



STAFF REPORT	
SUBJECT: Native Tree Protection Ordinance	
DATE: October 22 nd 2024	TIME: 6:00 PM
SUBMITTED BY: Mark Roberts – Senior Planner	
REPORT PURPOSE: <input type="checkbox"/> Action Item <input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Information Only	
APPLICANT: City of Clearlake	

WHAT IS BEING ASKED OF THE PLANNING COMMISSION:

The Planning Commission is being asked to discuss the Native Tree Protection Ordinance in accordance with Section 18-40 of the City Municipal Code.

PROJECT SUMMARY:

The purpose of the Native Tree Protection Ordinance, (<https://clearlake.municipal.codes/CMC/18-40>) is for the preservation and protection of natural resources while balancing the needs of commerce, industry, population, and economic growth within the city. The Native Tree Protection Ordinance requires a Zoning Permit for the removal of Heritage Oak Trees with the specified size in Section 18-40.020. Zoning permits are approved at the staff level and do not require a public hearing. Below are highlights of each section.

Section 18-40.020 (Protected Trees):

Specified size requirements which, requires a Zoning Permit for removal, unless exempted under Section 18-40.030.

- *Blue Oak (Quercus douglasii) greater than six (6") DBH.*
- *Valley Oak (Quercus lobata) greater than six (6") inch DBH.*
- *Interior Live Oak (Quercus wislizeni) greater than six (6") inch DBH.*
- *California Black Oak (Quercus kelloggii) greater than six (6") inch DBH.*
- *Canyon Live Oak (Quercus chrysolepsis) greater than six (6") inch DBH.*
- *Oregon White Oak (Quercus garryana) greater than six (6") inch DBH.*
- *Any other tree designated by the City Council as a "heritage tree" as described in Section 18-40.060.*

Section 18-40.030 (Exemptions from Protection and Removal Regulations):

The Native Tree Protection Ordinance was designed with provisions that exclude one for meeting the required tree replacement ratio and/or paying the required tree replacement mitigation fee for each tree removed. These provisions are still subject to obtaining a zoning permit.

- *The removal of trees judged to be hazardous to life or property.*
- *The removal of trees judged by a public utility company to be a hazard to the safety of high voltage power lines in accordance with Public Resources Code 4293.*
- *The removal of trees that must be felled to accommodate public improvements by the city, County or public utility company.*
- *The removal of trees that pose a fire safety hazard as certified by the Lake County Fire Protection District.*

- *The removal of trees whose dripline falls within the footprint of a proposed single-family dwelling, garage and driveway on an existing lot where the trees cannot be reasonably avoided for construction.*
- *The thinning of a stand of trees to improve the overall health of the stand. In this instance, the Planning and Community Development Director shall have discretion to approve which trees shall be removed.*

Section 18-40.040 (Tree Protection Regulations):

Any disturbances which might cause harm to a protected tree, are strictly prohibited within the Root Protection Zone (RPZ):

- *The removing, moving or failing to install and maintain proper temporary protection fencing in the vicinity of construction prior to completion of on-site work.*
- *Trenching.*
- *Any permanent or temporary structures. However, temporary structures not fixed to the ground shall be allowed as long as they will not compact the soil.*
- *Grading, cutting, filling or changing the natural grade in any way.*
- *Installation of an irrigation system.*
- *Covering with any substance impermeable to air and rainwater, such as asphalt, concrete, plastic, etc. However, pervious surfacing such as pavers, gravel, pervious asphalt or other materials may be used to within one-half (1/2) the distance from the dripline of the tree to the trunk.*
- *Burning, open fires or open flames.*
- *Compaction of the soil.*
- *Girdling and/or topping.*

Section 18-40.050 (Removal Regulations):

If an applicant is granted a Zoning Permit to remove Heritage Oak Trees, they will be required to meet specific criteria unless exempted per Section 18-40.040. These requirements, include but are not limited to:

- Onsite tree replacement of the same species removed at the required ratio within twelve months or offsite at another property owned by the applicant. If the applicant chooses to replant, then a Tree Replacement Plan shall be submitted to the City for review/approval, prior to the issuance of the Zoning Permit.
- If the applicant is unwilling or unable to replant, then the applicant shall contribute to a fund for each tree felled. The required fee is established by City Council and will be used to replant on a designated public parcel.

Section 18-40.060 (Designation of Heritage Trees)

An applicant may request by application the City Council establish by resolution the designation of a tree or group of trees located on their property as heritage tree(s). Once an application has been submitted and prior to Council action, the requested tree or trees shall be afforded the same level of statutory protection as a designated heritage tree.

To designate a tree(s) as a Heritage Tree(s), the City Council must find that the tree(s) will be a significant beneficial feature of the community and possesses one or more of the following attributes:

- The tree is an outstanding specimen of a desirable species.
- The tree is one of the largest or oldest trees in Clearlake.
- The tree is of historical interest.
- The tree is of distinctive appearance.

Declassification of Heritage Trees. An owner of a heritage tree(s) may request by application the City Council declassify by resolution a tree or group of trees previously designated as a heritage tree(s) and/or the City Council on its own accord may declassify the designation. To declassify a heritage tree(s) it must no longer be a significant community benefit because:

- It has deteriorated in health or appearance.
- It no longer has habitat value.
- It prevents reasonable use of the property.

Section 18-40.070 (Penalty):

This section allows the city to impose additional penalties if one is found to be in violation of the Native Tree Protection Ordinance, including but not limited to:

- Any violation of this article shall constitute a misdemeanor. However, the City Attorney or prosecuting attorney has the discretion to deem a violation of this article as an infraction in accordance with Section 1-5 of the City Municipal Code.
- Any person found guilty of violating this article shall be fully responsible for all costs arising from or relating to enforcement, investigation and legal costs associated with an infraction or misdemeanor. Each tree removed or damaged in violation of this article shall constitute a separate violation.
- The felling, removal or damage of a tree in violation of this article shall be punishable by a fine of one thousand (\$1,000.00) dollars.
- Any person who causes a tree to be removed or damaged in violation of this article shall repair or replace any such tree at the violator's expense pursuant to double the ratio of the tree replacement requirements set forth in Section 18-40.050(d). The location, species and planting specifications for replacement trees shall be approved by the Director prior to replanting.

Motions/Options:

1. Provide direction to staff