

Rossmoor Community Services District

Policy

No. 3080

**PARKWAY AND ROSSMOOR WAY MEDIAN TREE
MAINTENANCE**

3080.00 Parkway and Median: A parkway, as described in this Policy, is the County of Orange (County) owned area between the sidewalk and curb. The median is the County owned area dividing Rossmoor Way.

3080.10 Public Property: Parkway and median trees are public, not private property. Every reasonable effort will be made to preserve this natural resource in order to retain and improve this local scenic and environmental asset.

3080.11 Homeowners, residents or their agents shall not plant, trim or remove parkway and median trees, except as expressly provided for in this Policy. The Rossmoor Community Services District (District) has the authority and responsibility to plant and trim trees either directly or through the County or other third parties. The District recommends removals to the County and the County has the authority to remove trees.

3080.12 The County of Orange is responsible for the preventative or remedial tree root pruning to aid in the control of sidewalk, curb and gutter damage. The District will coordinate with the County to perform this work and any other alternatives to tree removal.

3080.13 Request for inspections, planting, trimming or removal shall be made with the District office. A Customer Service Request (CSR) shall be initiated describing the request and action taken or not taken.

3080.14 No person shall remove, prune, trim, cut or otherwise damage a tree that is located in the parkway or median, or cause, permit, direct, or knowingly allow the removal, pruning, trimming, cutting, or damaging of a parkway or median tree, unless authorized to do so pursuant to this Policy.

3080.20 Tree Planting and Nurturing: All parkways at private residences shall have at least one tree, where feasible, and those currently without a tree(s) will have a tree(s) planted by the District as funds become available. Appropriately spaced tree plantings are required along the parkways of public properties, where feasible (e.g. parks, schools, flood control channels, etc.).

3080.21 Tree planting locations shall be determined by the District's Tree Consultant and/or Arborist and be based on recognized standards for the planting of trees.

3080.22 The District shall maintain a tree-planting program consistent with budgeted funds.

3080.23 The District shall maintain an inventory of all parkway and Rossmoor Way median trees. The District shall also maintain a current list of all potential sites for planting a tree within all public right of ways.

3080.24 Site selections for new tree plantings shall be based on a computerized inventory of Rossmoor parkway trees and vacant sites maintained by the District.

3080.25 New tree plantings shall be accomplished in accordance with the Rossmoor Parkway Tree Planting Specifications (Arborist Scope of Services) maintained by the General Manager.

3080.26 Trees planted by the District will minimally be in 24" box containers. Should budget constraints arise or a 24" box tree of a specific species not be available, a 15-gallon container tree may be substituted.

3080.27 A list of tree varieties approved by the Board for new or replacement trees shall be maintained by the District. The Tree Consultant shall recommend and the District shall select tree species based on the specified predominant tree species of the block if the tree is still on the approved species list and other factors such as availability or an alternate tree from the approved list of trees with similar characteristics.

3080.28 The General Manager shall maintain a Notification of Tree Planting document that specifies the required care of parkway trees. This includes instructions for newly planted parkway trees. The document shall be provided to each homeowner/resident of a newly planted parkway tree.

3080.29 The homeowner/resident has the responsibility for watering and caring for the parkway trees adjacent to their property in accordance with District instructions. A tree that must be replaced due to lack of care on the part of a homeowner/resident will require the homeowner/resident to pay the District for a replacement tree of the same or like species and size.

3080.30 Tree Trimming and Protection: Trees shall be trimmed by the District, or as otherwise authorized herein, to maintain safety and clearance standards established by the County.

3080.31 Specifications delineating aesthetic tree trimming shall be in accordance with the requirements of the American National Standards Institute (ANSI A 300) maintained by the General Manager and shall become a part of any tree trimming contracts awarded by the District.

3080.32 The District shall maintain a tree trimming schedule for all parkway and median trees. Each tree shall be trimmed at least once every four years or as necessary according to species. Homeowners/residents desiring more frequent trimming or pruning by the District can request such at the District office for a fee, which fee reflects the cost to the District, or may request a Resident Tree Trimming Permit. District tree trimming shall only be performed by the District's contract arborist.

3080.33 Notification by mail or by posting at the residence of scheduled tree planting or removal may be sent by the District to the homeowner/resident at least two (2) weeks prior to the planned work except for emergency safety removals by the County.

3080.34 Resident Tree Trimming Permits. As an alternative or in addition to the tree trimming procedures set forth in section 3080.32, the General Manager may issue a permit to the owner and/or resident of real property to trim and/or prune any parkway tree on or adjacent to that real property. The General Manager shall promulgate rules and forms as necessary to administer the Tree Trimming Permit program. The decision of the General Manager to deny, revoke or rescind a permit may be appealed to the Board of Directors pursuant to the procedures set forth in section 3080.84(2). The following minimum requirements shall apply to the permit:

- (1) The trimming shall only be conducted by a licensed landscape contractor that has been pre-approved by the District;

- (2) The owner/resident shall pay all required permit fees; and
- (3) The owner/resident shall comply with all terms of the permit.

3080.40 Tree Removal: Only trees that are dead, structurally unsound or are creating problems that cannot be corrected without causing the tree to die or become unstable will be removed.

3080.41 Valid reasons for removing trees:

- A dead, rotting or seriously diseased tree that presents a danger of structural failure.
- Trees that present a hazard, such as a tree with weak roots, a tree with a split trunk or a tree with falling limbs that cannot be corrected with trimming.
- A diseased or insect infested tree that is a serious threat to nearby trees if removal is the best pest or disease control option.
- An unauthorized tree of the wrong species for its location
- Hardscape (sidewalks, curbs, driveways etc.) damage that requires repairs and if such repairs cannot be made without causing severe root damage that renders the tree structurally unsound.
- If in order to repair or replace a lateral sewer line, it is necessary to remove significant tree roots that would undermine the structural integrity of a tree. This need must be demonstrated to the District by the homeowner through video evidence of the location and extent of damage to the sewer lateral. During excavation, the sewer line must be exposed and be available to the District for a visual inspection to determine the need for the tree removal.
- Home remodeling that requires removal of a tree. If this is driveway relocation, the homeowner must have a building permit and plot plan showing the tree to be removed is less than eight (8) feet from the proposed new driveway. The Homeowner must pay the District for the tree removal and the planting of a new 24-inch box tree selected by the District before the District will sign off on the building permit.
- Any reason deemed by the General Manager to be in the best interests of the District and/or homeowner/resident.

3080.42 Non-valid reasons for removing trees:

- Nuisances, such as dropping leaves, root ridges in lawn, messy fruit, berries or flowers, etc.
- Roots getting into sewer lines. It is the responsibility of the homeowner/resident to maintain their sewer line so that leakage from a line is repaired promptly. This will avoid tree roots from seeking the seeping nutrients and moisture from the line.
- Invasion of roots into water meter box that can be remedied with root pruning. The General Manager will determine who is financially responsible for any necessary root pruning.
- Hardscape damage where repair coupled with root pruning can save the tree.

3080.50 Requests for Tree Inspections, Trimming or Removal and Disposition:

3080.51 A request for parkway tree inspection, trimming or, removal may be made in person, by telephone or in writing to the District office. A CSR will be generated, an inspection will be performed and a disposition will be made by the District.

3080.52 The action taken or not taken on a request will be reported back to the homeowner or his/her agent by the District. A requester has the right of appeal the final

disposition of the request by the General Manager to the Board on any actions taken/not taken.

3080.60 Tree Protection: Unauthorized and/or unpermitted removal, damage, and/or pruning to or of any portion of a parkway tree is a misdemeanor punishable by 6 months in jail and/or a \$1,000 fine. In addition to the penalties set forth in Policy No. 3098, the District may also seek restitution for damages to District property as set forth herein. In the case of complete tree removal, or unauthorized tree pruning or root removal resulting in a tree being damaged beyond recovery or such that it poses an unacceptable safety risk and has to be removed, the responsible person shall be liable to the District for: (a) the appraised value of the removed tree based on the International Society of Arboriculture (ISA) trunk formula method; and (b) the cost of a 24-inch box replacement tree. If unauthorized tree pruning results in a loss of 40% or more of the live crown the responsible person will be required to pay to the District the difference between the appraised tree value of the tree before and the appraised tree value after the damage occurred. The responsible person shall also be liable for any and all costs and expenses to the District caused by a violation of this policy, including but not limited to, any appraisal costs as set forth herein.

3080.61 Parkway may not be cemented, bricked or covered with vegetation which prevents the planting of a parkway tree. In addition, such paving-over, cementing-over or other covering of a parkway shall be subject to the applicable permitting or other approval requirements of the County of Orange. For example, and not by way of limitation, any such paving-over, cementing-over or other covering of a parkway shall be subject to the applicable urban storm water runoff permit regulations as set forth in the applicable National Pollution Discharge Elimination System (NPDES) permit program as established and administered by the County of Orange or other applicable state or regulatory body.

3080.62 Parkway may be covered with grass or other plants, so long as such grass or plants are not more than two (2) feet high or closer than 1½ feet from the base of the tree. Artificial turf shall not be installed closer than three (3) feet from the base of the tree. Any work on the parkway that could involve the pruning of tree roots larger than two (2) inches in diameter must first be approved by the District.

3080.63 No swings or attachments of any type may be placed on parkway or median trees.

3080.70 Retention of Arborist: The District will retain an ISA certified arborist to assist the General Manager in the performance of specifications called out in the Scope of Services as detailed in the Agreement with the contract arborist.

3080.80 Enforcement of Policy:

3080.81 Pursuant to Government Code Section 61600(j) and (k), the District has the authority to perform work and improvements on or about any street in Rossmoor, subject to the consent of the County.

3080.82 Pursuant to Government Code Section 61621.5(c), Resolution 99-1-13-1 provides that the County has granted the District the power of a county road commissioner to regulate certain activities. In its role as a County Road Commissioner, the District may regulate and perform certain activities in connection with the planting, removing, cutting, injuring or destroying any tree, shrub, plant or flower growing on any parkway or median. Pursuant to Government Code Section 61621.5(c) and Streets and Highways Code Section 1460, anyone who violates this policy will be subject to the appropriate legal remedy including liability for all expenses and damages caused thereby to the County and/or the District and could be found criminally liable for a misdemeanor.

3080.83 The District may notify the responsible person of any violation of this policy. If the responsible person refuses to correct the violation after such notification, the District shall pursue other appropriate legal remedies for the collection of damages in order to compensate the District for all costs and expenses caused by the violation of this policy. Nothing in this policy shall require the District to notify the responsible person prior to initiating a criminal action and/or issuing an administrative citation.

3080.84 The District may enforce this Policy by criminal, civil, and/or administrative action and/or citation. In order for the District to proceed by civil action to enforce or otherwise seek restitution for a violation of this Policy the following procedures shall apply:

- (1) Send the Person a Notice/Demand Letter. The General Manager or his or her designee shall notify any person that his or her actions are in violation of this policy and may provide that person with the opportunity to correct the violation and/or pay the expenses and damages the District incurred in correcting the violation. A demand for such payment shall be in the form of a notice/demand letter which sets forth the violation and the amount due and owing. In regard to correcting the violation, the District may take the initiative to correct the violation, such as replanting a parkway tree and also take the initiative in pursuing recovery of costs and expenses. The notice/letter may also state that the resident must refrain in the future from taking such action that caused the violation to occur. The General Manager shall send a letter via first class mail to the address at which the violation occurred and/or to the last known address of the person causing the violation.
- (2) Appeal to the Board. Any person who disputes the decision of the General Manager sent pursuant to subsection (1), above, may appeal that decision to the Board by filing a written request to the General Manager for the matter to be placed on the Board Agenda for the next scheduled Regular Board meeting and payment of the appeal fee as set forth in the Fee Schedule. Any such appeal must be in writing and must be delivered to the General Manager along with the applicable fee within ten (10) calendar days of the contested action and must state the specific action or inaction that is being challenged. The matter shall be placed on a subsequent Board Agenda if there is insufficient time to place the matter on the agenda for the next regularly scheduled meeting of the Board. The Board shall hold a hearing, admit evidence, and shall render a decision on the matter. The decision of the Board shall be final.
- (3) Civil Litigation. If any person fails or refuses to correct the violation and/or pay the amount owed, the District may pursue civil litigation, including, but not limited to an action for injunctive, declaratory and/or other relief to remedy the violation, prevent future violations and/or obtain a judgment to recover the expenses and damages caused by the violation.

3080.85 Nuisance Enforcement by Civil Action & Attorney's Fees.

- (1) In addition to any other penalties authorized by law, any condition caused or permitted to exist in violation of this Policy shall be deemed a public nuisance and may be abated as such. Each and every day such condition continues shall be regarded as a new and separate offense.
- (2) In addition to other penalties and enforcement mechanisms authorized by law, this Policy may be enforced by injunction issued by the superior court upon the suit of the District.

- (3) In any action, administrative proceeding or special proceeding commenced by the District to abate a public nuisance, to enjoin a violation of any provision of this Policy, to enforce the provisions of this Policy, or to collect a civil debt owing to the District pursuant to this Policy, the prevailing party shall be entitled to recover its reasonable attorney's fees. The recovery of attorney's fees by the prevailing party is limited to those individual actions or proceeding in the District elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorney's fees. Failure to make such an election precludes any entitlement to, or award of, attorney's fees in favor of any person or the District. In no action, administrative proceeding, or special proceeding shall an award of attorney's fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the District in the action or proceeding.

3080.90 Tree/Parkway Committee: The Tree/Parkway Committee is comprised of two Board Members and the General Manager. The President of the Board appoints the members to the Committee. The General Manager shall also provide a quarterly report to the Board giving a summary of all parkway and median tree plantings, trimmings, inspections and removals.

3080.100 Damage Claims: Claims for damages allegedly caused by parkway or median trees should be filed with the District. Such claims will be processed in accordance with District Procedures.

3080.110 Terms: Following are terms as used in this policy:

- **Manicure Trimming**—Ongoing yearly high-quality trimming designed to maintain the shape and characteristics of the tree (commonly referred to as resort style which includes lacing of the canopy). This is not the type of tree trimming as performed by the District.
- **Aesthetic Trimming (pruning)**—Appropriate trimming performed by the District's arborist designed to maintain the general shape of the tree and eliminating dead, damaged or diseased branches and maintaining safety and clearance standards.
- **Grid Trimming**—Regularly scheduled and ongoing aesthetic trimming on a four-year cycle performed by the District's contract Arborist according to a four section grid map of Rossmoor.
- **Safety Trimming**—Performed on an as-needed basis when a tree is identified as posing a hazard to property, street traffic or pedestrian traffic.
- **Root pruning**—The cutting of roots to facilitate the replacement of curbs, gutters or sidewalks.
- **Responsible person** – means any person who violates, or who causes, permits, directs, or knowingly allows another person to violate, any of the provisions of this policy.
- **Appraised value** – shall be based on the International Society of Arboriculture (ISA) trunk formula method which uses a formula to establish the monetary value of a tree based on its size, condition, species, and location.
- **Responsible person** – shall have the same meaning as in Policy No. 3098.

3080.120 Challenging The Administrative and Quasi-Judicial Actions Of The District - Time In Which Actions Must Be Brought.

Any action challenging a final administrative order or decision by the District made as a result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken, and discretion regarding a final and non-appealable determination of facts is vested in the District, or in any or its boards, commissions, officers or employees, must be filed within the time limits set forth in California Code of Civil Procedure Section 1094.6.

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