

Chapter 17.82 TREES AND VIEWS

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17.82.010 Specific purposes.

The general plan recognizes the contribution of scenic resources, including both trees and views, to the character and view of the city. Views are important to residents and visitors, contributing to the enjoyment and value of property and providing vistas of Southamptton Bay, Suisun Bay, Carquinez Strait and the hillsides. Trees also produce benefits for residents and visitors, contributing to the natural environment by modifying temperatures and winds, replenishing oxygen, controlling soil erosion and providing wildlife habitat; and to the visual environment by providing scale, color, and visual buffers between land uses. However, trees and views, and the benefits derived from each, may come into conflict. The intent of these regulations is to provide guidelines and standards to resolve disputes between neighbors, balancing tree- and view-related values in the interest of public health, safety and welfare. (Ord. 87-4 N.S., 1987).

17.82.020 Definitions.

- A. "Hedge" means 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.
- B. "Tree" means a woody perennial plant which usually, but not necessarily, has a single trunk and a height of 15 feet or more, or has a diameter of 12 inches measured at 24 inches above the ground; references herein to "tree" shall include the plural, "any tree or trees."
- C. "View" means a vista of Southamptton Bay, Suisun Bay, Carquinez Strait, neighboring communities, surrounding hills, or a nearby or distant wooded area. (Ord. 87-4 N.S., 1987).

17.82.030 Authority of planning commission.

The planning commission shall be responsible for review of all view complaints filed with the city which cannot be satisfactorily resolved at the staff level. The commission is authorized to consult with city officials and with specialists, such as landscape architects or tree surgeons, as the occasion may require; provided, however, that any such consultation be done at no expense to the city. (Ord. 89-1 N.S. § 38, 1989; Ord. 87-4 N.S., 1987).

17.82.040 Unreasonable obstruction of view or sunlight.

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

property. (Ord. 87-4 N.S., 1987).

17.82.050 Complaint.

A property owner may file with the community development director a written complaint that the view from or sunlight reaching his property is unreasonably obstructed by a tree, shrub, hedge or other vegetation, and that efforts to settle the problem amicably have failed. The complainant shall deposit the required fee with the community development director as a deposit, to be returned in any amount not used, against the expense incurred by the community development director under provisions of this section and the expense of advice obtained by the commission from a landscape architect or tree surgeon, and shall agree in writing to pay in full the reasonable amount of such expense. (Ord. 89-1 N.S. § 39, 1989; Ord. 87-4 N.S., 1987).

17.82.060 Settlement efforts.

Within 30 days after receipt of a complaint, the community development director shall take action he deems appropriate to try to resolve the problem by means of conciliation. If within 60 days after receipt of a complaint the community development director has not resolved the problem, he shall give notice in writing to the parties involved and set the matter for public hearing. The 60-day time limit may be extended at the request of the property owners involved. (Ord. 89-1 N.S. § 40, 1989; Ord. 87-4 N.S., 1987).

17.82.070 Notice and hearing.

The community development director shall give 10 days' notice of the hearing by certified mail, return receipt requested, to the owner of the tree or other obstructing vegetation. Notice shall also be given to other individuals involved, to owners of property adjacent to the property on which the tree is located, and to other persons who, in the community development director's judgment, might be affected. The notice shall state the location of the tree or other vegetation, and the time and place of hearing, and shall invite written comments to be submitted at or before the hearing. Each party involved may appear on his own behalf or be represented by another person and may present evidence at the hearing. The hearing shall not proceed in the absence of proof that the owner of the tree or other vegetation received notice as provided herein. (Ord. 89-1 N.S. § 41, 1989; Ord. 87-4 N.S., 1987).

17.82.080 Findings required.

The commission may require correction of an unreasonable obstruction of view or sunlight if it finds:

- A. That the view from or the sunlight reaching the property of the complainant is unreasonably obstructed;
- B. That such obstruction adversely affects the value or enjoyment of the property of the complainant; and
- C. That correction of the obstruction in the manner determined by the commission will not unreasonably detract from the value, privacy or enjoyment of the property on which the tree, shrub, hedge or other vegetation is located, or adjacent properties.

In making the findings for subsections (A) and (B) of this section, it is the intent of this section that values of privacy and quiet shall receive equal consideration with values of view and sunlight. (Ord. 89-1 N.S. § 42, 1989; Ord. 87-4 N.S., 1987).

17.82.090 Decision.

After the hearing, the commission shall render its decision, and the community development

director shall send a copy forthwith to each party involved. The decision shall be that correction either is or is not authorized, and shall specify the method of correction, whether by removal or by cutting back, pruning or other alteration of the tree, shrub, hedge or other vegetation. The authorized work of correction shall be done by a licensed tree surgeon if required by the owner of the tree or other vegetation at a time approved by the owner. (Ord. 89-1 N.S. § 42, 1989; Ord. 87-4 N.S., 1987).

17.82.100 Payment of cost of correction.

The complainant shall pay the entire cost of the authorized correction unless the commission makes an express finding that:

A. The tree or other vegetation constitutes a hazard to the safety of the complainant or his property, and is being maintained by the owner in disregard for the safety of others, in which case the owner may be required to pay up to 100 percent of the cost of correction; or

B. The owner is maintaining a hedge 15 feet or more in height, in which case the commission may allocate the cost of correction; provided, that the owner of the land on which the hedge exists shall not be required to pay more than 25 percent of the cost of such correction. Allocation of costs shall not apply to work done on public property. The city shall not be required to pay for improvement of the view from any private property. (Ord. 89-1 N.S. § 42, 1989; Ord. 87-4 N.S., 1987).

17.82.110 Obligation of the owner.

Thirty days after the date of the decision of the commission or, if appealed, the decision of the city council, authorizing the correction of an obstruction, it shall be unlawful for the owner of the property on which the trees or other vegetation is located not to allow correction of the obstruction. After the correction is made, the tree or other vegetation shall be maintained as corrected. (Ord. 89-1 N.S. § 43, 1989; Ord. 87-4 N.S., 1987).

17.82.120 Effective date of committee decision – Right of appeal.

The commission's decision shall become final on the tenth business day following its action unless appealed to the city council in accordance with Chapter [1.44](#) BMC. (Ord. 07-61 § 1; Ord. 89-1 N.S. § 44, 1989; Ord. 87-4 N.S., 1987).

This page of the Benicia Municipal Code is current through Ordinance 12-02, passed April 17, 2012.

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