.40.340, the amount so determined by such council to be owed by such property owner shall be thereafter forthwith due and payable and shall constitute a lien against such owner's property abutting the planting area in which such work was done.

(Prior code § 23.54-4 (Ord. 852 §22, Ord. 2113 §1, Ord. 2268, Ord. 2364 §168))

**14.40.220 Notice of lien - Preparation and filing.**

Within ten days after the amount determined to be owed shall have become due and payable and shall have constituted a lien, the director shall cause to be prepared and filed with the city finance director, a notice of the amount determined to be due and owing to the city from the property owner. Such notice shall set forth the name of the owner, the property to be assessed, the amount of the cost of work owed by such owner.

(Prior code § 23.54-5 (Ord. 852 §23, Ord. 2113 §1, Ord. 2364 §169))

**14.40.230 Special assessment.**

If the amount determined to be due and owing shall not have been paid within ten days after its determination by the commission or city council (if appeal was made) then it shall constitute a special assessment against the parcel of property which abuts the planting area in which the work was done.

(Prior code § 23.54-6 (Ord. 852 §24))

#### **14.40.240 Delinquency - Amount to be added to taxes.**

The finance director, after receiving the notice provided for in Section 14.40.220 and ascertaining that the same has not been paid within ten days required in Section 14.40.230, shall add the amount of the assessment to the next regular bill for taxes levied against such parcel of land. If city taxes are collected by the county officials, a notice of the lien shall be delivered to the county auditor, or such other county officer performing the duties of a county auditor, pursuant to an agreement between the city and the county.

(Prior code § 23.54-7 (Ord. 852 §25, Ord. 2113 §1))

#### **14.40.250 Collection of amount of lien - Manner.**

Thereafter, the amount of the lien shall be collected at the same time in the same manner as ordinary city taxes are collected, and shall be subject to the same penalties and interest and to the same procedure under foreclosure and sale in case of delinquency as provided for ordinary city taxes. All laws applicable to the levy, collection and enforcement of city taxes and county taxes are hereby made applicable to such special assessment taxes.

(Prior code § 23.54-8 (Ord. 852 §26))

### **ARTICLE IV. ADDITIONAL REGULATIONS**

#### **14.40.260 Advanced deposit on work performed by city.**

Notwithstanding provisions in this chapter to the contrary, whenever the cost of any work to be performed by the city is to be paid for by a property owner, the finance director may require the property owner to deposit with the city the amount of the estimated cost of such work prior to its performance. If the actual cost of such work exceeds the deposit, the difference shall be collected as hereinabove provided. If the deposit exceeds the actual cost of such work, the difference shall be refunded to the property owner. No interest shall be payable on any such refund.

(Prior code § 23.55 (Ord. 852 §27, Ord. 2113 §1))

#### **14.40.270 Power of authority to act independently for removal.**

The director, and the city manager shall each, independently, have the authority to remove a tree or shrub, without the authorization or direction of either the commission or the council, and regardless of the issuance or nonissuance of a permit, if any of such three persons determines that the immediate removal of such tree or shrub is necessary for the maintenance of public safety. In making this determination, such officer shall consider all other means available to

maintain public safety. Such officer shall incur no civil or criminal liability as a result of any determination such officer makes hereunder regardless of the correctness thereof.

Such officer shall report to the commission upon any removal made pursuant to this section at its next regular meeting following such removal. The report may be submitted in writing without the appearance of such officer unless the commission otherwise requests.

(Prior code § 23.56 (Ord. 852 §28, Ord. 2268, Ord. 2364 §170))

#### **14.40.280 Persons convicted for chapter violations not exempt from charge or debt payment.**

Conviction and punishment of any person under the terms of this chapter shall not exempt or excuse such person from the payment of a charge or a debt against such person created pursuant to the provisions of Sections 14.40.180 and 14.40.190.

(Prior code § 23.57 (Ord. 852 §29))

#### **14.40.290 Nuisances declared.**

Any tree or shrub growing or standing in the public area fronting private property which, in the opinion of the commission, creates a dangerous or defective condition or endangers the security or usefulness of any public street, sewer or sidewalk is hereby declared to be a public nuisance.

(Prior code § 23.58 (Ord. 560 §10))

#### **14.40.300 Branches to be trimmed.**

It shall be unlawful for any person in the city to permit branches of trees or shrubs growing or being on private property to extend within ten feet from the ground over any portion of the sidewalk or street.

(Prior code § 23.59 (Ord. 224 §211))

#### **14.40.310 Maintenance.**

The director shall propagate, plant, replant, remove, prune, care for, and maintain the trees and shrubbery on the streets, along the sidewalks and in the parking areas of the city, except as in this chapter such duty is imposed on a property owner. The director shall report to the commission from time to time regarding work done pursuant to this section. Such work shall, at all times, be subject to the control and direction of the commission.

(Prior code § 23.59-1 (Ord. 852 §30, Ord. 2268, Ord. 2364 §171))

#### **14.40.320 Unlawful acts.**

No person shall damage, cut, carve upon, transplant or remove any tree or plant, or injure the bark or pick the flowers or seeds of any tree or plant; nor shall any person attach any rope, wire or other contrivance to any tree or plant; nor climb any tree; nor walk, stand or sit upon monuments, vases, fountains, railings, fences or upon any other property not designated or customarily used for such purposes. A person shall not dig in or otherwise disturb grass areas or in any other way injure or impair the natural beauty or usefulness of any area.

(Prior code §23.60 (Ord. 224 §213, Ord. 355 §213, Ord. 560 §11), Ord. 2479 §17)

#### **14.40.325 Violation - Penalty.**

A. Except as otherwise provided in Section 14.40.325(B), any person violating any of the provisions of this chapter of this code shall be deemed guilty of a misdemeanor or an infraction and may be enforced by the filing of a criminal action by the city attorney or the issuance of an administrative citation in accordance with the provisions of Chapter 1.15 of this code.

B. Notwithstanding Section 14.40.325(A), a violation of Section 14.40.320 shall be a misdemeanor and may be enforced by the filing of a criminal action by the city attorney or the issuance of an administrative citation in accordance with Chapter 1.15 of this code.

(Ord. 2479 §§16, 18)

## **ARTICLE V. HEARING - APPEAL**

#### **14.40.330 Hearing.**

Should any person be aggrieved by reason of any order of the commission made pursuant to this chapter, such person shall be entitled to a hearing before the commission in person and with counsel, if desired. Such hearing shall be granted upon written request made within 10 days from receipt of notice of the order of the commission. The commission shall set and hold such a hearing within 35 days from the date of such request. Such request shall be in writing and signed by the person requesting the hearing and shall set forth the reasons or grounds for protest against the commission order. No special form of request shall be required. The commission shall make a final determination upon such hearing within 35 days of the date upon which such hearing was terminated.

(Prior code § 23.61 (Ord. 852 §31), Ord. 2268)

#### **14.40.340 Appeal.**

Any person aggrieved by any order of the commission or of the director, made pursuant to this chapter (except any order made pursuant to Section 14.40.270) shall have the right to appeal such determination to the city council pursuant to the provisions contained in Chapter 2.80 of this code. A person aggrieved is a person who is significantly affected by the action appealed from. Significant effect refers to an effect significantly greater than the effect that the action appealed from has generally upon all citizens of the city.

There is no right to appeal from any action taken pursuant to the provisions of Section 14.40.270 of this code, nor is there any right to appeal with respect to an application of the kind referred to in Section 14.40.350 of this code.

(Prior code § 23.62 (Ord. 1072 §2, Ord. 2004 §14, Ord. 2364 §172))

#### **14.40.350 Failure of commission to act on permit - Action by council.**

Notwithstanding other provisions of this code to the contrary, when the director or some other authorized officer of the public works department, makes application under the provisions of this chapter for the removal of trees or shrubs for the purpose of making way for public works, that application shall be brought before the commission at its next regular meeting following the making of such application. The commission may either authorize and direct the granting of such permit as applied for (including the imposition of waiving of conditions as requested in the application) or the commission may make its recommendations concerning such application and cause the same to be transmitted to the city council. The city council shall consider such application and such recommendations of the commission at its next regular meeting. The city council shall thereafter take such action as it deems appropriate. If the commission shall fail within thirty-five days after its first regular meeting following the making of the application to either grant such permit or make its recommendations and transmit them to the city council, then the city council may deem such failure as a recommendation of denial and may proceed to act upon such application as it deems appropriate. No determination or order made by the commission under this section shall be appealable.

(Prior code § 23.63 (Ord. 852 §3, Ord. 2364 §173), Ord. 2439 §96)