



Planning Commission Staff Report

June 18, 2009

Project: Tree Preservation and Protection Ordinance Update
Request: That the Planning Commission recommend to the City Council update of Chapter 19.12, Tree Preservation and Protection, of the City's Municipal Code
Location: Citywide
Planner: Christopher Jordan, AICP

Staff Recommendation

Staff recommends that the Planning Commission adopt a resolution (Attachment A) recommending that the City Council amend Chapter 19.12, Tree Preservation and Protection, of the City's Municipal Code as provided in Attachment B.

Background

The City's existing Tree Preservation and Protection Ordinance was carried over upon incorporation in 2000 from the County of Sacramento. The County provisions are targeted at protection of native oak tree stock with a minimum diameter at breast height (dbh) of six inches. The provisions apply throughout the community and require a Tree Permit from the City prior to tree removal or doing work (meaning trimming/pruning, trenching, etc.) within the dripline of the tree. The existing provisions of the Ordinance do not specifically recognize the other varieties of trees that are native to the Elk Grove area or the type of environment (urban or rural) within which the tree is located.

The Conservation and Air Quality Element of the City's General Plan includes goals, policies, and actions related to the preservation and enhancement of the City's urban forest. Programs and actions identified in the General Plan call for the "[p]reservation and protection of the large oak and other tree species which are an important part of the City's historic and aesthetic character" (Focused Goal 4-2). Policy CAQ-8 states that "[t]rees which function as an important part of the City's or a neighborhood's aesthetic character or as natural habitat should be retained to the extent possible during [development design, planning, and approval]." Finally, action CAQ-8-5 directs the update of the Tree Preservation Ordinance to conform to the policies of the General Plan.

Since 2006, staff has been working with the public and various stakeholder groups to update the Tree Preservation Ordinance. Between June 2006 and January 2009, six public workshops have been held. Additionally, as described later in this report, staff has been working with a group of resident stakeholders since February 2009 to refine and work out details of the draft Ordinance.

Staff brought forward a draft Ordinance in July of 2008 for Planning Commission consideration. After reviewing the draft and taking public comment, the Commission directed staff to go back to the public and stakeholders and work out a number of issues, including types of trees covered under the provisions, size, where in the City the tree is located, and mitigation requirements. Since that meeting, staff has held three public workshops and four additional stakeholder meetings to discuss and address these concerns.

Analysis

The draft Tree Preservation and Protection Ordinance (Attachment B) focuses on updating the City's existing provisions found in Chapter 19.12 of the Municipal Code (Attachment C). Where the existing provisions focus specifically on native oak trees with a minimum six inch dbh, the

draft provisions expand protection to other native species of trees and large landmark trees, as directed in the General Plan. Further, the draft incorporates and refines tree protection conditions commonly placed on development projects and extends protection and permit requirements to trees that are protected as part of the development review and approval process.

Public Involvement and Outreach

Central to the Tree Ordinance Update has been the City's extensive public outreach efforts. Since the draft Ordinance was presented to the Planning Commission in July of 2008, staff has conducted three public workshops and four stakeholder meetings.

The three public workshops were held in September and October 2008 and January 2009. These meetings focused on recognizing concerns with the draft presented in July 2008 and identifying potential solutions and modifications. Through this process, staff elected to focus efforts on updating the City's existing Chapter of the Municipal Code, rather than creating new provisions from scratch. An updated draft focused on amendments to Chapter 19.12 was released to the public in early January 2009 and a workshop was held on January 27. Participation at this meeting was the highest of the three-meeting series (12 people). However, while the approach of updating Chapter 19.12 was seen as positive, participants were divided on the proposed permit requirements in the rural area and what size trees would be protected under the Ordinance. There was no consensus from the public to move the draft Ordinance forward.

Following the January 27 meeting, staff designed a more focused public outreach process that centered on a stakeholder working group where parties from different positions would work collaboratively to identify a consensus on changes to the draft. Five individuals were invited to participate in the process – Leo Fassler, Nancy Myers, Cari Seymour, Scott Schafer, and Sharon Lyons. Staff met with the stakeholders on four occasions. The first two meetings (held in late February and early March 2009) focused on identifying the concerns with the draft and outlining consensus-based solutions. The last two meetings (held in late March and late April 2009) focused on reviewing revised drafts of the Ordinance and addressing the remaining concerns.

The draft provisions presented in Attachment B reflect the consensus input and direction provided by the stakeholders and, as such, is their recommendation to the Planning Commission on what the revised Tree Preservation and Protection Ordinance should include.

Focus of the Updated Ordinance

The draft provisions focus on preserving existing trees within the City wherever reasonably possible through the development review process and subsequent activities, such as work within the canopy or within the critical root zone of native trees. Using similar language from the introduction to the Conservation and Air Quality Element of the General Plan, the Ordinance identifies that mature native trees are an important part of the City's aesthetic, open space, and historical heritage, and that they are an "important resource to be protected and conserved."

The draft Ordinance would require someone to get a Tree Permit whenever they are working within the critical root zone (e.g., trenching, grading, filling), working within the canopy (e.g., trimming, pruning), or removing any of the following:

- A protected tree (Any tree identified as part of a development project for protection and preservation);
- A Heritage Tree (a Coast Live Oak, a Valley Oak, a Blue Oak, an Interior Live Oak, an Oracle Oak, a California Sycamore, or a California Black Walnut)

- On property part of a development project, minimum six inches dbh;
- In the urban area, a minimum 11.5 inches dbh;
- In the rural area, a minimum 19 inches dbh;
- Landmark trees (any species of tree with a minimum 31 inches dbh). (See Section 19.12.040)

Exemptions from the Tree Permit requirement are provided for trees that fall due to natural causes and for trees in CSD parks. (See Section 19.12.050)

Generally the approving authority for a Tree Permit is the Planning Director upon a recommendation of the City Arborist, except for development projects, where the approving authority is the approving body for the project (e.g., Planning Commission, City Council). (See Section 19.12.060)

If tree removal is being proposed, the ordinance requires that the City's Arborist prepare an Arborist Report, which analyzes the basis for the removal. Factors reviewed include condition of the tree, identification of alternative to tree removal, effect of removal on the site, and present and future shade potential with regard to solar heating and cooling. (See Section 19.12.080)

The removal of trees as part of a development project requires mitigation. Trees removed from single family residential lots are exempt from this requirement. There are five options for mitigation, ranging from onsite/offsite relocation, onsite/offsite replacement, and payment into the Tree Mitigation Fund. (See Section 19.12.090)

Tree Permit decisions, like other permits, may be appealed. The Ordinance establishes a new Appeals Board, made up of the Assistant City Manager, Public Works Director, and Community Enhancement Manager, as the appeal body for appeals of Planning Director decisions. Appeals of the Appeals Board decisions are made by the Planning Commission, and appeals of the Commission's decisions are made by the City Council. (See Section 19.12.120)

The Ordinance includes development control measures to mitigate potential impact and damage to trees protected through new development. Many of these provisions are already applied to projects as conditions of approval. They have been updated based upon stakeholder comments and for consistency with the rest of the Ordinance. (See Section 19.12.130)

Financial Impacts

While the Planning Commission does not have discretion over financial decisions related to implementing ordinances, staff has included relevant financial information in this report to assist the Planning Commission in understanding the financial implications of the proposed amendments. Fees to be set by resolution of the City Council as indicated in this Ordinance include the Tree Permit Application Fee, Tree Mitigation Fee, and fines for illegal work.

The existing Tree Permit application fee is \$30. While the draft provisions will require more City staff time to analyze and prepare documentation to support tree permit decisions (e.g., arborist report), staff is not recommending any changes to the application fee. A lower fee could act as an encouragement for homeowners to apply for a permit, which furthers the goals of the Ordinance.

With regard to appeal fees, staff will recommend that the existing appeal to Planning Commission (\$912) and appeal to City Council (\$2,088) fees established for planning permits be used for the Tree Permit. For appeals to the Appeals Board, staff will recommend \$250.

The proposed Ordinance provides development projects with the option of paying an in lieu fee for the removal of trees protected under the Ordinance. The current Tree Mitigation Fee is \$200/inch of diameter for each tree removed.

As proposed, the Tree Ordinance includes fines for illegal work to trees protected by this Ordinance. The current fine is set at \$500 or up to six months in jail, or both. Staff is not recommending any changes to the fine at this time, other than to remove it from the Municipal Code and instead establish it by resolution. Doing so will provide the City with a more effective process in the future to update the fine or index it to the consumer price index, should the Council decide to do so.

Environmental Analysis

The proposal is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines §15308. Categorical Exemption [Class 8, Section 15308] exempts actions taken by regulatory agencies to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. This ordinance shall create a regulatory process to protect trees in Elk Grove. The ordinance does not involve or cause any physical change to the environment. No circumstances exist that create a reasonable possibility that the proposed Ordinance will have a significant adverse effect on the environment.

Summary

The draft Tree Preservation and Protection Ordinance (Attachment B) focuses on updating the City's existing provisions found in Chapter 19.12 of the Municipal Code (Attachment C). The draft provisions expand protection to other native species of trees and large landmark trees, as directed in the General Plan. Further, the draft incorporates and refines tree protection conditions commonly placed on development projects and extends protection and permit requirements to trees that are protected as part of the development review and approval process.

Recommended Motions

Should the Planning Commission agree with staff's recommendation, the following motion is suggested.

"I move that the Planning Commission adopt a resolution recommending that the City Council adoption of the draft revisions to Chapter 19.12, Tree Preservation and Protection, of the City's Municipal Code as provided in Attachment B."

Findings

CEQA

Finding: The proposal is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines §15308.

Evidence: Categorical Exemption Class 8, Section 15308, exempts actions taken by regulatory agencies to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. This ordinance revises and updates the City's existing regulatory process to protect trees in Elk Grove. The ordinance does not involve or cause any physical change to the environment. No circumstances exist that create a reasonable possibility that the proposed ordinance will have a significant adverse effect on the environment. Therefore the proposed amendments qualify for this exemption and no further environmental review is required.

General Plan Consistency

Finding: The project is consistent with the goals, policies, and actions of the Elk Grove General Plan.

Evidence: The Conservation and Air Quality Element of the City's General Plan includes the City's goals, policies, and actions related to the preservation and enhancement of the City's urban forest. The proposed update of the City's Tree Preservation and Protection Ordinance focuses on expanding protection to other varieties of native trees and other larger, landmark trees. Specifically, the proposed amendments (1) establish a City Arborist who is a certified arborist; (2) requires a tree permit for work within the critical root zone (e.g., trenching, grading, filling), work within the canopy (e.g., trimming, pruning), or removing trees protected under the provisions; (3) establishes a requirement for an arborist report to be completed prior to deciding a tree permit that proposes removal of a tree; (4) requires mitigation for loss of trees as part of development projects; (5) includes control measures for development to ensure impacts to existing trees are minimized; and (6) continues the Tree Mitigation Fund which is used to further tree maintenance and tree replacement through tree planting and preservation programs and public education programs regarding trees.

These amendments implement General Plan Policy CAQ-8 and associated action items 1, 5, 7, and 9, which call for (1) retention of existing tree stock as part of new development; (2) the establishment of criteria as part of the review process for the removal of trees; (3) updating the Tree Preservation and Protection Ordinance consistent with the General Plan; (4) the creation of a City Arborist position filled by a "qualified arborist;" and (5) providing funds for education, programs, and materials for tree preservation and replanting.

Therefore, the proposed amendments directly implement the policies and action items of the General Plan and as such are consistent with the General Plan.

Attachments

- A. Draft Planning Commission Resolution
- B. Draft Tree Preservation and Protection Ordinance
- C. Existing Chapter 19.12

**Attachment A
Draft Resolution**

RESOLUTION NO. 2009-__
June 18, 2009

**A RESOLUTION OF THE CITY OF ELK GROVE PLANNING COMMISSION
RECOMMENDING THAT THE CITY COUNCIL AMEND
CHAPTER 19.12, TREE PRESERVATION AND PROTECTION, OF
THE CITY OF ELK GROVE MUNICIPAL CODE**

WHEREAS, the City's existing Tree Preservation and Protection Ordinance was carried over upon incorporation in 2000 from the County of Sacramento; and

WHEREAS, The Conservation and Air Quality Element of the City's General Plan includes goals, policies, and actions related to the preservation and enhancement of the City's urban forest; and

WHEREAS, General Plan action CAQ-8-5 directs the update of the Tree Preservation Ordinance to conform to the policies of the General Plan; and

WHEREAS, staff has conducted numerous public workshops and stakeholder meetings to refine the provisions so that they address the goals and objectives of the General Plan; and

WHEREAS, the Planning Commission held a duly noticed public hearing as required by law to consider all of the information presented by staff, information presented by the project proponent, and public testimony presented in writing and at the meeting;

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of Elk Grove recommends that the City Council amend Chapter 19.12, Tree Preservation and Protection, of the City of Elk Grove Municipal Code as described in the June 18, 2009 staff report, based on the following findings:

CEQA

Finding: The proposal is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines §15308.

Evidence: Categorical Exemption Class 8, Section 15308, exempts actions taken by regulatory agencies to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. This ordinance revises and updates the City's existing regulatory process to protect trees in Elk Grove. The ordinance does not involve or cause any physical change to the environment. No circumstances exist that create a reasonable possibility that the proposed ordinance will have a significant adverse effect on the environment. Therefore the proposed amendments qualify for this exemption and no further environmental review is required.

General Plan Consistency

Finding: The project is consistent with the goals, policies, and actions of the Elk Grove General Plan.

Evidence: The Conservation and Air Quality Element of the City's General Plan includes the City's goals, policies, and actions related to the preservation and enhancement of the City's urban forest. The proposed update of the City's Tree Preservation and Protection Ordinance focuses on expanding protection to other varieties of native trees and other larger, landmark trees. Specifically, the proposed amendments (1) establish a City Arborist who is a certified arborist; (2) requires a tree permit for work within the critical root zone (e.g., trenching, grading, filling), work within the canopy (e.g., trimming, pruning), or removing trees protected under the provisions; (3) establishes a requirement for an arborist report to be completed prior to deciding a tree permit that proposes removal of a tree; (4) requires mitigation for loss of trees as part of development projects; (5) includes control measures for development to ensure impacts to existing trees are minimized; and (6) continues the Tree Mitigation Fund which is used to further tree maintenance and tree replacement through tree planting and preservation programs and public education programs regarding trees.

These amendments implement General Plan Policy CAQ-8 and associated action items 1, 5, 7, and 9, which call for (1) retention of existing tree stock as part of new development; (2) the establishment of criteria as part of the review process for the removal of trees; (3) updating the Tree Preservation and Protection Ordinance consistent with the General Plan; (4) the creation of a City Arborist position filled by a "qualified arborist;" and (5) providing funds for education, programs, and materials for tree preservation and replanting.

Therefore, the proposed amendments directly implement the policies and action items of the General Plan and as such are consistent with the General Plan.

The foregoing Resolution of the City of Elk Grove was passed and adopted by the Planning Commission on the 18th day of June 2009, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Laura Gray, PLANNING SECRETARY

Brian Villanueva, CHAIR of the
PLANNING COMMISSION

Attachment B
Draft Tree Preservation and Protection Ordinance

19.12 Tree Preservation and Protection

Sections:

- 19.12.010 Purpose
- 19.12.020 Interpretation
- 19.12.030 Definitions
- 19.12.040 Tree Permit Required When
- 19.12.050 Exemptions from Tree Permit Requirements
- 19.12.060 Approving Authority
- 19.12.070 Application Procedure
- 19.12.080 Decision Criteria for Tree Removal
- 19.12.090 Mitigation Required for Tree Removal as Part of Development Projects
- 19.12.100 Conditions
- 19.12.110 Tree Permit Process
- 19.12.120 Appeals
- 19.12.130 Development Control Measures
- 19.12.140 Replanting Security
- 19.12.150 Other Species of Trees
- 19.12.160 Emergencies
- 19.12.170 Fees
- 19.12.180 Stop Work Order
- 19.12.190 Suspension, Revocation, and Restoration
- 19.12.200 Violation a Misdemeanor and Nuisance
- 19.12.210 Tree Preservation Fund

19.12.010 Purpose

In order to promote the health, safety, and general welfare, to preserve and protect significant historical heritage values, to enhance the beauty of the City of Elk Grove (City), and to complement and strengthen zoning, subdivision and land use standards and regulations, while at the same time recognizing individual rights to develop private property, the City Council adopts this Chapter, establishing basic standards and measures for the preservation and protection of trees. It shall be the policy of the City to preserve all trees wherever reasonably possible through its development review process. Mature native trees form an important part of Elk Grove's aesthetic, open space, and historical heritage. Trees are an important resource to be protected and conserved because they provide shade, temperature modulation, shelter for animals, a reduction in air pollution, and improvements in water quality. They also provide shade for other plants and create microclimates that provide relief from the primarily flat arid terrain of the City. Preservation of large oak and other native tree species, which are an important part of the City's historic and aesthetic character, is a goal of the City as described in the General Plan. It is, therefore, the intent of the City through these provisions to preserve existing trees through both the development review process and subsequent activities, such as work within the canopy or within the critical root zone of native trees.

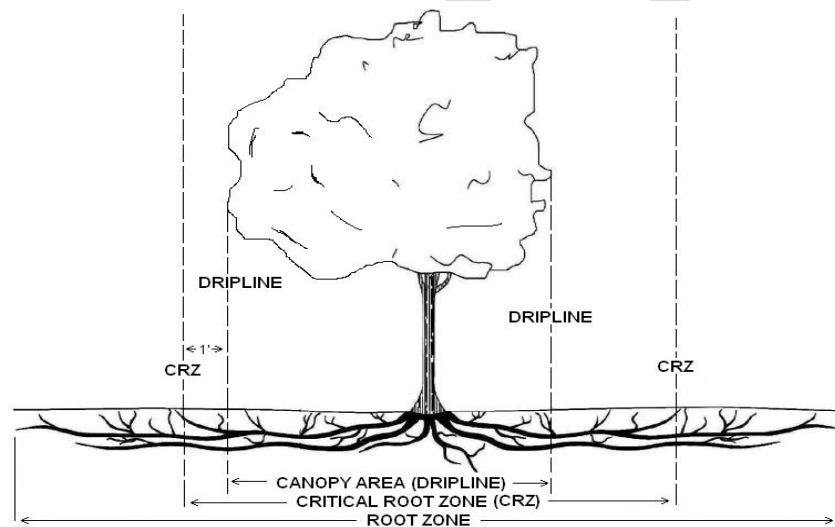
19.12.020 Interpretation

Interpretation of this Chapter rests with the Planning Director.

19.12.030 Definitions

For the purposes of this Chapter, certain words or terms used herein shall be interpreted as follows.

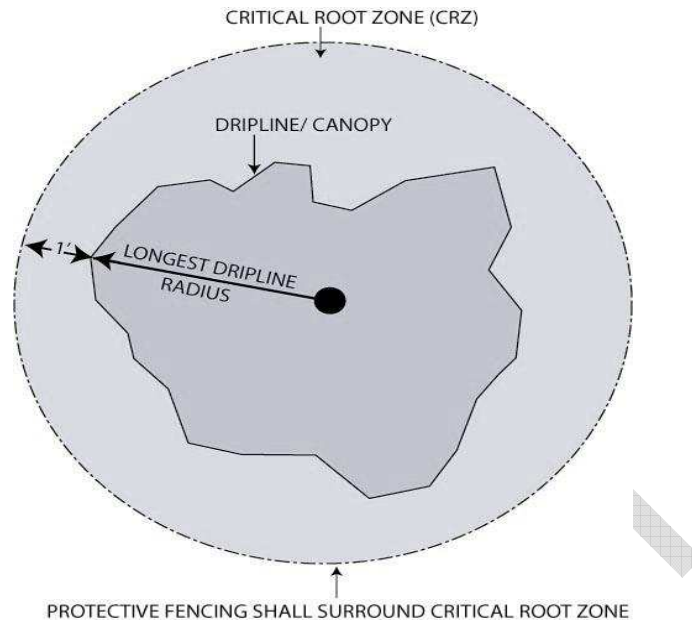
- A. **Approving Body.** As used in this Chapter, "approving body" shall be any one of the following: City Council, Planning Commission, or Planning Director.
- B. **Arborist.** An individual who is certified as an arborist by the International Society of Arboriculture (ISA) and who agrees to perform all work to the most current American National Standard Institute (ANSI) A300 standards.
- C. **Arborist Report.** A report prepared by an arborist containing information required under this Chapter as part of a Tree Permit application.
- D. **City Arborist.** The Arborist for the City of Elk Grove, who shall be an ISA-certified arborist.
- E. **Critical Root Zone (CRZ).** A circular area around a tree with a radius measured to the tree's longest existing dripline radius plus 1 foot.



- F. **Critical Tree Disease:** Any tree disease identified by the City Arborist as a severe threat to trees in Elk Grove including but not limited to Dutch Elm Disease and Sudden Oak Death.
- G. **Crown.** The upper part of a tree, measured from the lowest branch, including all the branches and foliage.
- H. **dbh.** Diameter at breast height is the diameter of a tree measured at four and one-half feet above the ground while standing on the high side of the tree. The diameter may be calculated by use of the following formula:

$$\text{diameter} = \text{circumference} / 3.142$$
- I. **Development Projects.** As used in this Chapter, a "Development Project" shall be a project that must be approved by one of the following approving bodies: City Council, Planning Commission, or Planning Director. Development projects shall include, but are not limited to: Design Review, Tentative Subdivision Map or Tentative Parcel Map, a rezone, a variance, or a conditional use permit.
- J. **Dripline.** An area delineated by projection of the periphery of the crown area of a tree down to the ground surface.

- K. **Dripline radius.** A radius equal to the horizontal distance from the trunk of the tree to the end of the longest branch and is not the same as the critical root zone.



- L. **Grading.** The act or result of digging, excavating, transporting, spreading, depositing, filling, compacting, settling, or shaping of land surfaces and slopes, and other operations performed by or controlled by human activity involving the physical movement of rock or soil.
- M. **Heritage Tree.** Any tree native to the Elk Grove area which shall specifically include the following species:
1. Coast Live Oak;
 2. Valley Oak;
 3. Blue Oak;
 4. Interior Live Oak;
 5. Oracle Oak;
 6. California sycamore; and
 7. California black walnut.
- N. **Landmark Tree.** Any species of tree with a minimum 31 inches dbh.
- O. **Planning Director.** The Planning Director of the City of Elk Grove or his or her designee.
- P. **Private Land.** Shall include all land owned by private interest, and not designated public land.
- Q. **Protected Tree.** Any tree identified as part of a development project for protection and preservation. A protected tree may include trees other than those defined herein as Heritage Trees. Examples include, but are not limited to, trees within a Tree Protection Easement. These trees shall be protected by this Chapter in perpetuity beyond the completion of the development project.
- R. **Public Land.** Shall include all lands in public trust, federal, state, and local, including but not limited to, public rights of way, easements, and parks.

- S. **Public Trees.** Shall be any tree with one-half, or more, of its trunk or branches on or above public land.
- T. **Rural Area.** The Rural Area shall be defined as that area designated in the General Plan as Rural Residential
- U. **Single Family Residential Lot.** Single family residential lot shall mean any lot located in any Agricultural, Agricultural Residential, or Residential zoning district and developed with one primary dwelling unit (e.g., a single family home on an RD-5 lot).
- V. **Tree.** As used in this Chapter, a "tree" shall mean any heritage tree or protected tree as defined in this Chapter.
- W. **Trimming and Pruning.** As used in this Chapter, "trimming" and "pruning" shall mean those activities undertaken to remove or otherwise reduce limbs or branches of a tree by cutting them with a minimum cut diameter of four inches.
- X. **Tree Permit.** A Tree Permit is an authorization by the City for the removal, pruning, or work in the critical root zone of a tree.
- Y. **Urban Area.** The Urban Area shall be all areas of the City that are not the Rural Area as defined herein.

19.12.040 Tree Permit Required When.

A Tree Permit shall be required when working within the critical root zone (e.g., trenching, grading, filling), working within the canopy (e.g., trimming, pruning), or removing the following tree(s), on any property, public or private, for all of the following circumstances:

- A. Protected trees as defined in Section 19.12.030.Q (Protected Tree);
- B. Heritage trees on property that is part of a development project with a minimum six inches dbh;
- C. Heritage trees in the urban area with a minimum 11.5 inches dbh;
- D. Heritage trees in the rural area with a minimum 19 inches dbh; and
- E. Landmark trees.

19.12.050 Exemptions from Tree Permit Requirements.

A Tree Permit shall specifically not be required as follows:

- A. **Act of Nature.** When the tree has fallen due to natural causes (e.g., storm) and the work is limited to debris cleanup and tree removal (e.g., clearing the tree from the road, removal of material from property);
- B. **CSD Parks.** The preservation or removal of trees within parks, parkways, and public recreation easements owned by the Cosumnes Community Services District shall be the sole responsibility of the Cosumnes CSD and shall not be subject to this Chapter.

19.12.060 Approving Authority.

The designated approving authority for Tree Permits shall be as provided below:

- A. **Tree Located on Private Land and Not Part of a Development Project.** The preservation, trimming, pruning, work in the critical root zone, or removal of trees within privately owned land and not in conjunction with a pending development project shall be the responsibility of the Planning Director. The Planning Director shall make a decision on the request after a recommendation from the City Arborist.
- B. **Tree Located on Private Land and Part of a Development Project.** The preservation, trimming, pruning, work in the critical root zone, or removal of trees as a condition of approval of a development project shall be the responsibility of the approving body which grants approval of the project (e.g., Planning Commission, City Council). The approving body shall make a decision after a recommendation from the City Arborist.
- C. **Tree Located on Public Land.** Preservation, trimming, pruning, work in the critical root zone, or removal of trees within City owned lands, parks, parkways, rights-of-way, or public easements shall be the responsibility of the Planning Director. The Planning Director shall make a decision on the permit after a recommendation from the City Arborist. When the tree is located within the City's public right-of-way, the Planning Director's decision shall also be after a recommendation from the Public Works Director.

19.12.070 Application Procedure.

- A. **Generally.** When a Tree Permit is required by this Chapter, the person or property owner desiring to complete the work shall make an application for a Tree Permit to the Planning Director on a form provided by the City. The application form shall be accompanied by the following information so that the City may adequately review the request. The request shall be filed a minimum of ten days prior to the work being completed. One Tree Permit application may cover one or more trees.
 - 1. A brief statement of the reasons for the proposed trimming, pruning, work in the critical root zone, or removal;
 - 2. Consent of the owner of record of the land on which the proposed activity is to occur;
 - 3. A tree survey with the accurate location, number, species, size (dbh), and approximate age (if known) of the tree or trees to be removed or worked on within the critical root zone;
 - 4. If the project involves other discretionary development, then this survey must be part of the total development plan and must also describe any tree or trees which could be affected by the proposed development; and
 - 5. Any other pertinent information requested by the City Arborist.
- B. **Tree Removal as Part of a Development Project.** When a development project proposes the removal of trees, no separate application for a Tree Permit shall be required as part of the application for the development project. However, all the information required under 19.12.070.A must be included with the development project application and no trees shall be authorized for removal until:
 - 1. The entitlement has been approved; and

2. City staff has field-verified that proposed tree removal is consistent with the approved plan. It shall be the responsibility of the applicant to contact the City for field verification prior to tree removal.
- C. **Notice for Tree Removal.** If a tree to be removed is located within 25 feet of a public right-of-way, the tree shall be posted by the applicant with a notice provided by the City facing towards the public right-of-way, indicating that the tree has been identified for removal. The notice shall be posted for a minimum of ten calendar days before the tree may be removed. The notice shall direct individuals to contact the Planning Department for more information regarding the tree.

19.12.080 Decision Criteria for Tree Removal.

- A. Prior to the issuance of a Tree Permit for tree removal, the City Arborist shall prepare an Arborist Report. The report shall identify the basis, if any, for supporting the removal of the tree(s). The Arborist Report shall include an analysis of the following factors:
1. The condition of the tree with respect to disease, general health, damage, structural integrity, and whether or not the tree acts as a host for an organism which is parasitic to another species of tree which is in danger of being exterminated by the parasite;
 2. Whether or not the preservation of the tree would unreasonably compromise an owner's development of land;
 3. Identification of alternatives that would allow for the preservation of the tree(s);
 4. The approximate age of the tree compared with the average life span for that species;
 5. Age of tree, specifically with regard to whether or not removal of the tree would encourage healthier, more vigorous growth of other trees in the area;
 6. The number of existing trees in the area and the effect of the tree removal upon public health, safety, prosperity of surrounding trees, visual impact, and general welfare of the area;
 7. The number of healthy trees that a given parcel of land will support, with and without the proposed development;
 8. The effect of tree removal on soil stability/erosion, particularly near water courses, drainage ditches, or on steep slopes, or the effect on runoff interception;
 9. The potential for the tree to be a public nuisance, or interfere with utility service, as well as its proximity to existing buildings and structures;
 10. Present and future shade potential with regard to solar heating and cooling;
 11. Any other information the City Arborist finds pertinent (e.g., site conditions, other vegetation).
- B. The approving authority shall determine, after preparation of the Arborist Report and a recommendation by the City Arborist, whether or not the tree(s) cannot or should not be retained. The determination of the approving authority in granting or denying a Tree Permit for tree removal shall be based upon the factors analyzed in the Arborist Report.

19.12.090 Mitigation Required for Tree Removal.

When tree removal is authorized as part of development project approval, the following mitigation measures shall be incorporated and required. No mitigation is required for individual tree removal on single family residential lots. These measures are listed in order of priority and the applicant shall reasonably prove, as determined by the approving body, that the first mitigation measure cannot be implemented prior to moving to the next option, and so forth through the list. Table 19.12-1 identifies these mitigation measures and ranks them in priority with 1 being the highest and 5 being the lowest. The mitigation determined appropriate for the removal of the tree shall be approved by the Planning Director after a recommendation of the City Arborist.

- A. Onsite relocation of the tree(s);
- B. Offsite relocation of the tree(s);
- C. Onsite replacement of the tree(s) at a ratio of two inch dbh replacement for every one inch dbh removed, above and beyond any other tree planting required by the City (e.g., street trees for new subdivisions). In such instances, one 5-gallon container is equivalent to ½ inch dbh, one 15 gallon container is equivalent to one inch dbh, one 24 inch box is equivalent to four inches dbh, one 60 inch box is equivalent to five inches dbh, and a 72 inch box is equivalent to six inches dbh, subject to field verification of the City Arborist. The replacement tree(s) shall be subject to approval by the City Arborist. Heritage tree(s) are the preferred form of mitigation;
- D. Offsite replacement at the ratio provided in subsection C above;
- E. Payment by the applicant into the Tree Mitigation Fund, as determined by City resolution. Payment into the mitigation fund shall not be required when one of the following situations exists:
 - 1. The tree is being removed because it poses a serious danger to life or property which cannot be easily addressed through simple trimming as determined by the City Arborist; or
 - 2. The tree is being removed to protect tree(s) in better health or size as determined by the City Arborist.

**Table 19.12-1
Mitigation Matrix for Tree Removal as Part of a Development Project**

Mitigation	Ratio (if required)	Priority
Onsite relocation of the tree	-	1
Offsite relocation of the tree	-	2
Onsite replacement	2 inch dbh/1 inch dbh removed; the following equivalent sizes shall be used: - 1 one-gallon container = ½ inch dbh - One 15 gallon container = 1 inch dbh - One 24 inch box = 4 inch dbh - One 60 inch box = 5 inch dbh - One 72 inch box = 6 inch dbh	3

Mitigation	Ratio (if required)	Priority
Offsite replacement	2 inch dbh/1 inch dbh removed; the following equivalent sizes shall be used: - 1 one-gallon container = ½ inch dbh - One 15 gallon container = 1 inch dbh - One 24 inch box = 4 inch dbh - One 60 inch box = 5 inch dbh - One 72 inch box = 6 inch dbh	4
Payment to Tree Mitigation Fund	Rate per one inch dbh removed set by City Council resolution	5

19.12.100 Conditions.

The approving authority may impose conditions and/or require guarantees for the Tree Permit to ensure compliance with this Chapter in order to ensure the continued health of the tree(s) addressed in the Tree Permit (if not being removed) or the health of neighboring trees.

19.12.110 Tree Permit Process.

- A. If a permit is denied, the Planning Director shall provide written notification, including the reasons for denial, to the applicant.
- B. A granted permit shall be valid for a period of one year from the date of issuance. An extension of time may be granted but shall not exceed six months.
- C. It shall be the responsibility of the person pruning, trenching, grading or filling within the critical root zone or cutting, destroying or removing any tree under this Chapter to have the Tree Permit or a copy of the conditions of approval imposed by the approving body at the tree removal site.
- D. The permit, or the conditions of approval granted by the approving body, shall entitle the applicant to conduct the approved work on the tree(s) identified under the permit. All other work outside the scope of the approved permit shall be considered a violation of this Chapter.

19.12.120 Appeals.

- A. **Appeal Authority.** Any decision made by any approving authority (other than the City Council) may be appealed. Table 19.12-1 describes the appeal authority relative to the approving authority for the Tree Permit.
- B. **Appeals Board Created.** In order to provide an opportunity for an expedited appeal of a decision by the City Arborist, the City does hereby establish an appeals board. The appeals board shall consist of three members, made up of the Assistant City Manager of Development Services, the Public Works Director, and the Community Enhancement Manager.

**Table 19.12-1
Appeal Authority**

Approving Authority for Action Being Appealed	Appeal Authority		
	Appeals Board	Planning Commission	City Council
Planning Director	X		
Appeals Board		X	
Planning Commission			X

- C. **Filing an Appeal.** Appeals must be submitted in writing to the City Clerk within ten days of the date on which the original decision occurred. Appeals shall include a brief statement of the facts and grounds of appeal, and shall be signed by the appellant. The appeal must also be accompanied by the appeal fee, as established by City Council resolution. Upon receipt of said appeal, the City Clerk shall set the item on the agenda for the appeal authority not later than thirty (30) days from the date of filing said appeal, and shall notify the appellant of the hearing date. The City Clerk shall at the time of setting the date of the hearing also mail a copy of the appeal, together with a notice of hearing to each member of the appeal authority and the City Arborist.
- D. **Appeal Hearing and Action.** Each appeal shall be considered a de novo (new) and the Appeal Authority may reverse, modify or affirm the decision in whole or in part. In taking its action on an appeal, the Appeal Authority shall state the basis for its action. The Appeal Authority may modify, delete, or add such conditions as it deems necessary. The Appeal Authority may also refer the matter back to the original Approving Authority for further action. Following the hearing of any such appeal, the appeal authority may affirm, reverse, or modify the former action. The action of the City Council on any such appeal shall be final and conclusive.

19.12.130 Development Control Measures.

The approving authority may mandate any or all of the following control measures to mitigate damage to trees protected through new development project approval:

- A. A circle with a radius measurement from the trunk of the tree to the tip of its longest limb shall constitute the critical root zone of all trees to be retained and all portions of off-site tree driplines which extend into the site, and shall not be cut back in order to change the dripline. Removing limbs which make up the driplines does not change the protected zones.
- B. Chain link or City approved barrier shall be installed one foot outside the critical root zone of the on-site tree(s) to be retained and all portions of off-site tree(s) critical root zone which extend onto the site, prior to initiating project construction, in order to avoid damage to the trees and their root systems. The barrier around a tree's critical root zone may be moved to allow building construction when such encroachment has been previously authorized. The new barrier locations shall be four feet outside the structure wall and/or driveway location. Orange plastic netting is not a permitted barrier type.
- C. All driveways which pass through the critical root zone of the on-site trees to be retained and all portions of off-site tree driplines which extend on the site shall be constructed such that the entire driveway section is placed directly above existing grade. No excavation for driveway construction shall be allowed within the critical root zone except minor excavation associated with the installation of piped aeration systems.
- D. Any pruning of retained trees shall be supervised by a certified arborist and shall be completed to the most current ISA standards ("Tree Pruning Guidelines") and American National Standards Institute (ANSI) A300 standards. Branch and limb pruning shall be limited to that which has been deemed necessary in order to correct a safety hazard, structural defect, crown cleaning, or arborist recommended pruning

- in the tree. Pruning due to canopy encroachment by buildings shall be limited to the minimum amount needed to safely accommodate the structure while still maintaining the tree.
- E. All trees on site shall be pruned, as per arborist recommendations, prior to starting any site improvements. Any pruning of a tree shall be supervised by a certified arborist.
 - F. No signs, ropes, cables (other than those which may be recommended by a certified arborist to provide limb support) or any other item shall be attached to the on-site trees to be retained and all portions of off-site tree driplines which extend onto the site.
 - G. No vehicles, construction equipment, mobile home/office, supplies, materials or facilities shall be driven, parked, stockpiles or, located within the dripline area of the on-site trees to be retained and all portions of the off-site tree driplines which extend onto the site.
 - H. No grading (grade cut or fills) shall be allowed within the critical root zone of the on-site trees to be retained and all portions of off-site trees which extend onto the site with the exception of approved encroachment areas on the Final Development Plans. If, in the opinion of the certified arborist, permitted grading in the critical root zone is severe, then the affected tree shall be retained on-site but determined lost, and mitigation as required by the approving body shall be imposed.
 - I. No trenching shall be allowed within the critical root zone of the on-site trees to be retained and all portions of the off-site tree driplines which extend onto site. If it is absolutely necessary to install underground utilities within the dripline of the tree, the utility line shall be bored or drilled under the direct supervision of a certified arborist.
 - J. Landscaping beneath the on-site trees to be retained and all portions of off-site tree driplines which extend on the site include shall be consistent with ISA recommended provisions for plantings under trees. The only plant species which shall be planted within the driplines of trees are those which are tolerant of the natural semiarid environs of the trees. Limited drip irrigation approximately monthly during late spring, summer and early fall is recommended for understory plants. Non-plant materials such as river gravel, woodchips, etc, may be used in limited cases upon approval by the City Arborist.
 - K. No in the ground sprinkler or irrigation system shall be installed in such a manner that irrigates the ground within the critical root zone of the on-site trees to be retained and all portions of off-site tree driplines which extend onto the site. An "above ground drip irrigation system", drip lines placed on natural grade and all emitters shall be placed on grade, will be permitted under tree driplines. No trenching for irrigation lines will be permitted under critical root zones.
 - L. Prior to installation of new asphalt, weed control chemicals shall not be applied where they can leach into the dripline of any protected tree(s).
 - M. During construction, the frequency and amount of water for protected trees shall not differ from that received prior to construction
 - N. Paving within the critical root zone of trees should be stringently minimized and only allowed under approval by the City Arborist. When pavement is absolutely necessary, porous material shall be used, or root aeration measures shall be utilized.

19.12.140 Replanting Security.

- A. Adequate security may be required for any project for which a permit or other approval is required pursuant to provisions of this Chapter or the Zoning Code. The purpose of such security shall be to guarantee the applicant's compliance with conditions of approval and City provisions regarding tree protection and preservation. Security may also be required at the discretion of the approving body to insure to completion of any additional work specified as a condition of permit approval or other approvals.
- B. The security shall be in the amount of 100 percent of the estimated cost of the required work.
- C. The security may be in the form of a letter of credit, cash deposit, a combination thereof, or other acceptance method of security by the City and shall be approved by the City Attorney.
- D. The security may be required by the approving body whenever it appears that substantial work is required by the City or its agencies on the following:
 1. Land containing trees;
 2. Substantial grading is required;
 3. When action may be required by the City or any of its agencies to correct a violation of the Zoning Code or other written policies or regulations of the City.
- E. The terms and conditions of the security shall be determined by the approving body and shall be stated in the conditions of approval.
- F. Security posted on actual work required shall be maintained for a period of time not to exceed five years.
- G. Any interest gained on case security posted by requirement of the agency shall accrue to the applicant and his or her designee.

19.12.150 Other Species of Trees.

The approving body shall have the authority to adopt mitigation measures as conditions of approval for development projects in order to protect other species of trees, in addition to heritage trees and landmark trees. Violations of such adopted conditions shall be subject to the penalties described in Sections 19.12.180, 19.12.190, and 19.12.200, of this Chapter. Such trees shall be identified as Protected Trees under this Chapter.

19.12.160 Emergencies.

In case of emergency caused by the tree being in a hazardous or dangerous condition requiring immediate action for the safety of human life or buildings or structures, such tree may be removed by permission of the City Arborist during normal working hours or the fire district at other times.

19.12.170 Fees.

The City Council, by resolution, shall establish a fee to cover the expenses of the application and appeal process.

19.12.180 Stop Work Order.

Whenever the approving authority determines that any permit, or variance, or any action being taken there under, or any action under it without a permit, is in conflict with this Chapter or with the standards established by the City or any department thereof, or other Municipal Code section, regulation, or policy, it shall issue a stop work order which shall prohibit any action there under. Such stop work order shall set forth the alleged violations and may list remedies to be taken to correct the violations. The person receiving such a stop work order shall report in writing to the officer, person or body issuing the order within forty-eight (48) hours regarding the next steps to be taken to correct the violations. A stop work order issued pursuant to this section may be withdrawn by the Planning Department or the officer who issued it upon a finding that the circumstances giving rise to the order no longer exists.

19.12.190 Suspension, Revocation, and Restoration.

In addition to or instead of the measures set forth in this Chapter, the Approving Authority may suspend any permit subject to a public post-suspension hearing upon the finding that a violation of conditions of approval has occurred.

Following the public hearing, if the City revokes the permit or finds that a violation of conditions of approval has occurred, it may require conditions of restoration. Said restoration shall include a requirement to replace in-kind any heritage or landmark tree(s) which have been removed without a permit. Further, the replacement shall consist of specimen trees (no less than a 15-gallon size) having a total combined diameter equal to the total combined diameter of the illegally removed tree(s). If the project site is not capable of supporting all the required replacement trees, the violator shall pay to the City a sum equivalent to the retail cost of the number of trees that cannot be accommodated. These funds will be deposited in the Tree Preservation Fund maintained by the Finance Department.

19.12.200 Violation a Misdemeanor and Nuisance.

Any violation of the provisions of this Chapter is unlawful and a public nuisance, and the fully constituted authorities of the City shall immediately commence an action proceeding for the abatement and enjoinder thereof and shall take other steps in the manner provided by law. The cost of such abatement of the public nuisance shall become a lien on the property pursuant to Government Code Section 38773, et. seq.

A violation of this Chapter is a misdemeanor and is punishable by imprisonment in the County Jail for a period up to six (6) months or by a fine as established by the City Council by resolution, or both.

19.12.210 Tree Preservation Fund.

A Tree Preservation Fund is established for the City of Elk Grove for the purposes of furthering tree maintenance and tree replacement. The monies received in lieu of replacement of removed trees shall be forwarded to the City Treasurer for deposit in the Tree Preservation Fund. Except as provided in this section, under no circumstances shall the funds collected by the City Treasurer for the Tree Preservation Fund be directed to any other fund to be used for any other purposes other than for tree planting and preservation programs and public education programs regarding trees. Tree Preservation Fund monies may be directed by the City Council to non-profit organizations for the implementation of programs consistent with the purposes of the Tree Preservation Fund.

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19.12 Tree Preservation and Protection

Sections:

- 19.12.010 Purpose
- 19.12.020 Interpretation and Severability
- 19.12.030 Definitions
- 19.12.040 Exemptions
- 19.12.050 Tree Permit
- 19.12.060 Prohibition
- 19.12.070 Jurisdiction
- 19.12.080 Application Procedure
- 19.12.090 Decision Criteria
- 19.12.100 Tree Removal Provisions
- 19.12.110 Consideration of Permits
- 19.12.120 Appeal
- 19.12.130 Development Control Measures
- 19.12.140 Replanting Security
- 19.12.150 Other Species of Trees
- 19.12.160 Grading Beneath Tree Driplines
- 19.12.170 Emergencies
- 19.12.180 Fees
- 19.12.190 Stop Work Order
- 19.12.200 Suspension, Revocation, and Restoration
- 19.12.210 Violation a Misdemeanor and Nuisance
- 19.12.220 Tree Preservation Fund
- 19.12.230 Cumulative Penalties

19.12.010 Purpose

For at least several centuries prior to the arrival of the first Spanish explorers in California, native oak trees existed as dominant and magnificent features in the landscape of the Central Valley of California. These trees provided a predominant food staple for original Indian inhabitants, and a major source of firewood and building material for early explorers and settlers. Over the years, the vast majority of these trees have been cleared to accommodate agriculture, burned as firewood and removed to facilitate urban development. Only a small vestige of the original oak woodland forests remains today. The removal of oak trees continues to the present time, and occurs at a much faster pace than natural regeneration. Thus, it has become imperative that an ordinance be established to preserve and protect remaining native oak trees as significant, integral, and outstanding examples of the historical heritage of Sacramento County.

Furthermore, it is recognized that the preservation of trees enhances the natural scenic beauty, sustains the long term potential increase in property values which encourages quality development, maintains the original ecology, retains the original tempering effect of extreme temperatures, increases the attractiveness of the County to visitors, helps to reduce soil erosion, and increases the oxygen output of the area which is needed to combat air pollution.

For these reasons, in order to promote the health, safety, and general welfare, to preserve and protect significant historical heritage values, to enhance the beauty of the County of Sacramento, and to complement and strengthen zoning, subdivision and land use standards and regulations, while at the same time recognizing individual rights to develop private property, the Board of Supervisors adopts this ordinance, establishing basic standards and measures for the preservation and protection of trees.

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It shall be the policy of the County to preserve all trees possible through its development review process. (SCC 480 § 1, 1981.)

19.12.020 Interpretation and Severability

The provisions of this ordinance shall be liberally construed to effectuate their purposes. If any section, clause, provision or other portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. Interpretation of this ordinance rests with the Project Planning Commission. (SCC 480 § 1, 1981.)

19.12.030 Definitions

For the purposes of this ordinance, certain words or terms used herein shall be interpreted as follows: words in the present tense include the future; words in the singular include the plural number.

- A. "Approving Body: As used in this chapter as "approving body" shall be any one of the following: County Board of Supervisors, Director of Public Works, Project Planning Commission, Policy Planning Commission, Board of Zoning Appeals, Subdivision Review Committee, or the Zoning Administrator.
- B. dbh: Diameter at breast height is the diameter of a tree measured at four and one-half feet above the ground while standing on the high side of the tree. The diameter may be calculated by use of the following formula:
$$\text{diameter} = \text{circumference} / 3.142$$
- C. Discretionary Projects: As used in this chapter a "discretionary project" shall be a project that must be approved by one of the following approving bodies: Board of Supervisors, Policy Planning Commission, Project Planning Commission, Board of Zoning Appeals, Subdivision Review Committee, or Zoning Administrator. Discretionary projects shall include, but are not limited to: a special development permit, a parcel map, a parking reduction permit, a rezone, a site plan approval permit, a subdivision map, a variance, or a conditional use permit.
- D. Drip Line: An area delineated by projection of the periphery of the crown area of a tree down to the ground surface. Native Oak Tree: Shall include any of the following: valley oak (*Quercus lobata*), interior live oak (*Quercus wislizenii*), blue oak (*Quercus douglasii*), or oracle oak (*Quercus morehus*)
- E. Private Land: Shall include all land owned by private interest, and not designated public land.
- F. Public Land: Shall include all lands in public trust, federal, state, and local, including but not limited to, public rights of way, easements, and parks.
- G. Public Trees: Shall be any tree with one-half, or more, of its trunk or branches on or above public land.
- H. Tree: As used in this chapter, a "tree" shall mean any living native oak tree having at least one trunk of six inches or more in diameter measured four and one-half (4 1/2) feet above the ground, or a multi-trunked native oak tree having an aggregate diameter of ten inches or more, measured four and one-half (4 1/2) feet above the ground (dbh)

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- I. Tree Permit: A tree permit is an authorization by the Director of Public Works for the removal of a tree.

19.12.040 Exemptions.

Except as provided in subparagraph (c) of this section, this chapter shall not apply to:

- A. Any lot located in the designated urban area (1) created by a final subdivision map, consisting of five or more lots, (2) each lot having an area of 10,000 square feet or less, and (3) developed with a single family detached house, a duplex or a halfplex.
- B. Any lot located in any of the following named subdivisions including all units thereof: Sierra Oaks Vista, Sierra Oaks, Arden Park Vista and Arden Oaks.
- C. No land located in the designated urban area and within the 100 year floodplain shall be exempt from the provisions of this chapter. (SCC 480 § 1, 1981.).

19.12.050 Tree Permit.

No person shall trench, grade or fill within the dripline of any tree or destroy, kill or remove any tree as defined, in the designated urban area of the unincorporated area of Sacramento County, on any property, public or private, without a tree permit, or unless authorized as a condition of a discretionary project approval by the Board of Supervisors, Policy Planning Commission, Project Planning Commission, Zoning Board of Appeals, the Zoning Administrator or the Subdivision Review Committee. (SCC 480 § 1, 1981.)

19.12.060 Prohibition.

No County agency or Department shall issue tree cutting, encroachment or any other permits which purport to authorize a use, construction, or other activity which is subject to the provisions of this ordinance or the zoning code prior to review and approval as provided in this chapter. (SCC 480 § 1, 1981.)

19.12.070 Jurisdiction.

- A. Private Land Not in Conjunction with Other Discretionary Development. The preservation or removal of trees within privately owned land and not in conjunction with a previously approved discretionary development project shall be the responsibility of the Director of Public Works.
- B. Discretionary Project. The preservation or removal of trees as a condition of approval of a discretionary project shall be the sole and continuing responsibility of the approving body which granted approval of the project.
- C. Parks. The preservation or removal of trees within parks, parkways, and public recreation easements, shall be the responsibility of the Director of Parks and Recreation.
- D. Other Public Land. Preservation or removal of trees within other County owned lands or public easements, shall be the responsibility of the Director of Public Works. (SCC 480 § 1, 1981.).

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19.12.080 Application Procedure.

Any person desiring to cut down, destroy or remove one or more trees shall make application to the approving body not less than ten days prior to the time desired to physically remove the tree. Said application shall contain:

- A. A brief statement of the reasons for removal;
- B. Consent of the owner or record of the land on which the proposed activity is to occur;
- C. A tree survey with the accurate location, number, species, size (diameter measured 4 1/2 feet above the ground, approximate heights, and approximate canopy diameter) and approximate age (if known) of the tree or trees to be removed;
- D. If the project involves other discretionary development, then this survey must be part of the total development plan and must also describe any tree or trees which could be affected by the proposed development; and
- E. Any other pertinent information. (SCC 480 § 1, 1981.).

19.12.090 Decision Criteria.

Prior to the issuance of such permit, the approving body shall ascertain whether or not the tree cannot or should not be retained. The determination of the approving body in granting or denying a permit shall be based upon the following criteria:

- A. Whether or not the preservation of the tree would unreasonably compromise an owner's development of land;
- B. The condition of the tree with respect to disease, general health, damage, danger of falling, and whether or not the tree acts as a host for an organism which is parasitic to another species of tree which is in danger of being exterminated by the parasite;
- C. The approximate age of the tree compared with the average life span for that species;
- D. Age of tree with regard to whether or not removal of the tree would encourage healthier, more vigorous growth of younger similar trees in the area;
- E. The number of existing trees in the area and the effect of the tree removal upon public health, safety, prosperity, beauty and general welfare of the area;
- F. The number of healthy trees that a given parcel of land will support, with and without the proposed development;
- G. The effect of tree removal on soil stability/erosion, particularly near water courses or on steep slopes;
- H. The potential for the tree to be a public nuisance, or interfere with utility service, as well as its proximity to existing structures;
- I. Present and future shade potential with regard to solar heating and cooling;
- J. Whether or not there are any alternatives that would allow for the preservation of the tree; and
- K. Any other information the body finds pertinent to the decision, including, if necessary, information obtained at a public hearing. (SCC 480 § 1, 1981.).

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19.12.100 Tree Removal Provisions.

- A. If a permit is denied, the Director of Public Works shall provide written notification, including the reasons for denial, to the applicant.
- B. A granted permit shall be valid for a period of six months from the date of issuance. An extension of time may be granted not to exceed six months.
- C. It shall be the responsibility of the person trenching, grading or filling within a tree dripline or cutting, destroying or removing any tree under this chapter to have the tree permit or a copy of the conditions of approval imposed by the approving body at the tree removal site.
- D. The permit, or the conditions of approval granted by the approving body, shall entitle the applicant to remove only the tree or trees approved for removal. (SCC 480 § 1, 1981.).

19.12.110 Consideration of Permits.

It shall be the responsibility of the applicant to demonstrate the need for a permit or other approval issued pursuant to the provisions of this ordinance.

In considering any application or permit relating to the provisions of this ordinance the approving body may approve such permit or application standards and requirements of this ordinance regulating environmental control or development.

In passing judgment upon permits or applications required pursuant to the provisions of this ordinance the approving body may impose such reasonable conditions of approval as are necessary and appropriate to minimize the environmental, health or safety effects of the development or use. (SCC 480 § 1, 1981.)

19.12.120 Appeal.

Any decision made by any approving body other than the Board of Supervisors may be appealed by the applicant property owner to the Board of Supervisors. Such appeal must be submitted in writing to the Clerk of the Board within fifteen (15) days of the date on which the original decision occurred briefly stating the facts and grounds of appeal, and signed by the appellant. Upon receipt of said appeal, the Clerk of the Board shall set the item on the Board's agenda not later than thirty (30) days from the date of filing said appeal, and shall notify the appellant of the hearing date. The Clerk of the Board shall at the time of setting the date of the hearing also mail a copy of the appeal, together with a notice of public hearing to each member of the Board and the director of public works. Following the hearing of any such appeal, the Board may affirm, reverse or modify the former action. The action of the Board of Supervisors on any such appeal shall be final and conclusive. (SCC 480 § 1, 1981.)

19.12.130 Development Control Measures.

The approving body may mandate any or all of the following control measures to mitigate damage to oak trees caused by land development:

- A. No grade cuts greater than one foot shall occur within the driplines of oak trees, and no grade cuts whatsoever shall occur within five feet of their trunks;

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- B. No fill greater than one foot shall be placed within the driplines of oak trees and no fill whatsoever shall be placed within five feet of their trunks;
- C. No trenching whatsoever shall be allowed within the driplines of oak trees. If it is absolutely necessary to install underground utilities within the driplines of an oak tree, the trench shall be either bored or drilled;
- D. No irrigation system shall be installed within the driplines of oak tree(s) which may be detrimental to the preservation of the oak tree(s) unless specifically authorized by the approving body or the Director of Public Works.
- E. Landscaping beneath oak trees may include non-plant materials such as boulders, cobbles, wood chips, etc. The only plant species which shall be planted within the driplines of oak trees are those which are tolerant of the natural semi-arid environs of the trees. Limited drip irrigation approximately twice per summer is recommended for the understory plants. Permitted plants include:
 - 1. Iris douglasiana hybrids (native iris)
 - 2. Heuchera species (coral bells)
 - 3. Aloe species
 - 4. Dudleya species
 - 5. Sisyrinchium bellum (blue-eyed grass)
 - 6. Hemerocallis hybrids (day lily)
 - 7. Cyclamen neapolitanum
 - 8. Mimulus aurantiacus and hybrids (monkey flowers)
 - 9. Artemisia species
 - 10. Achillea tomentosa (woolly yarrow)
 - 11. Symphoricarpos millis (prostrate snowberry)
 - 12. Mahonia repens (creeping Mahonia)
 - 13. Mahonia nervosa (long leaf Mahonia)
 - 14. Mahonia aquifolium compacta (compact Oregon grape)
 - 15. Arctostaphylos edmundsii "Carmel Sur" (Sur manzanita)
 - 16. Arctostaphylos hookeri "Monterey Carpet"
 - 17. Sollya heterophylla (Australian bluebell creeper)
 - 18. Ribes viburnifolium (Catalina fragrance)
 - 19. Daphne odora (winter daphne)
 - 20. Arctostaphylos hookeri "Wayside"
 - 21. Arctostaphylos densiflora "Howard McMinn"
 - 22. Symphoricarpos rivularis (snowberry)
 - 23. Rhamnus californica "Eve Case" (California coffeeberry)
 - 24. Heteromoles arbutifolia (toyon)
 - 25. Choisya ternata (Mexican orange or mock orange)

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- F. Paving within the driplines of oak trees should be stringently minimized. When it is absolutely necessary, porous material should be used. (SCC 480 § 1, 1981.).

19.12.140 Replanting Security.

- A. Adequate security may be required for any project for which a permit or other approval is required pursuant to provisions of this ordinance or the Zoning Code. The purpose of such security shall be to guarantee the applicant's compliance with conditions of approval and County ordinance provisions regarding tree protection and preservation. Security may also be required at the discretion of the approving body to insure to completion of any additional work specified as a condition of permit approval or other approvals.
- B. The security shall be in the amount of 100% of the estimated cost of the required work.
- C. The security may be in the form of a letter of credit, cash deposit, or a combination thereof and shall be approved by County Counsel.
- D. The security may be required by the approving body whenever it appears that substantial work is required by the County or its agencies on the following:
 - 1. Land containing trees;
 - 2. Substantial grading is required;
 - 3. When action may be required by the County or any of its agencies to correct a violation of the Zoning Code or other written policies or regulations of the County.
- E. The terms and conditions of the security shall be determined by the approving body and shall be stated in the conditions of approval.
- F. Security posted on actual work required shall be maintained for a period of time not to exceed five (5) years.
- G. Any interest gained on case security posted by requirement of the agency shall accrue to the applicant and his or her designee. (SCC 480 § 1, 1981.).

19.12.150 Other Species of Trees.

The approving body shall have the authority to adopt mitigation measures as conditions of approval for discretionary projects in order to protect other species of trees, in addition to the oaks. Violations of such adopted conditions shall be subject to the penalties described in Sections 19.12.190, 19.12.200, and 19.12.210, of this ordinance. (SCC 480 § 1, 1981.)

19.12.160 Grading Beneath Tree Driplines.

Grading beneath trees to be saved shall be given special attention. Every reasonable effort shall be made to avoid creating conditions adverse to the tree's health. The natural ground within the driplines of protected trees shall remain as undisturbed as possible. Grading within the driplines of oak trees will not be permitted unless specifically authorized by the approving body or by the Director of Public Works.

- A. Major roots two inches or greater in diameter encountered within the tree's dripline in the course of excavation from beneath trees which are not to be removed shall not be cut and shall be kept moist and covered with earth as soon as possible. Roots one

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- inch to two inches in diameter which are severed shall be trimmed and treated with pruning compound and covered with earth as soon as possible.
- B. Support roots that are inside the dripline of the tree shall be protected. The permittee is required to hand-dig in the vicinity of major trees to prevent root cutting and mangling which may be caused by heavy equipment.
 - C. Cross sections may be required where trees are located adjacent to roadways, new slopes or critical areas. In addition, a dimension from the face of a tree to some critical point or line may be required.
 - D. Any condition imposed by a Planning Commission, the Zoning Administrator, the Board of Zoning Appeals, the Subdivision Review Committee, or the Board of Supervisors relating to grading in the vicinity of trees, is incorporated into and made a part of the improvement standards. The consulting engineer for the project shall verify in writing on a form to be provided by the Director of Public Works that the grading has been completed as required by this section and any conditions imposed by a Planning Commission, the Zoning Administrator, the Board of Zoning Appeals, the Subdivision Review Committee, or the Board of Supervisors. (SCC 480 § 1, 1981.)

19.12.170 Emergencies.

In case of emergency caused by the tree being in a hazardous or dangerous condition, requiring immediate action for the safety of the structures or human life, such tree may be removed by permission of the Director of Public Works during normal working hours or the applicable fire district at other times. (SCC 480 § 1, 1981.)

19.12.180 Fees.

The Board of Supervisors by resolution shall establish a fee to cover the expenses of the application and appeal process. (SCC 480 § 1, 1981.)

19.12.190 Stop Work Order.

Whenever the Director of the Public Works Department, a Planning Commission or the Board of Supervisors of the County determines that any permit, or variance or any action being taken thereunder, or any action under it without a permit, is in conflict with this ordinance or with the standards established by the County or any department thereof, or ordinance, regulation, or policy, it shall issue a stop work order which shall prohibit any action thereunder. Such stop work order shall set forth the alleged violations and may list remedies to be taken to correct the violations. The person receiving such a stop work order shall report in writing to the officer, person or body issuing the order within forty-eight (48) hours regarding the next steps to be taken to correct the violations. Such stop work order may be extended to provide an opportunity for a hearing being extended to the affected party. During the period of such extension, the Planning Commission shall review the matter as herein provided. A stop work order issued pursuant to this section may be withdrawn by the Public Works Department or the officer who issued it upon a finding that the circumstances giving rise to the order no longer exists. (SCC 480 § 1, 1981.)

19.12.200 Suspension, Revocation, and Restoration.

In addition to or instead of the measures set forth in this chapter, the Project Planning Commission or the Board of Supervisors may suspend any permit subject to a public post-suspension hearing upon the finding that a violation of conditions of approval has occurred.

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Following the public hearing, if the County revokes the permit or finds that a violation of conditions of approval has occurred, it may require conditions of restoration. Said restoration shall include a requirement to replace in-kind any oak tree(s) which have been removed without a permit. Further, the replacement shall consist of specimen trees (no less than a 15-gallon size) having a total combined diameter equal to the total combined diameter of the illegally removed tree(s). If the project site is not capable of supporting all the required replacement trees, the violator shall pay to the County a sum equivalent to the retail cost of the number of trees that cannot be accommodated. These funds will be deposited in the Tree Preservation Fund maintained by the County of Sacramento Administration and Finance Agency as set forth in Section 19.12.240. (SCC 480 § 1, 1981.)

19.12.210 Violation a Misdemeanor and Nuisance.

Any violation of the provisions of this chapter is unlawful and a public nuisance, and the fully constituted authorities of the County shall immediately commence an action proceeding for the abatement and enjoinder thereof and shall take other steps in the manner provided by law. The cost of such abatement of the public nuisance shall become a lien on the property pursuant to Government Code Section 25845.

A violation of this chapter is a misdemeanor and is punishable by imprisonment in the County Jail for a period up to six (6) months or by a fine of five hundred dollars (\$500) or both. (SCC 480 § 1, 1981.)

19.12.220 Tree Preservation Fund.

A Tree Preservation Fund is established for Sacramento County for the purposes specified in Section 19.12.200. The monies received in lieu of replacement of illegally removed trees shall be forwarded to the County Treasurer for deposit in the Tree Preservation Fund. Except as provided in this section, under no circumstances shall the funds collected by the County Treasurer for the Tree Preservation Fund be directed to any other fund to be used for any other purposes other than for tree planting and preservation programs and public education programs regarding trees. Tree Preservation Fund monies may be directed by the Board of Supervisors to non-profit organizations for the implementation of programs consistent with the purposes of the Tree Preservation Fund. (SCC 0898 § 1, 1992; SCC 480 § 1, 1981.)

19.12.230 Cumulative Penalties.

The remedies provided for herein shall be cumulative and not exclusive. (SCC 480 § 1, 1981.)