

ORDINANCE NO: 1020

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO
AMENDING CHAPTERS 9 (STREET TREES) AND 13 (PRIVATE TREES) OF
TITLE 4 PUBLIC WELFARE, MORALS, AND CONDUCT, TO MORE
ACCURATELY REFLECT CURRENT PRACTICES.

The Town Council of the Town of San Anselmo does hereby ordain as follows:

Title 4, Chapter 9 (Street Trees) and Chapter 13 (Private Trees) is hereby amended to read as follows:

Title 4 PUBLIC WELFARE, MORALS, AND CONDUCT

Chapter 9 STREET TREES

4-9.01 Parks Department Arborist to supervise.

4-9.02 Advisory committee.

4-9.03 Approval of acts: Permits.

4-9.04 Planting street trees: Permit required.

4-9.05 Planting street trees: Distance between trees.

4-9.06 Maintenance, injury, and removal of street trees.

4-9.07 Tree guards for construction work.

4-9.08 Electric wires and insulators.

4-9.09 Electrical conductors.

4-9.10 Electrical conductors: Removal: Notice.

4-9.11 Weed killing materials.

4-9.12 Prevention of tree work unlawful.

4-9.13 Violations of provisions public nuisances.

4-9.01 Parks Department Arborist to supervise.

The Parks Department Arborist, under the direction of the Public Works Director and the Town Administrator, shall have supervision over all matters relating to trees now planted or hereafter to be planted in, upon, or along the public streets, sidewalks, and walkways within the Town. (§ 1, Ord. 477, eff. February 22, 1962)

4-9.02 Advisory committee.

The Council shall appoint a committee of two (2) or more persons as it may elect, which committee shall be advisory to it with respect to the subject matter of this chapter. (§ 1, Ord. 477, eff. February 22, 1962)

4-9.03 Approval of acts: Permits.

Whenever, pursuant to the provisions of this chapter, an approval is required to be obtained, or a permit is required to be secured, or a decision shall be made with respect to the performance of any act, such approval or permit shall be secured from, and such decision shall be made by, the Parks Department Arborist. (§ 1, Ord. 477, eff. February 22, 1962)

4-9.04 Planting street trees: Permit required.

No tree shall be planted in, upon, or along any public street, sidewalk, or walkway in the Town until such tree shall have been first approved, and the place where it is to be planted designated, and a permit granted therefor in accordance with the provisions of this chapter. Trees not permitted for use as street trees are designated as such by resolution of the Town Council. (§ 3, Ord. 477, eff. February 22, 1962)

4-9.05 Planting street trees: Distance between trees.

Trees shall not be planted along public sidewalks less than thirty (30') feet apart, irrespective of the size of the lot, except as may be authorized by any permit therefor, and as much farther apart as may be directed. (§ 4, Ord. 477, eff. February 22, 1962)

4-9.06 Maintenance, injury, and removal of street trees.

No person, without a written permit therefor, shall cut, prune, break, injure, or remove any living tree in, upon, or along any street, sidewalk, or walkway, or cut, disturb, or interfere in any way with the roots of any tree in, upon, or along any street, sidewalk, or walkway, or spray with any chemical or insecticide any tree in, upon, or along any street, sidewalk, or walkway, or place any sign, poster, or other fixture on any tree or tree guard, or injure, misuse, or remove any device placed to protect any tree in, upon, or along any street, sidewalk, or walkway in the Town.

Whenever any tree shall, pursuant to a permit issued therefor, be cut down or removed in or from any sidewalk area, its butt and roots shall be dug up and removed or cut level with the ground as directed by the Public Works Director.

When trees are trimmed, all deadwood shall be cut out, and the refuse shall be removed. (§ 5, Ord. 477, eff. February 22, 1962)

4-9.07 Tree guards for construction work.

In the erection or repair of any building or structure, the owner thereof, or the contractor if the work is being done by contract, as approved by the Parks Department Arborist.

shall place such guards around all nearby trees in, upon, or along the streets, sidewalks, and walkways within the Town as shall prevent injury to them. (§ 6, Ord. 477, eff. February 22, 1962)

4-9.08 Electric wires and insulators.

No person shall, without a written permit, attach any electric wire, insulator, or device for holding an electric wire to any tree growing or planted in, upon, or along the streets, sidewalks, and walkways within the Town. (§ 7, Ord. 477, eff. February 22, 1962)

4-9.09 Electrical conductors.

Every person having any electrical conductor running along or through a public street shall securely fashion such conductor so that it shall not come in contact with any tree in or along such street. (§ 8, Ord. 477, eff. February 22, 1962)

4-9.10 Electrical conductors: Removal: Notice.

Every person having any electrical conductor running along or through a public street shall temporarily remove such conductor when it shall be necessary in order to take down or prune any

tree located in, upon, or along a public street within twenty-four (24) hours after the service upon the owner, or his agents, of such electrical conductor of a written notice from the Town Engineer to remove such conductor or the electricity therefrom. (§ 9, Ord. 477, eff. February 22, 1962)

4-9.11 Weed killing materials.

No person shall place within two (2') feet of any existing tree any paving material, weed killing material, or other like substance. (§ 10, Ord. 477, eff. February 22, 1962)

4-9.12 Prevention of tree work unlawful.

No person shall prevent, delay, or interfere in the planting, pruning, spraying, or removing of any tree located in, upon, or along a public street, sidewalk, or walkway, or in the removal of stone, cement, or other substance about the trunk of any such tree, whether such work shall be performed by employees of the Town or by any independent contractor, or his employees, engaged by the Town to perform such work. (§ 10, Ord. 477, eff. February 22, 1962)

4-9.13 Violations of provisions public nuisances.

It is hereby declared that any violation of the provisions of this chapter shall, in addition to any other remedy, constitute a public nuisance, and such nuisance may be abated as provided by law. (§ 11, Ord. 477, eff. February 22, 1962)

Chapter 13 PRIVATE TREES*

*Note to Chapter 13

4-13.01 Purpose.

4-13.02 Definitions.

4-13.03 Undeveloped parcels.

4-13.04 Developed parcels.

4-13.05 Diseased Trees.

4-13.06 Permits.

4-13.07 Appeals.

4-13.08 Penalty provisions.

4-13.01 Purpose.

Many sections of the Town are covered by oak, madrone, and other trees which contribute greatly to the scenic beauty of the Town. A large proportion of residential property within the Town is on hillside and sloping terrain. The uncontrolled removal or destruction of trees destroys the scenic beauty, contributes to erosion, increases flood hazards, reduces property values, increases the costs of the construction and maintenance of drainage systems through the increased flow and diversion of surface waters, and adversely affects the local economy by reducing the attractiveness and desirability of the area as a place to live, work, and visit. In addition, the trees of the Town are an integral part of the Town's complex environmental system, the functioning of which does not depend on or conform to the arbitrary delineations of property.

Therefore, the Council finds it necessary, as a matter of public health, safety, and welfare, to enact the provisions of this chapter to control the removal or destruction of trees within the Town; to preserve trees that are a significant part of the Town's heritage; and at the same time to recognize the individual's right to use his land in a manner which will not be prejudicial to the public interest. (§ 2, Ord. 709, eff. August 12, 1976)

4-13.02 Definitions.

For the purposes of this chapter, certain words and phrases used in this chapter are defined as follows:

- (a) "Tree" shall mean any woody perennial plant characterized by having one or more trunks, any one of which has a diameter at breast height (4.5 feet) of 7 inches. In any case, the Parks Department Arborist shall have the right to determine whether any specific woody plant shall be considered a tree for the purposes of this ordinance. (b) "Heritage tree" shall mean a tree which has a trunk with a diameter at breast height (4.5 feet) of 22 inches, or a tree which has special significance and is of a species and size designated in a resolution adopted by the Council, but "heritage tree" shall not mean an acacia tree or any other tree designated as a "nuisance" tree by resolution of the Council.
- (c) "Undeveloped parcel" shall mean any lot or parcel, or

portion of a lot or parcel, which can be further subdivided or further developed under the provisions of Title 10 of this Code. (§ 2, Ord. 709, eff. August 12, 1976)

4-13.03 Undeveloped parcels.

On any undeveloped parcel of property, public or private, it shall be unlawful, unless a permit has been issued pursuant to the provisions of Section 4-13.05 of this chapter, to remove or destroy any tree, or to cut or prune a tree or its roots in such a way as to endanger or shorten its life, or to raise the soil level around any tree. (§ 2, Ord. 709, eff. August 12, 1976)

4-13.04 Developed parcels.

On any developed parcel of property, public or private, it shall be unlawful, unless a permit has been issued pursuant to the provisions of Section 4-13.05 of this chapter, to remove or destroy any heritage tree, or to cut or prune a heritage tree or its roots in such a way as to endanger or shorten its life, or to raise the soil level around any heritage tree. (§ 2, Ord. 709, eff. August 12, 1976)

4-13.05 Diseased Trees.

The spread of Dutch Elm Disease, Sudden Oak Death and other tree diseases has caused the removal of a large number of trees within the Town limits. The spread of disease is a continuing problem, causing further depletion of Town resources, finances, and causing considerable loss of urban amenities. Accordingly, it is necessary for the preservation and enjoyment of the public health and safety to restrict activities around diseased trees to those procedures that will help preserve them for the future. Current guidelines for the care and pruning of certain diseased trees are available at the Public Works Department.

4-13.06 Permits.

(a) Application processing. An application for a permit shall be made in writing to the Department of Public Works and shall contain the number and locations of trees or heritage trees to be affected and a statement of the reasons for removal or reasons for other work desired, as well as such other pertinent information as the Public Works Department may require which may include a discussion of the need for the work by a qualified arborist. In the case of subdivisions, such information shall be part of the subdivision filing pursuant to subsection (c) of this section. No permit is required for the removal of nuisance trees.

Said application shall be accompanied by the appropriate fee, the amount of which shall be determined by resolution of the Town Council.

Once the Public Works Department has found the application to be complete, the department shall notify in writing each property owner within 300 feet, of the applicant property, that a tree permit is being considered for approval, indicating that an administrative hearing shall be held if objections are received. The date for the administrative hearing shall be set a minimum of ten (10) days from the date of the hearing notice. At the administrative hearing, information and testimony regarding the permit application shall be reviewed and the disposition of the permit application will be made based on the following considerations:

- (1) The condition of the trees or heritage trees with respect to disease, danger of falling, proximity to existing structures, and interference with utility services;
- (2) The necessity of the contemplated work to allow the economic enjoyment of the property;
- (3) The topography of the land and the effect of the contemplated work on erosion, soil retentions, and the diversion of increased flows of surface water;
- (4) The general effect of the contemplated work on property values in the area; and
- (5) Good forestry practices. A permit shall be issued unless the Parks Department Arborist finds, after an inspection and the securing of such expert advice deemed necessary, and making the foregoing determinations, that the trees affected are of a size, type, condition, and location and in such surroundings that the contemplated work would significantly frustrate the purposes of this chapter.

(b) Emergency conditions. In the event of any emergency in which a particular tree or heritage tree causes an immediate hazard or dangerous condition, such tree may be removed or cut back by permission of the Public Works Director, the Chief of Police, or Chief of the Fire Department or their respective department representatives without following the above described permit procedure.

(c) Subdivisions. All subdivision maps filed shall designate clearly the location, size, and type of any trees and heritage trees scheduled for removal. In addition, heritage trees shall be located on the tentative map, that is, submitted to the Planning Commission for approval. The approval of the improvement plans, as required by the subdivision provisions, of this code and State law shall constitute a permit to cut, remove, or change the soil level around any tree so particularly designated on such plans.

(d) Utilities and town departments. A public utility subject to the jurisdiction of the Public Utility Commission of the State and the Department of Public Works and the Parks

Department of the Town may apply for a general permit to prune trees as may be necessary to maintain the safe operation of the utility business or, in the case of a Town Department, necessary to maintain traffic safety or the safe public use of public property. Such general permit shall not apply to any heritage tree or elm tree nor shall it allow the cutting, destruction, or removal of any tree, nor shall it allow changing the soil level around any tree. Such general permit shall require that pruning be performed under the supervision of a licensed tree surgeon or a landscape architect named therein. Such permit may be good for an indefinite period of time and may be revoked at any time for cause by the Public Works Director.

(e) Posting of permit. Work requiring a permit shall not be commenced until the permit holder or his agent shall have posted in a conspicuous place in the front of the premises a copy of the permit. This permit copy shall be maintained in such position by the permit holder until all permit work is complete and approval has been granted by the building official. (Ord. 889, eff. November 12, 1987)

4-13.07 Appeals.

Any decision made by the Parks Department Arborist or the Public Works Department may be

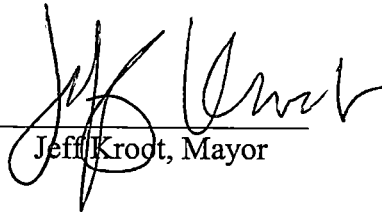
appealed to the Town Council. Such appeal shall be processed by using the appeals procedure established for Planning Commission appeals in Title 10 of this Code. (Ord. 889, eff. November 12, 1987)

4-13.08 Penalty provisions.


Any person violating any of the provisions of this chapter shall be guilty either of an infraction or a misdemeanor shall be subject to the penalties prescribed by this Code. (Ord. 889, eff. November 12, 1987)

Introduced at a regular meeting of the Town council on the 27th day of March 2001 and adopted thereafter at the regular meeting of the Town Council on the 10th day of April, 2001 by the following vote:

AYES: Breen, Chignell, Hodgens, Kilkus, Kroot
NOES: (NONE)
ABSTAIN: (NONE)
ABSENT: (NONE)



Jeff Kroot, Mayor

ATTEST:


Debra Stutsman, Town Clerk