

ORDINANCE NO. 2003-493

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VILLA PARK AMENDING
CHAPTER XVI OF THE VILLA PARK
MUNICIPAL CODE PERTAINING TO TREES AND SHRUBS**

THE CITY COUNCIL OF THE CITY OF VILLA PARK HEREBY ORDAINS AS FOLLOWS:

SECTION 1: Article 16.1 of Chapter XVI of the Villa Park Municipal Code is hereby amended in its entirety to read as follows:

**ARTICLE 16-1. COMPREHENSIVE STREET LANDSCAPING PROGRAM THROUGHOUT
THE CITY**

Sec. 16-1.1. Purpose and Scope.

It is hereby declared that the public interest and general health, safety and welfare require that the City establish, adopt and maintain a comprehensive street-landscaping program. This section provides policies, regulations and specifications necessary to insure a consistent and adequate program for the planting, maintenance and removal of City street landscaping. Provisions of this section also govern the selection of approved species of parkway landscaping to achieve as much uniformity as possible for aesthetics, performance and economy.

Sec. 16-1.2. Definitions.

As used in this section:

"City street" shall mean the area of a public street, whether or not improved, within and maintained by the City from easement line to easement line, including sidewalks, parkways and any area between the right-of-way line and curb.

"City street trees" shall mean and include all trees located in any public parkway, highway, alley, sidewalk, easement or right-of-way. The following are non-exclusive examples of a City street tree:

- a. Trees planted in the tree well of a sidewalk as part of approved City plans or planted in a median island by the City or a developer;
- b. Trees planted in the parkway area as part of approved landscape plans by a developer or a property owner; and
- c. Existing trees in a City street right-of-way, whether or not such trees have been maintained in the past.

"Easement" shall mean a recorded right or interest in the land of another which entitles the holder of the easement to some use, privilege or benefit out of or over said land.

"Ground cover" shall mean a planting of a low growing plant that covers the ground in place of turf.

"Maintain or maintenance" when used in reference to parkway trees, shrubbery and other vegetation, shall mean and include pruning, trimming, topping, root pruning, removal, spraying, mulching, fertilizing, cultivating, supporting, treating for disease or injury, or any other similar act which promotes their life, growth, health or appearance.

"Parkway" shall mean the area, if any, located between the curb or the edge of pavement and the right-of-way line.

"Property line" shall mean a lot line, which can be determined by reference to a legal description of the property as found in a recorded instrument.

"Right-of-way" shall mean an area or strip of land, either public or private, on which a right of passage has been established or recorded. Street rights-of-way may be shown on an adopted precise plan of highway alignment or within the boundaries of a recorded subdivision map. If no such document exists, the ultimate right-of-way required by the highway classification as shown on the master plan of arterial highways.

"Shrub" shall mean any woody vegetation or woody plant having multiple stems and bearing foliage from the ground up.

"Tree" shall mean any woody plant, normally having one stem or trunk bearing its foliage or crown well above ground level to heights of sixteen (16) feet or more.

"Vine" shall mean a plant whose stem requires support and which climbs by tendrils or twining, or grows along the ground.

Sec. 16-1.3. Designation of Tree Type or Variety.

The City shall maintain a master list of trees approved by the City Council and kept on file with the City Clerk. Trees planted within public parkways, planting easements, or rights-of-way shall be in accordance with the master list of trees.

Sec. 16-1.4. Responsibility.

The planting and maintenance of all plant materials in City rights-of-way, parkways, easements, or any publicly-owned property, including the pruning, trimming and removal of the same, shall be at all times subject to the supervision, authority and control of the City Council.

The City Council, as hereinafter provided, authorizes the pruning or removal by the City, or by any other person as herein provided, of any tree, shrub or other vegetation in or upon any public right-of-way, easement or public place which interferes with the construction, maintenance or use, of any driveway, sidewalk, curb or other construction work, or of any tree or shrub which is dead or which creates a hazard to the public safety or which does not conform to the type or variety designated for the particular place in which the same is situated.

The appropriate City Council committee, or if there is none, the City Manager, shall review all requests and if authorization is granted, such authorization shall be given in writing. Provided, however, that requests for removal of any tree abutting Wanda Road, Santiago Boulevard, Taft Avenue, Mesa Drive, Valley Drive, Center Drive, Lemon Street, and Villa Park Road shall be reviewed by the entire City Council. Notwithstanding the preceding, the City Manager may without further approval authorize the removal of any tree in the event that the tree creates a hazard and is an immediate threat to public safety, health, or welfare.

Sec. 16-1.5. Unlawfully Planted Trees.

Trees, plants or shrubs planted within any parkway, planting easement, publicly-owned property, or rights-of-way without the authorization and approval of the City may be removed by requiring removal by the abutting property owner. The City shall notify the abutting property owner in writing listing the unlawfully planted trees, plants or shrubs, ordering their removal and establishing a reasonable time within which such removal shall be accomplished. In the event removal has not occurred within the time specified, such trees, plants or shrubs may be removed by the City at the expense of the abutting property owner.

Sec. 16-1.6. Requirements of Planting.

Whenever any person shall apply for a building permit for the construction, reconstruction, remodeling or addition of any structure where such construction, reconstruction, remodeling or addition exceeds three hundred (300) square feet, said plans of improvement shall show and provide for planting of trees and installation of root control devices as deemed necessary by the City Engineer in accordance with the master list of trees.

Sec. 16-1.7. Maintenance.

Except as may otherwise be provided herein, it shall be the duty and responsibility for every abutting property owner to water and otherwise maintain in a proper and sightly manner, all trees, plants or shrubs located in the public parkway, planting easement or right-of-way located immediately in front of, or abutting and contiguous to the property owned by said person. In this instance, "maintenance" shall not include removal unless written approval is obtained from the City provided in this Article.

The City shall notify the abutting property owner in writing of the deficient maintenance and establish a reasonable time to correct the problem. If the problem is not corrected, the City may do so at the expense of the abutting property owner.

Sec. 16-1.8. Maintenance Standards.

- a. *Shrubs, Ground Cover and Other Plants.* It shall be unlawful to plant or maintain shrubbery, ground cover or other plants within the City's parkways whose growth is in excess of thirty-six (36) inches in height above the top of the nearest curb.
- b. *Trees and Shrubs and Plants Abutting Intersections.* All shrubs, ground cover or other plants or trees at or near intersecting streets, located on public or private property shall be so trimmed that the height of growth shall not exceed the

- c. standards set forth by Resolution of the City Council. Any shrub or other plant which exceeds such height, or any branch of a tree which is lower than such level provided in said Resolution, shall be deemed to be dangerous to public travel and the City shall notify the property owner in writing, describing the conditions, stating the steps necessary to correct the conditions and establish a reasonable time that the effective steps shall be taken. In the event that the effective steps are not taken to correct the conditions within the time specified, the City may do so pursuant to this Chapter at the expense of the property owner.

Sec. 16-1.9. Protection During Construction Work.

During the erection, repair, alteration or removal of any building, house or structure in the City, no person in charge of such work shall leave any tree, shrub or plant in any street, park, parkway or public place of the City in the vicinity of such building or structure without such good and sufficient guards or protectors as shall prevent injury to said tree, shrub, or plant arising out of or by reason of said erection, repair, alteration or removal.

Any public utility installing or maintaining any overhead wires or underground lines, conduits or pipes shall first obtain the approval of its plans and procedures from the City Engineer before performing any such installation or maintenance. Such approval shall not be granted if, in the opinion of the City Engineer, such work as planned would grossly deform or cause injury to City trees.

Sec. 16-1.10. Treatment and Removal of Infected or Infested Trees, Plants or Shrubs.

The following rules shall govern the treatment or removal of infected or infested tree plants or shrubs:

- a. *Abutting Public Property.* If any tree, plant or shrub in any parkway, planting easement or right-of-way is infected or infested with disease or insects detrimental to the growth, health or life of such trees, plant or shrub, the City may remove or control such infection or infestation; provided that if such infection or infestation cannot be removed or controlled, then such tree, plant or shrub may be removed or destroyed by the City.
- b. *On Private Property.* It shall be the responsibility of any person having trees, plants, shrubbery, grass or other vegetation growing on his property and abutting public places to treat or remove any tree or plant so diseased or insect-infested as to be hazardous to trees and plants in public places. The City shall have the authority to require property owners to take such action as is necessary to control insects, scales, parasites, fungus and other injurious pests or diseases that would cause serious injury to parkway trees and other plant material within the City. The City shall notify the property owner in writing, describing the conditions and stating the control necessary for correction and establishing a reasonable time within which the correction should be taken. If the property owner questions the necessity of such action, the matter may be referred to a qualified plant pathologist for determination. In the event that the effective steps are not taken to

- c. correct the conditions within the time specified, the City may do so at the expense of the property owner.

Sec. 16-1.11. Damage.

It shall be unlawful for any person to fasten any wire, guy rope, guy line, signs or any contrivance to any tree, shrub, stake, guard or other plant protective structure located in any public parkway, planting easement or right-of-way or other City-owned property, from which danger or injury may result to any person, animal, tree, plant or shrub.

Sec. 16-1.12. Destruction.

It shall be unlawful for any person to cut down, girdle, remove, injure, deface or destroy any tree or shrub or any ornament or improvement on any public parkway, planting easement or right-of-way within the City without first obtaining a written consent therefore from the City.

In the case any tree is removed or destroyed, the City shall be reimbursed as determined by the appropriate City Council committee, or if there is none, the City Manager, subject to the following guidelines:

- a. Newly planted trees shall be a minimum 36 inch box tree with a minimum trunk diameter of 2 inches;
- b. The City shall inspect all trees at the purchase location prior to delivery to the planting site;
- c. The number of trees required for replacement shall be determined by the committee or City Manager based on available space, planting guidelines, and aesthetics;
- d. The adjacent property owner shall be required to irrigate the newly planted vegetation through an appropriate irrigation system; and
- e. If the City participates in the removal of the trees or the planting of replacement trees, at the request of a property owner, the City shall be reimbursed for operating and overhead costs incurred in removal and/or replacement.

If the City determines that it is in its best interest to remove and/or replace trees at any particular location, it may do so subject to standards as determined by the appropriate City Council committee, or if there is none, the City Manager. If appropriate based on the origination of the request, cost may be shared with the abutting property owner.

Sec. 16-1.13. Appeal to City Council.

If any person shall be dissatisfied with any determination made pursuant to the above provisions, he may appeal in writing to the City Council within fifteen (15) days after written notice of such determination. The decision of the City Council shall be final.

