

ORDINANCE NO. 02-2022

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF EAST PALO ALTO**

**REVISING CHAPTERS 12.16 AND 18.28 OF THE EAST PALO
ALTO MUNICIPAL CODE RELATING TO TREES, MAKING
CONFORMING AMENDMENTS TO SEVERAL OTHER SECTIONS
AND REPEALING SECTION 13.24.410**

**THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO DOES ORDAIN AS
FOLLOWS:**

SECTION 1. CHAPTER 12.16 REVISED.

Chapter 12.16 of the East Palo Alto Municipal Code is revised in its entirety as set forth in Attachment A.

SECTION 2. CHAPTER 18.28 REVISED.

Chapter 18.28 of the East Palo Alto Municipal Code is revised in its entirety as set forth in Attachment B.

SECTION 3. SECTION 18.08.010 AMENDED.

Section 18.08.010, under “D” Definitions, the definition of Department and the definition of Director, respectively, are revised to read:

Department. The Community and Economic Development Department responsible for administering the Development Code.

Director. The Director of the Community and Economic Development Department of the City of East Palo Alto, or authorized designee(s).

SECTION 4. SECTION 18.30.090 AMENDED

Subsection D.4. of Section 18.30.090 is amended and a new Subsection D. 6. is added to Section 18.30.090 to read:

D.4. Parking lot shade. At least 50% of a paved parking lot shall be shaded with tree canopies within 15 years of obtaining a building permit or certificate of occupancy. Plantings shall comply with the following specifications:

- a. Landscaping fronting a street shall include a minimum of one tree for every 30 feet of frontage. Trees shall be a minimum of 15 gallons in size and six feet in height at the time of planting and shall be of a fast growing variety capable of providing maximum shade coverage.
- b. Tree well dimensions shall be a minimum of 6' X 6'. Irregular tree well design may be allowed if a minimum of 36 square feet of surface area is provided and a minimum of 85 cubic feet of rootable soil volume is incorporated into the tree well planting. Deviations from this standard are subject to approval by the Director.
- c. Trees should be planted in the center of the tree well. For irregular tree wells, trees should be planted in equal distances from curbs.
- d. Two feet of vehicle overhang into a planter area is allowed, provided the planter has a minimum width of four feet and trees are aligned with the parking strip.
- e. Structural soil systems for trees in parking lots or hardscape areas should be used to increase the volume of rootable soil, the eventual size of the canopy, and the amount of shade the tree provides.
- f. Continuous planting islands are encouraged to allow for multiple tree plantings and increased rootable soil volume. These islands could be designed to incorporate surface water runoff treatment measures such as bio-swales. To increase the amount of planting area available for shade trees, planter fingers connected to continuous planting islands are recommended.
- g. If more than 10 trees are required, a mix of tree species or cultivars shall be provided. If 20-40 trees are required, no more than 50% of the trees may be of the same type. If more than 40 trees are required, no more than 25% of the trees may be of the same type
- h. Native climate-adapted species are recommended.
- i. Parking lot lighting should not conflict with required shade tree locations or growth. Light standards no greater than 16 feet in height are preferred. Buildings located close to streets must reduce potential conflicts between trees and free-standing signs.
- j. If the installation of required trees is not feasible due to conditions such as soil contamination, groundwater levels or utility easements, an in-lieu fee or an alternative tree planting program may be approved, as set forth in Chapter 18.28.

D.6. Permanent irrigation system and maintenance. All planting areas shall be planted to maximize benefits and minimize hazards. Trees shall be provided with permanent irrigation, monitored and regularly maintained.

SECTION 5. SECTIONS 18.104.010, 18.104.020 and 18.104.030 AMENDED.

Sections 18.104.010, 18.104.020, and 18.104.030 are revised to read:

18.104.010 - Purpose and Intent

The purpose of this chapter is to describe the authority and responsibilities of the City Council, Planning Commission, Director of Community and Economic Development and the Planning Division in the administration of the Development Code.

18.104.020 - Planning Agency and Advisory Agency

The Planning Division staff function as the Planning Agency, when so required by provisions of the Government Code. The Planning Commission is the Advisory Agency, in compliance with Government Code Section 65101.

18.104.030 – Director of Community and Economic Development

A. Appointment. The Director of Community and Economic Development shall be appointed by the City Manager.

B. Duties and Authority. The Director shall:

1. Have the responsibility to perform all of the functions designated by state law;
2. Perform the duties and functions prescribed in the Development Code, Government Code Section 65901 et seq., and the California Environmental Quality Act (CEQA);
3. Have the authority to defer action on an application and refer the request to the Commission for consideration and final action;
4. Perform other responsibilities assigned by the City Manager, Commission or Council; and
5. Delegate the responsibilities of the Director to Department staff under the supervision of the Director.

C. Imposition of Conditions. In making decisions on applications, the Director may impose conditions the Director deems reasonable and necessary to implement the General Plan, any applicable specific plans, the Municipal Code, and to further the public health, safety and general welfare of the community.

SECTION 6. TABLE 7-1 REVIEW AUTHORITY AMENDED

Table 7-1 Review Authority is amended to include Tree Removal Permit, as set forth in Attachment C.

SECTION 7. SECTION 13.24.410 REPEALED.

Section 13.24.410 of the East Palo Alto Municipal Code is hereby repealed.

SECTION 8. CALIFORNIA ENVIRONMENTAL QUALITY ACT

This Ordinance is not subject to CEQA because it is not a “project” which would have a direct physical change or a reasonably foreseeable indirect physical change on the environment pursuant to California Environmental Quality Act ("CEQA") Guidelines section 15378. Even if it were a project subject to CEQA review, this project would be exempt from CEQA Guideline Section 15378 (regulatory actions), Section 15061(b)(3) (no significant environmental impact), and Section 15183 (actions consistent with the general plan and zoning). The Council therefore directs that the Planning Division may file a Notice of Exemption with the San Mateo County Clerk.

SECTION 9. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

SECTION 10. EFFECTIVE DATE.

This Ordinance shall take effect and be in full force and effect as of October 1, 2022.

SECTION 11. PUBLICATION.

The City Clerk is hereby directed to cause publication of this Ordinance as required by Government Code Section 36933.

This Ordinance was introduced at the April 19, 2022, meeting of the City Council of the City of East Palo Alto.

PASSED AND ADOPTED this 3rd day of May 2022 by the following vote:

AYES: Abrica, Gauthier, Lopez, Romero, Wallace-Jones

NOES:

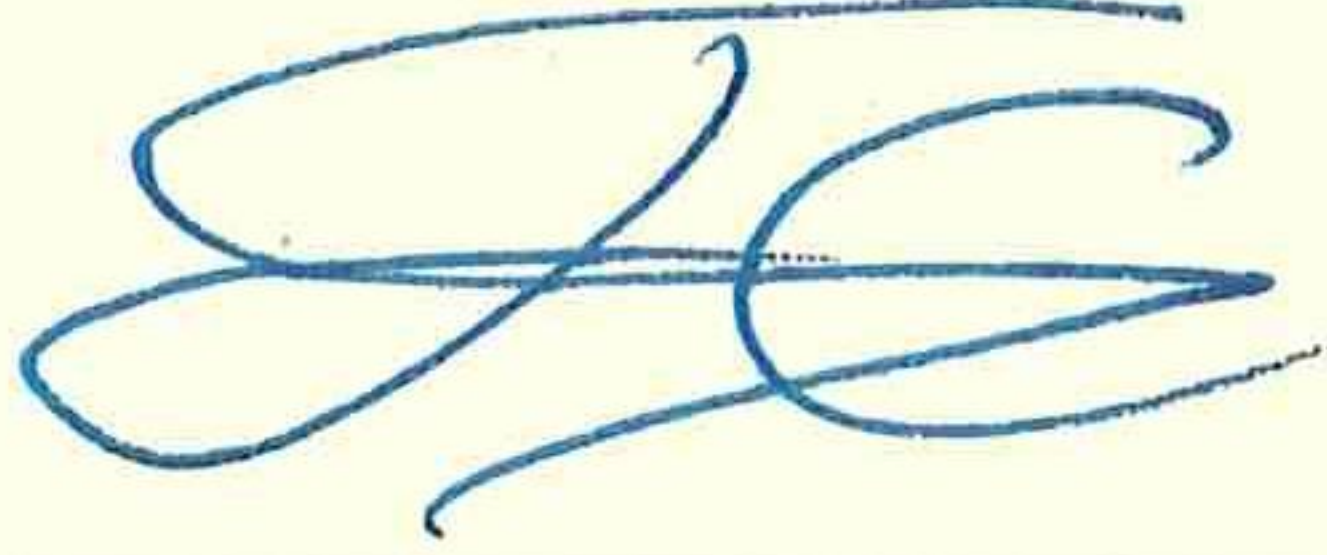
ABSENT:

ABSTAIN:

Ruben Abrica

Ruben Abrica, Mayor

ATTEST:



James Colin, Acting City Clerk

APPROVED AS TO FORM:

Valerie J. Armento

Valerie J. Armento, Interim City Attorney

Attachment A

Chapter 12.16 Trees on Public Property and In the Public Right-of-Way

12.16.010 Title and Purpose

- A. This chapter may be referred to as the “Trees on Public Property and Street Tree Ordinance”.
- B. The City of East Palo Alto recognizes the importance of trees and the benefits they provide. The purpose of this chapter is to manage city tree resources by regulating the planting, maintenance, and removal of trees in public places. The provisions of this chapter are enacted to carry out the goals, policies, regulations, and standards set forth in the City of East Palo Alto Urban Forest Master Plan and are necessary to ensure the City will realize the benefits of healthy, stable, and sustainable public tree resources.
- C. An additional purpose of this chapter is to implement the Urban Forest Master Plan to:
1. Establish and maintain maximum canopy cover in the public right-of-way within the city through programmed tree planting, maintenance, preservation, and removal.
 2. Maintain species and genetic diversity to stabilize the urban forest as a buffer against pest and disease outbreaks and minimize decline in canopy cover.
 3. Implement ANSI A-300 tree maintenance practices such as regular inspections and structural pruning at time of planting to increase tree value and associated benefits and protect the tree resource by regulating activities that will harm trees.

12.16.020 Definitions

“ANSI A-300 Standards” means the accredited industry standards and practices for managing trees and other woody plants.

“Appraisal of tree value” means an unbiased estimate of the tree's worth performed in accordance with the current edition of the *Guide for Plant Appraisal* by the Council of Tree and Landscape Appraisers.

“Certified Arborist” means an arborist certified by the International Society of Arboriculture and approved by the director.

“Diameter” means diameter at standard height (DSH), or trunk diameter measured at 54” above grade.

“Director” means the public works director or designee.

“Dripline” means the area directly located under the outer circumference of the tree branches or with a radius of ten times the diameter of the trunk as measured at 54 inches above grade (DSH), whichever is greater.

“Excessive pruning” means the removal of functioning leaf, stem, or root area of a tree in any thirty-six (36) month period such as to cause a significant decline in health, increased risk of failure, or the unbalancing of a tree.

“Master Plan” means the City of East Palo Alto Urban Forest Master Plan, which sets forth the policies and guidelines for planting and maintenance programs for the care and protection of trees.

“Public right-of-way” means any property dedicated to public use including but not limited to streets from property line to property line, alleys, easements, dedicated bike paths or open spaces.

“Public tree” means a tree within a public park, trail, or other property owned by the city and dedicated to public use.

“Remove” means (a) complete removal, such as cutting the tree to the ground, or (b) taking any action that would lead to the death of a tree or permanent damage to its health, including excessive pruning, girdling, cutting of tree roots, poisoning, over-watering, under-watering, trenching, excavating, altering the grade, paving within the dripline.

“Street tree” means any city-owned tree located within the public right-of-way or easement.

“Tree canopy cover” means a measurement of the total area of a tree’s branches, stems, and leaves when viewed from above.

12.16.030 Authority, Responsibilities and Duties

A. The Director has the responsibility to implement and authority to make decisions and judgments to enforce the provisions of this chapter. Duties include but are not limited to:

1. Developing a comprehensive municipal tree care operations plan, including pruning, planting, and removal of public trees.

2. Developing recordkeeping protocols for all tree maintenance activities and maintaining a database reflecting the current tree inventory and accurate status of the tree resources.
3. Implementing a monitoring program to evaluate and ensure the goals of the Master Plan are met.
4. Reviewing and revising the master plan in conjunction with the annual municipal tree care budget, subject to city council approval.
5. Seeking funding from state, federal, or other granting agencies for public tree restocking and maintenance.
6. Creating a tree fund for monies collected from fines, penalties, and in-lieu payments for tree planting and establishment, and to offset maintenance services.
7. Conducting tree planting projects and education programs to encourage community participation and involvement in the city's urban forest.

B. Property owners and members of the public have the responsibility to notify the director if any problems occur regarding any street tree or if any public tree maintenance services are required.

12.16.040 Policies and Procedures

A. Recommended Street Tree List. The director shall adopt a list of trees prepared by a Certified Arborist recommended for planting in the right-of-way.

B. Street Tree Inventory. A street tree inventory shall be maintained and reside in a data management system integrated with the city's GIS and shall be fully accessible to staff. Included in the inventory are information regarding trees (species, DSH, height, canopy spread, age or estimate, health and condition); sites (GIS location, planting site specifications, vacant planting site, soil type, location of underground utilities, and water availability); cultural practices (by date of action including planting, pruning, cabling, pest control, fertilization, removal, branch or whole tree failure, priority maintenance needs); and costs (material and equipment use, and personnel hours for each cultural practice).

C. Maintenance Schedule. Street trees shall be maintained on a block/grid pruning schedule assessing and prioritizing trees according to the degree of pedestrian and vehicular traffic and species growth rate.

12.16.050 Tree Planting in Public Right-of-Way

A. Trees are required to be planted in the public right-of-way for all development, redevelopment, infill and similar projects.

B. Standards. The following standards for tree planting shall apply:

1. All trees selected for planting shall conform to the American Association of Standards, ANSI Z60.1 Specifications for Acceptance of Nursery Trees at the Time of Delivery. Tree planting shall follow the most current edition of ANSI A-300 Tree Planting, including post-planting pruning, and early tree care. Trees shall comply with the standards and recommendations set forth in the master plan related to species diversity. A maximum of twenty percent (20%) of one general and ten percent (10%) of any species may be used to meet planting requirements within the city.
2. Tree species must be appropriate for the site, keeping in mind “right tree right place” principles. Trees shall be selected for function and purpose as outlined in the master plan to shade public sidewalks, parking lots and neighborhood streets, mitigate stormwater runoff and prevent soil erosion, facilitate flood protection, create a visual barrier and filter particulate matter along heavy traffic thoroughfares, and create habitat for wildlife.
3. Trees shall be situated to maximize benefits and to minimize hazard, nuisance, hardscape damage and maintenance costs.
4. All newly planted street trees shall be scheduled for monitoring, structural pruning, and irrigation as needed during the first three (3) years of establishment.
5. All tree planting shall be recorded in a tree inventory database. The database should include date of planting and scheduled work such as monitoring, structural pruning, stake removal and irrigating as required. Suitable planting sites shall be maintained in the database for future planting.

C. Installation Requirements.

1. One specified minimum gallon size tree must be installed for every twenty-five (25) feet of property frontage.
2. Trees shall be a minimum 15-gallon size with the planting of at least one 24- inch box tree for every three 15-gallon trees planted, or one 24-inch box tree per twenty-five (25) feet of lineal footage, whichever results in a greater number of plantings.
3. Placement of all plantings in new or infill developments shall be located consistent with these requirements:

- a. Twenty (20) feet from the curb returns at street intersections.
- b. Ten (10) feet from light standard power poles.
- c. Ten (10) feet from fire hydrants.
- d. Five (5) feet from water and sewer lines.
- e. Five (5) feet from service walks, driveways, buildings, walls and permanent structure.

D. Street tree planting requirements for new development shall comply with the standards set forth in Chapter 18.28. Shade tree planting specifications for tree canopy cover in parking lots shall comply with the standards set forth in Chapter 18.30.

12.16.060 Tree Pruning

A. Street tree pruning. Street tree pruning is the responsibility of the public works department and performed by certified arborists. A permit is required for authorization to prune a city street tree. Any unauthorized pruning is unlawful.

B. The following maintenance standards for pruning street trees apply:

1. All street tree pruning shall be performed in compliance with the most current edition of ANSI A300 – Pruning, which includes pruning young trees to develop lowest branching structure above roadway vehicular traffic, and crown cleaning, crown thinning, crown raising, crown restoration, crown reduction and utility line pruning in semi-mature and mature trees.
2. All street trees shall be programmed on a block pruning or grid schedule assessing and prioritizing trees according to the degree of pedestrian and vehicular traffic and species growth rate. Inspections shall be conducted prior to pruning to prioritize streets with the most pedestrian traffic and vehicular traffic and to assess trees in areas with the greatest pruning needs by species.
3. Except for pruning for utility line or traffic light clearance, or to abate a public nuisance, excessive pruning is prohibited.
4. All tree pruning shall be recorded in the tree inventory database noting date of activity, work performed, tree health status, and future maintenance needs. All contractors are required to provide work records upon completion of work.

12.16.070 Criteria for Tree Removal

A. Public tree removals are the responsibility of the public works department and shall be performed at the direction of a certified arborists. Any tree within the public right-of-way or on public property, regardless of size, is a protected tree.

B. The director may remove or cause the removal of any public tree found to be dead, damaged beyond repair, having a compromised root system that cannot adequately support the tree, causing storm drain or sanitary sewer stoppages which cannot be remedied, causing structural damage that cannot be mitigated by pruning limbs or roots, or hazardous to the public safety or welfare.

C. A tree may be removed when it interferes with proposed development, repair, alteration, or improvement of a site and preservation of the tree would be considered a taking of real property, so long as the proper permit is obtained. Tree removal, if approved, may only occur once building permits are issued.

D. A tree may be removed when removal is requested by a utility, public transportation agency, or other governmental agency due to a health or safety risk resulting from the tree's interference with existing or planned public infrastructure and preservation of the tree would add unreasonable cost to the project.

E. No liability shall be imposed upon the city or upon any of its officers or employees for damages related to an unsafe tree to relieve the owner or occupant of any private property from the duty to keep in safe condition any trees upon the property or adjacent to or overhanging the public right-of-way.

12.16.080 Permit Required

A. When a private project or entity other than the city seeks to remove a public tree from the right-of-way or a public place, or a private property owner seeks to have trees in the right-of-way pruned out of cycle at the owner's expense, a permit is required. A permit also is required to prune branches or roots of a street tree or public tree.

B. An application for a tree removal permit shall be made to the director on the form provided. The application shall be accompanied by a fee as set forth in the master fee schedule and shall provide a justification for the action to be taken. The director shall conduct an inspection and determine whether to approve or deny the application.

C. If the application is approved, the property owner must follow all noticing requirements. The issuance of the permit may be reconsidered by the director or appealed to the city manager. If no request for reconsideration or appeal is filed, the work may be performed as approved and in compliance with all requirements to provide proper and sufficient measures to mitigate against any hazards or nuisances. The property owner is responsible for any damages, necessary repairs or needed replacements. Unauthorized removal is unlawful.

12.16.090 Notices

A. For Removal. All public tree removals, except those that are part of a capital improvement project approved by the City Council, must be noticed for a period of fifteen (15) days on a list made publicly available and with a dated notice attached to the tree. Trees determined by the city to be an imminent risk to public safety may be removed without noticing.

B. For Pruning. Notice must be given to the property owner at least three (3) working days prior to scheduled street tree pruning. The notice may require no parking at the curb adjacent to the tree to provide for equipment access.

12.16.100 Reconsideration and Appeals

A. Reconsideration. Reconsideration of the decision to approve or deny a removal permit may be requested by any member of the public on the basis of the criteria used to make the determination. Request for a hearing to publicly review the decision must be submitted in writing to the director within fifteen (15) days after notice of the decision is provided. Notice of the reconsideration decision will be mailed to the applicant, the owners and occupants of all adjacent properties, and any person requesting notice of the decision. The decision shall become final fifteen (15) days after the notice is mailed.

B. Appeal. The decision of the director may be appealed within fifteen (15) days of the notice of decision to the city manager, who shall review the record and make a decision. Decisions of the city manager shall be final.

12.16.110 Replacement of Trees or In-Lieu Fee

A. If the city allows a tree to be removed, replacement tree(s) of an equivalent value must be planted or an in-lieu fee must be paid. Replacement tree(s) planted on-site are a priority. More than one replacement tree may be required to accomplish the goal of replacing the lost canopy.

B. If replacement on a one-to-one basis cannot be fully accomplished in the immediate vicinity of the removed tree(s), staff may authorize payment of in-lieu fees. The value of the removed tree(s) shall be calculated in compliance with the most recent edition of the *Guide for Plant Appraisal* by the Council of Tree and Landscape Appraisers.

C. Tree planting replacement requirements for the removal of a street tree shall be based on canopy size, measured as the average distance across the canopy in four cardinal directions.

D. The replacement standard shall be as follows:

Street tree canopy size	Replacement tree size
4'-9'	Two (2) 24" box
10'-27'	Three (3) 24" box
28'-40'	Four (4) 24" box
40'-56'	Six (6) 24" box
56'-60'+	Two (2) 24" box & Two (2) 36" box & Two (2) 48" box

12.26.120 Enforcement

A. The director is charged with the responsibility for the enforcement of this chapter and may serve notice upon any person violating any provision of this chapter. Violators shall be subject to the provisions set forth in Chapter 1.12 and Chapter 1.14.

B. A person who intentionally removes or destroys a street tree or a public tree without a tree removal permit, or who negligently causes the removal or destruction of a street tree or public tree, shall be required to replace the removed tree and pay the value of the removed tree(s), calculated in compliance with the most recent edition of the *Guide for Plant Appraisal* by the Council of Tree and Landscape Appraisers, as well as a tree maintenance fee for five (5) years.

C. If the director determines on-site replacement trees are not suitable, the director shall determine the cost of the mitigation needed to remedy the effects of the removal or destruction based upon the value of the unlawfully removed or destroyed tree(s) in compliance with the current version of the *Guide for Plant Appraisal* by the Council of Tree and Landscape Appraisers, and the cost of planting replacement trees elsewhere. This amount shall be in addition to any other assessed fees or penalties.

Attachment B

Chapter 18.28 Trees on Private Property

18.28.10 Purpose

- A. Preserve trees on private property for the health, safety, and welfare of the community while recognizing individual rights to develop and maintain private property;
- B. Utilize trees to create scenic beauty and wildlife habitat, attract visitors and businesses and serve as a source of community pride;
- C. Mitigate storm water runoff, prevent erosion of topsoil, protect against flood hazards, and counteract pollutants in the air; and
- D. Reach climate goals by shading structures and outdoor places, cooling sidewalks, reduce impacts from increasing temperatures and decreasing wind velocities while improving public health outcomes for residents.

18.28.020 Definitions

ANSI A-300 Standards. Accredited industry standards and practices for managing trees and other woody plants.

Applicant. Owner of the property to be developed who submits an application to remove a protected tree located on the subject property, or the private property owner applying to remove a protected tree.

Appraisal of Tree Value. An unbiased estimate of the tree's worth performed in accordance with the current edition of the *Guide for Plant Appraisal* by the Council of Tree and Landscape Appraisers.

Certified Arborist. An arborist certified by the International Society of Arboriculture and approved by the Director.

Diameter. Diameter at standard height (DSH), or trunk diameter measured at 54" above grade.

Dripline. Area directly located under the outer circumference of the tree branches or with a radius of ten times the diameter of the trunk as measured at 54 inches above grade (DSH), whichever is greater.

Excessive Pruning. Removal of functioning leaf, stem, or root area of a tree in any thirty-six (36) month period such as to cause a significant decline in health, increased risk of failure, or the unbalancing of a tree.

Master Plan. City of East Palo Alto Urban Forest Master Plan, which sets forth the policies and guidelines for planting and maintenance programs for the care and protection of its trees.

Protected Tree. Any tree on private property having a main stem or trunk of 8" or greater in diameter at a height of 54" above grade (DSH); any tree required to be preserved as a condition of a development approval; any tree required to be planted as a condition of a development approval.

Remove. Complete removal, such as cutting the tree to the ground, or taking any action that would lead to the death of a tree or permanent damage to its health, including excessive pruning, girdling, cutting of tree roots, poisoning, over-watering, under-watering, trenching, excavating, altering the grade, paving within the dripline or unauthorized relocation or transportation.

Tree Canopy Cover. Measurement of the total area of a tree's branches, stems, and leaves when viewed from above.

18.28.030 Authority, Responsibilities and Duties

A. **Director.** The Director has the responsibility to implement and authority to make decisions and judgments to enforce the provisions of this chapter. Duties include but are not limited to implementing tree protection policies for trees on private property and throughout the development process, accepting and reviewing applications from any person requesting to remove one or more trees on any private property, and approving or denying applications involving trees based on criteria set forth in this chapter, with appropriate conditions.

B. **Property Owner.** Every owner of real property within the City, and every person responsible for removing or damaging a tree, regardless of whether the person is engaged in a tree removal business, is subject to the regulations in this chapter.

18.28.040 Tree Planting

A. **ANSI.** All trees selected for planting shall conform to the American Association of Standards, ANSI Z60.1 Specifications for Acceptance of Nursery Trees at the Time of Delivery. Tree planting shall follow the current edition of ANSI A-300 Tree Planting, including post-planting pruning, and early tree care. Newly planted trees should be provided regular maintenance, including irrigation and pruning as needed, during the first five years.

B. **Species.** Tree species must be appropriate for the site, keeping in mind “right tree right place” principles. Trees shall be selected for function and purpose as outlined in the Master Plan. Tree should be situated to maximize benefits and to minimize hazards, nuisances and hardscape damage.

C. **New Single-Family Subdivisions.** In all new single-family residential subdivisions there shall be a minimum of two trees on each parcel. This tree requirement is in addition to the 150 square feet of permanent private open space required for each parcel.

D. **Multiple-Family Residential Subdivisions and Non-Residential Subdivisions.** There shall be a goal of 20% canopy cover over the site within 15 years of final building permit issuance. This requirement is in addition to landscaping required within parking lots and trees installed along the street frontage.

18.28.050 Pruning

No permit is required for pruning a private protected tree. Private protected tree pruning should be performed in compliance with the most current edition of ANSI A300 – Pruning, which includes pruning young trees to develop lowest branching structure above homes or nearby structures, and crown cleaning, crown thinning, crown raising, crown restoration, crown reduction and utility line pruning in semi-mature and mature trees. Excessive pruning, topping, vandalizing, mutilating, or destroying a protected tree is prohibited.

18.28.060 Permit Required

A. **Tree Removal Permit.** No person shall remove, destroy or disfigure any protected tree within the city without a permit. If the tree removal is part of a development application, a separate Tree Removal Permit is required, but the Tree Removal Permit will be considered as part of the development application. A Certified Arborist report as noted below, is required.

B. **Application.** An application for a Tree Removal Permit shall be made to the Director on the form provided. The application shall be accompanied by a fee as set forth in the master fee schedule. The application shall contain the number and location of each

tree to be removed, the type and approximate size of the tree, the reason for removal, and any additional information required by the Director. The application shall include a tree report by a Certified Arborist report. Any expense associated with the preparation of the tree report shall be the responsibility of the applicant. The Director may refer the application or report to another department, or person for an additional report or recommendation.

C. Tree Protection Plan. All development projects shall submit an Arborist Report and Tree Protection Plan.

1. The report by the Certified Arborist shall specify the following:
 - a. The location of trunk and dripline, size, health, and species of all trees on site with a diameter of 6" or greater.
 - b. The reason for removal for any tree proposed to be removed.
 - c. Recommendations for tree protection measures.
 - d. An appraisal of the condition and replacement value of all affected trees. The appraisal shall be performed in accordance with the current edition of the *Guide for Plant Appraisal* Council of Tree and Landscape Appraisers.
2. If an application for a development permit includes tree removal, the report by the Certified Arborist also shall include a planting plan detailing the number of tree replacements, species and irrigation system. Prior to acceptance of improvements, a final tree report by a Certified Arborist shall be submitted to the Director. The report shall assess the health and condition of the trees retained and protected during development and any changes in physical condition.

D. Owner Responsibility. If the removal request is approved, the property owner may perform the work as approved and must comply with all requirements to provide proper and sufficient measures to mitigate against any hazards or nuisances. The property owner is responsible for any damages, necessary repairs or needed replacements. No liability shall be imposed upon the City or upon any of its officers or employees for damages related to an unsafe tree to relieve the owner or occupant of any private property from the duty to keep in safe condition any trees upon the property or adjacent to or overhanging the public right-of-way.

E. Emergency. If the condition of a tree presents an immediate hazard to life or property, as defined by ANSI A300, it may be removed without a permit on order of the City Manager, Building Official, or the Director; an after-the-event permit will be required.

F. **Public Utilities.** Public utilities subject to the jurisdiction of the State Public Utilities Commission may, without a permit, take actions necessary to comply with the safety regulations of the Commission and as may be necessary to maintain safe operation of facilities. Where possible, trees shall be preserved.

G. **Financial Security.** A check, or an alternative form of payment if approved by the City shall be provided to the City for the appraised value of the trees impacted by development and the value of replacement trees as mitigation for the removal of trees, as well as the cost of staff time. The financial security shall be refunded upon the receipt of a final arborist report certifying preservation or proof of replacement, or payment of an in-lieu impact fee.

18.28.070 Criteria for Tree Removal

A Protected Tree may be removed under the following circumstances:

A. The tree is dead, expected to die within 5 years, or poses a high or extreme risk (as defined by International Society of Arboriculture Best Management Practice (A300 part 9), or is classified as invasive by the California Invasive Plant Council (Cal-IPC, 2017). Where an arborist report indicates that a tree fits this category, fees may be waived.

B. The tree is structurally unsound and cannot be corrected or the risk cannot be significantly reduced by traditional pruning, cabling, or bracing or is causing visible damage to property, which cannot be corrected without destroying the tree canopy or root system.

C. The tree is causing visible damage to property which cannot be corrected without destroying the tree canopy or root system.

D. The tree interferes with proposed development, repair, alteration, or improvement of a site and preservation would stop the implementation of a well-integrated and thoughtful design that enhances the property and neighborhood while meaningfully furthering the goals set forth in the General Plan and the project will incorporate replacement trees.

E. Removal is requested by a utility, public transportation agency, or other governmental agency due to a health or safety risk resulting from the tree's interference with existing or planned public infrastructure and preservation of the tree would add unreasonable cost to the project.

18.28.080 Replacement of Trees or In-Lieu Fee

If the city allows a tree to be removed, either replacement tree(s) of an equivalent value must be planted or an in-lieu fee must be paid.

A. **Replacement.** Trees shall be replaced on a one-to-one basis; however, more than one replacement tree may be required to accomplish the goal of replacing the lost canopy. Replacement tree(s) planted on-site are a priority.

B. **In-Lieu.** If replacement cannot be fully accomplished on-site, staff may authorize payment of in-lieu fees. The value of the removed tree(s) for in-lieu fee payment shall be calculated in compliance with the latest edition of the *Guide for Plant Appraisal* by the Council of Tree and Landscape Appraisers.

18.28.090 Tree Removal Review Process.

A. **Tree Removal Application and Noticing.** The property owner shall notify adjacent property owners and tenants, if any, of the intent to remove a protected tree. Upon submittal of the application, notice is required to be posted. Once the decision is final, a second notice is required to be posted at least 48 hours prior to removal. The notification shall be in a written form, dated and posted on the tree or in another visible location within close proximity to the tree that is clearly visible to adjacent owners and tenants.

B. **Review Process.** Tree removal permit applications shall be reviewed and decided upon by the Director within 30 days of a complete application being submitted. Notice of the decision will be mailed to the applicant, the owners and occupants of all adjacent properties, and any person requesting notice of the decision. The decision shall become final 15 days after the notice is mailed. The decision of the Director may be appealed within 15 days of the notice of decision by filing an appeal in writing. Appeals shall be to the Planning Commission and conducted consistent with the provisions of Chapter 18.106. The decision of the Planning Commission is final.

18.28.110 Enforcement

A. **Violations.** Violation of a provision contained in this chapter is unlawful and a public nuisance. The Director may serve notice upon any person violating any provision of this chapter. Violators shall be subject to the provisions set forth in Chapter 1.118.

B. **Replacement.** Intentional or negligent removal or destruction of a protected tree without a Tree Removal Permit shall require replacing on-site each unlawfully removed/destroyed tree with two or three new trees, or a greater number of new trees, as the Director may determine to be necessary to ensure the replacement of the lost canopy

and to provide an aesthetic quality reasonably equivalent to the unlawfully removed/destroyed tree within 10 to 15 years. The size, species, and condition of the replacement trees shall be subject to approval by the Director. All replacement trees shall be maintained by the property owner under a five-year maintenance agreement with the City.

C. **Value.** If the Director determines that on-site replacement trees will not provide sufficient reasonably equivalent canopy cover and aesthetic quality, the Director shall determine the cost of the mitigation needed to remedy the effects of the unlawful removal/destruction based upon the value of the tree(s) in compliance with the latest edition of the Guide for Plant Appraisal, published by the Council of Tree and Landscape Appraisers, and the cost of planting replacement trees elsewhere. The established value of the tree(s) shall be the civil penalty assessed, in addition to the penalty prescribed by law for the commission of the offense. Such an amount shall be payable to the City.

D. **Business License Revocation.** A violation of any provision by a person of a tree removal, landscaping, construction, or other business in the City shall constitute grounds for revocation of the Business License issued to the person or business.

Attachment C

Table 7-1 Review Authority				
Type of Action	Applicable Code Citation	Role of Review Authority ⁽¹⁾⁽²⁾		
		Director	Commission	Council
A. Administrative Permits and Actions				
Administrative Use Permits	Ch. 18.86	Decision	Appeal	Appeal
Development Code Interpretations	Ch. 18.12	Decision	Appeal	Appeal
Joint/Off-Site Parking Plans	Ch. 18.36	Decision	Appeal	Appeal
Minor Variances	Ch. 18.90	Decision	Appeal	Appeal
Reasonable Accommodations	Ch. 18.94	Decision	Appeal	Appeal
Sign Permits/Comprehensive Sign Programs	Ch. 18.38	See Table 7-2 (Site Plan and Design Review Authorities) ⁽³⁾		
Site Plan and Design Reviews	Ch. 18.86	See Table 7-2 (Site Plan and Design Review Authorities) ⁽³⁾		
Temporary Use Permits	Ch. 18.94	Decision	Appeal	Appeal
Tree Removal Permits	Ch. 18.28	Decision	Appeal	N/A
Zoning Clearances	Ch. 18.84	Issuance	Appeal	Appeal
B. Quasi-Judicial Permits and Actions				
Conditional Use Permits	Ch. 18.86		Decision	Appeal
Planned Development Permits	Ch. 18.92		Recommend	Decision
Variances	Ch. 18.90		Decision	Appeal
Density Bonus for Affordable Housing	Ch. 18.42		Recommend	Decision
C. Legislative Actions				
Development Agreements and Amendments	Ch. 18.116		Recommend	Decision
Development Code Text/Zoning Map Amendments	Ch. 18.108		Recommend	Decision
General Plan Text/Map Amendments	Ch. 18.108		Recommend	Decision
D. Subdivision Maps and Other Approvals				
Tentative Maps, Final and Parcel Maps		See Table 5-1		
Lot Line Adjustments, Mergers, and Approvals		See Table 5-1		

Notes:

1. "Decision" means the Review Authority makes the final decision on the matter; "Appeal" means the Review Authority may consider and decide upon appeals of the decision of a lower decision-making body; "Issuance" means the Review Authority may consider and grant the request; "Recommend" means the Review Authority should provide preliminary review and forward input to the decision-making Review Authority for consideration.
2. Any Review Authority may defer action and refer the request to the next higher Review Authority level for consideration and final action. In cases where the Council is specified as the Review Authority, the Council is the final level of review.
3. Responsibility for Site Plan and Design Review, as well as the review of Sign Permits and Comprehensive Sign Programs is shared by the Department staff, the Director, and the Commission. The specific Review Authority for these actions is further specified in Table 7-2.