

DATE: December 30, 2019

TO: Mayor and City Council Members

FROM: Community Development Department

**SUBJECT: ORDINANCE NO. 1299 – AN ORDINANCE REPEALING AND REPLACING THE TREE PRESERVATION ORDINANCE AS SET FORTH IN CHAPTER 12.16 OF THE FOLSOM MUNICIPAL CODE (INTRODUCTION AND FIRST READING)**

**BACKGROUND/ISSUE**

Trees provide an essential contribution to the general welfare, economic vitality, and overall beauty and character of Folsom. In 1995, the City Council adopted a Tree Preservation Ordinance (Folsom Municipal Code Chapter 12.16) primarily to establish and maintain tree cover and to promote conservation of tree resources. In the 24 years since that time, there have been a few minor amendments to the definitions and procedures (1996) and to mitigation fees (2006). City Staff and stakeholders (residents, developers, arborists) have identified challenges interpreting/implementing the current code as written. As such, staff has engaged the community in a focused update to solve problems and give us more tools in our toolbelts to help protect and preserve trees.

In April of 2019, staff introduced the planned approach and process for the Tree Preservation Ordinance Update to the City Council, conducted stakeholder interviews and held a Community Workshop. Through the initial outreach efforts with residents and stakeholders, staff garnered voiced feedback reflecting the following focal desires:

1. Recognize the inherent value of all trees with regard to both ecological and socioeconomic benefits by expanding protection to trees beyond native oak trees.
2. Prioritize tree preservation over removal with mitigation by providing incentives to retain trees during development and mechanisms for discouraging tree removal.
3. Better protect trees on construction sites by incorporating industry recognized standards and best management practices into permit requirements and conditions.
4. Streamline the permit process and establish clear expectations and criteria for decisions.
5. Reassess how mitigation requirements are tabulated with considerations to the actual cost of planting and maintaining replacement trees.

Through the summer of 2019, staff worked with a consultant to conduct research and analysis of best practices and potential solutions to solve the identified problems and challenges associated with the current regulations. The Public Draft Tree Preservation Ordinance was completed and circulated for public review from October 14 to November 14, 2019.

During that review period, City Council held a public workshop (October 22, 2019) intended to provide a venue for the community, stakeholders, and decision makers to learn about significant changes proposed and to provide input and direction as appropriate prior to any public hearing. Staff presentation highlighted proposed changes and showed several common scenarios for applicability of existing vs proposed regulations. Council asked questions, provided comments, heard a few public comments and directed staff to proceed with additional outreach and prepare any modifications for public hearing and consideration of adoption.

## **OUTREACH/FEEDBACK**

In addition to posting the public review draft on the City of Folsom website and including announcements in the City's newsletter and on social media, staff pursued further outreach actions via email and phone to developers and stakeholders following the release of the public review draft. Staff received verbal commitments from those contacted to review the document and provide inputs. Additionally, supplemental meetings were held with the Sacramento Municipal Utility District (SMUD), resident groups, and arboricultural professionals.

During the 30-day public review period on the Public Review Draft Tree Preservation Ordinance dated October 2019, staff received various input contributions from residents, representatives within the development community, technical experts in the field of arboriculture and other stakeholders including the Sacramento Metropolitan Air Quality Management District and SMUD. Stakeholder communications/comments are provided in Attachment 4. Using the feedback received through this public process City staff incorporated appropriate edits aiming to address raised concerns and identify solutions. The bulk of received comments consisted of requests for clarity and technical corrections, which staff have addressed via updated definitions, added language in applicable sections to more clearly delineate processes, and the inclusion of diagrams and illustrations. Specific edits made to the October 2019 draft are shown in track changes in Attachment 3.

## **ANALYSIS**

In addition to surgical edits for the purposes of providing clarity and technical corrections, a few substantive edits were made following the public review period in response to comments received. These changes and the basis for each are delineated below:

**Definition of Heritage Tree (12.16.020)** - This definition has been clarified to delineate certain species shall be excluded from Heritage status due to their invasive nature or undesirable traits. These species shall be specified in the Folsom Master Tree List and will include species such as cottonwoods, willows, Chinese tree of heaven, locust, palms, eucalyptus, and redwoods.

**Tree Permit Exemptions for Utility Companies (12.16.050(C)(11))** - The exemption for utility companies further clarifies that the utility company may be either public or private investor-owned. Additionally, language was added to specify requirements for notifying the City prior to engaging in tree work on protected trees and to emphasize the requirement that tree work performed shall conform to ANSI A300 Standards and Best Management Practices as published by the International Society of Arboriculture.

**Required Findings for Approval of Tree Removal Permits (12.16.080(B)(5))** - A finding for approval of a tree removal permit was added to allow more flexibility to owner-occupants



of residential properties. This finding specifies that a resident may be granted a permit to remove their street tree so long as a replacement tree is planted on the property consistent with the mitigation requirements outlined in Section 12.16.150(A)(1)(c).

**Grounds for an Appeal (12.16.100(B))** - Clarification has been added that specifies the grounds for an appeal must be based upon the findings or conditions placed upon a tree removal permit. This edit was elicited by concerns that appellants could potentially have the ability to postpone or thwart development without substantive grounds to do so.

**Preparation of a Tree Protection and Mitigation Plan (12.16.140)** - Allowance for a licensed professional other than an Arborist to prepare the Tree Protection and Mitigation Plan, as approved by the Approving Authority, has been added to address situations where development encroachment into the Tree Protection Zone is minor or minimal.

**Tree Condition Ratings in an Arborist Report (12.16.140(B)(2))** - A nationally recognized standardized system for rating tree condition has been included as a requirement in an arborist report. This will allow for continuity between projects when assessing trees for mitigation requirements.

**Tree Preservation Credits toward Mitigation (12.16.150(B)(a))** - Language has been added to this Section pertaining to Tree Preservation Credit to clearly detail how this concept works. Healthy protected trees preserved within the buildable area of a parcel during development shall have a credit ratio of 1/2" for every 1" Diameter at Standard Height (DSH) preserved. A properly preserved 20" DSH tree, for example, would provide a reduction of 10" toward the mitigation of other trees removed for development.

## DISCUSSION

The Public Hearing Draft of the Tree Preservation Ordinance (Attachment 2) aims to correct obstacles encountered by staff in the implementation of the current ordinance as well as address voiced concerns and desires from residents and stakeholders. These focal concerns and the new strategies incorporated into the public hearing draft of the ordinance to address them are as follows:

1. Recognize the inherent value of all trees with regard to both ecological and socioeconomic benefits by expanding protection to trees beyond native oak trees. *The definition of Protected Tree has been broadened to include Parking Lot Shading Trees and Replacement Trees planted as a result of mitigation. Additionally, the definition of Heritage Tree has been expanded to include other large, mature species over a diameter threshold of 30" DSH. These changes acknowledge the value of species beyond native oaks by adding protection to trees that contribute all urban trees and the benefits they provide by adding protections to species beyond native oaks.*
2. Prioritize tree preservation over removal with mitigation by providing incentives to retain trees during development and mechanisms for discouraging tree removal. *The concept of Reasonable Alternative Measures has been introduced, which considers tree management options as well as possibilities for modifications to development standards set forth in the Zoning Code to allow for tree preservation. The concept of Tree Preservation Credits has also been introduced, which allows for reduced mitigation requirements when trees are preserved on a development site. Additionally, a loophole in the current ordinance has been closed, which specified a substantially reduced mitigation requirement when placing the footprint of a structure over existing*

*Protected Trees. By closing this loophole and incorporating the concepts of Reasonable Alternative Measures and Tree Preservation Credit, this public hearing draft of the Tree Preservation Ordinance uses a “carrots vs sticks” approach in encouraging tree preservation over removal.*

3. Better protect trees on construction sites by incorporating industry recognized standards and best management practices into permit requirements and conditions. *The updated ordinance includes a definition for Arborist, which specifies required credentials for arboricultural professionals engaging in tree work on Protected Trees. New standard conditions of approval have been added that acknowledge industry standards and best management practices. Specifications on Tree Protection and Mitigation Plans have been added to delineate requirements on tree preservation and ensure proper tree management during construction to minimize impacts. These additions recognize that trees improperly managed during construction activities have a reduced likelihood of longevity following the development and aim to prevent tree decline by requiring proper tree protection in accordance with internationally recognized standards.*
4. Streamline the permit process and establish clear expectations and criteria for decisions. *New language has been added to the public hearing draft that delineates prohibited activities and establishes required findings to garner approval on a tree permit. The tree permit process has been modified to include two different permit types (a Tree Work Permit and a Tree Removal Permit) with clarified submittal requirements and provisions for securing either permit type. Under the updated ordinance, applicants for master development plans would be required to submit a Tree Protection and Mitigation Plan as part of the entitlement process, which could result in an expedited tree removal permit process once parcels are sold to builders for development. Additionally, updated mitigation provisions have been added to clarify ambiguities in the existing Tree Preservation Ordinance.*
5. Reassess how mitigation requirements are tabulated with considerations to the actual cost of planting and maintaining replacement trees. *The public hearing draft of the Tree Preservation Ordinance proposes a new methodology to calculating mitigation requirements. Rather than the categorical mitigation system utilized in the current Tree Preservation Ordinance, which can result in inequities in mitigation requirements among development projects, the draft document proposes a direct inch per inch mitigation rate based upon a tree’s diameter at standard height (DSH). This new strategy will result in mitigation requirements that more directly reflect an applicant’s specific project as well as align with how neighboring jurisdictions in the region tabulate mitigation requirements. The new inch:inch replacement ratio will also better encourage replacement planting over payment of In-Lieu fees as the current mitigation requirements as outlined in TPO and resolution XXX result in a situation where payment of the In-Lieu fees is more financially viable to applicants than planting replacement trees.*

## ENVIRONMENTAL REVIEW

On January 14, 2020, City Council approved and certified an Addendum to the 2035 General Plan Final Program Environmental Impact Report (FPEIR) for the Folsom Tree Preservation Ordinance Update (TPOU). The Addendum analyzed the effects of revising the existing Tree Preservation Ordinance (Folsom Municipal Code Chapter 12.16) to update and modify permit requirements, impose standard management and preservation conditions, and focus the TPOU on the preservation of existing trees. Based on the analysis in the Addendum, the City found that there will not be a significant effect on the environment because the mitigation measures imposed with the certified 2035 General Plan Final FPEIR have either already been implemented, or will be implemented via future City actions to reduce impacts to a less-than-significant level. In the case of any unmitigated significant impacts previously identified in the certified FPEIR, these have been identified in the Statement of Findings and Overriding Considerations that was adopted during certification of the FPEIR (Resolution 10147) that applies to the Folsom General Plan 2035 project as a whole. The information in the environmental study (Addendum) supports the determination that the revisions to the Folsom Municipal Code Chapters 12.16.010 through 12.16.230 (Tree Preservation Ordinance Update) are within the scope of the previously certified FPEIR.

## ATTACHMENTS

1. Ordinance No. 1299 - An Ordinance Repealing and Replacing the Tree Preservation Ordinance as set forth in Chapter 12.16 of the Folsom Municipal Code (Introduction and First Reading)
2. Summary of Significant Changes to the Tree Preservation Ordinance dated December 30, 2019
3. Public Hearing Draft Tree Preservation Ordinance dated December 30, 2019 with track changes showing edits to the October 2019 Public Review Draft Tree Preservation Ordinance
4. Public Comments

## RECOMMENDATION /CITY COUNCIL ACTION

Staff respectfully requests that the City Council pass and adopt Ordinance No. 1299 - An Ordinance Repealing and Replacing the Tree Preservation Ordinance as set forth in Chapter 12.16 of the Folsom Municipal Code (Introduction and First Reading)

Submitted,



PAM JOHNS

Community Development Director

## **Attachment 1**

**Ordinance No. 1299 – An Ordinance Repealing and Replacing the  
Tree Preservation Ordinance as set forth in Chapter 12.16 of the  
Folsom Municipal Code**

**ORDINANCE NO. 1299**

**AN ORDINANCE REPEALING AND REPLACING THE TREE PRESERVATION  
ORDINANCE AS SET FORTH IN CHAPTER 12.16 OF THE FOLSOM MUNICIPAL  
CODE (INTRODUCTION AND FIRST READING)**

THE CITY COUNCIL OF THE CITY OF FOLSOM HEREBY DOES ORDAIN AS  
FOLLOWS:

**SECTION 1 PURPOSE**

The purpose of this ordinance is to repeal and re-enact Chapter 12.16 (Tree Preservation) of Title 12 (Streets and Sidewalks) of the Folsom Municipal Code to establish standards and measures for the preservation trees consistent with the City's General Plan and community values.

**SECTION 2 CHANGES TO FOLSOM MUNICIPAL CODE**

Chapter 12.16 of Title 14 of the Folsom Municipal Code is hereby amended to read as follows:

**Title 12  
STREETS AND SIDEWALKS**

Chapters:  
12.16 Tree Preservation

**Chapter 12.16  
TREE PRESERVATION**

**SECTIONS**

- 12.16.010 Purpose and Intent
- 12.16.020 Definitions
- 12.16.030 Applicability
- 12.16.040 Prohibited Activities
- 12.16.050 Permit Required
- 12.16.060 Application Requirements
- 12.16.070 Approving Authority
- 12.16.080 Findings for Approval
- 12.16.090 Notice of Decision
- 12.16.100 Appeals
- 12.16.110 Effective Date and Permit Expiration
- 12.16.120 Permit Compliance and Amendment
- 12.16.130 Conditions of Approval
- 12.16.140 Tree Protection and Mitigation Plan Requirements
- 12.16.150 Mitigation Requirements

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- 12.16.160 Tree Planting and Replacement Fund
- 12.16.170 Landmark Designation
- 12.16.180 Maintenance
- 12.16.190 Street Tree Planting
- 12.16.200 Parking Lot Shading Tree Planting
- 12.16.210 Solar Shade Control Act Exemption
- 12.16.220 Violations, Enforcement, And Penalties

12.16.010 Purpose and Intent

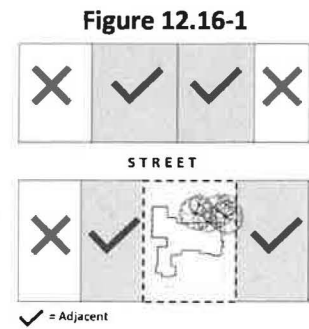
- A. Purpose. Trees are both community and environmental assets, unique in their ability to provide a multitude of benefits that appreciate over time. In addition to many others, these benefits include life-giving oxygen, filtration of air pollutants, protection from heat and ultra-violet radiation, energy savings, reduced Heat Island effect, habitat for wildlife, carbon sequestration, and improvement of property values. The purpose of this chapter is to advance these aesthetic, economic, environmental, and social contributions of the City's Urban Forest through the creation and preservation of tree resources. In order to promote the public health, safety and general welfare, enhance the beauty of Folsom 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 finds it necessary to establish standards and measures for the preservation of trees.
- B. Intent. The provisions of this Chapter are enacted to:
1. Establish and maintain the optimum amount of tree cover on public and private lands.
  2. Promote conservation of tree resources and long-term sustainability.
  3. Safeguard the health of the City's Urban Forest by ensuring proper tree management practices.
  4. Protect the visual and aesthetic character of the City.
  5. Implement the conservation goals of the General Plan.
  6. Establish procedures for the City to administer this tree preservation ordinance.

12.16.020 Definitions

This section includes the definition of terms and phrases used in this Chapter that are technical or specialized, or that may not reflect common usage. If any of the definitions in this Chapter conflict with definitions in other provisions of the Municipal Code, the terms and phrases as defined in this Chapter shall control for the purposes of this Chapter. If a word is not defined in this Chapter, the Community Development Director shall determine the most appropriate definition for purposes of enforcing the tree preservation ordinance.



Adjacent. Having a common property line, or immediately next to a property or to a property located across from an alley, path, private street, easement, or public street as shown in Figure 12.16-1.



ANSI A300 Standards. The most current version of Tree Care Operations – Tree, Shrub and Other Woody Plant Maintenance – Standard Practices of the American National Standards Institute, as amended from time to time.

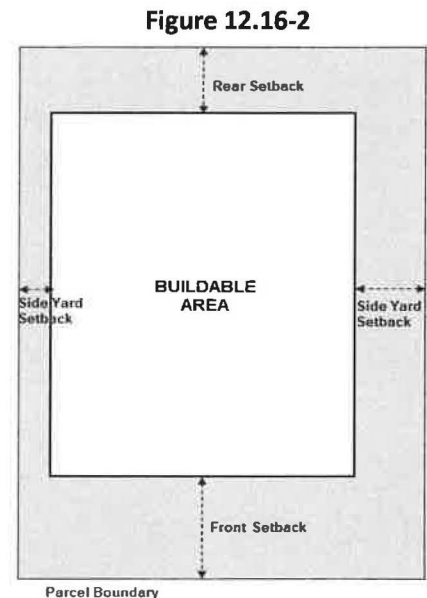
Appeal Authority. The Director or Commission authorized under this Chapter to consider appeals of decisions by the Approving Authority.

Approving Authority. The City Arborist is the Approving Authority for the Tree Work Permit and Tree Removal Permit covered by this Chapter.

Arborist Report. A report prepared by an Arborist containing specific information on location, condition, potential impacts of development, recommended actions and mitigation measures relating to 1 or more trees on an individual lot or project site.

Arborist. An individual certified as an Arborist by the International Society of Arboriculture (ISA) and holds a current and unexpired certification.

Buildable Area. The area of a parcel where buildings may be constructed excluding front, rear and side yard setbacks as required by the Zoning Code. In the case of a parcel that is to be subdivided, the buildable footprint would be the Buildable Area of each proposed new parcel excluding front, rear and side yard setbacks as required by the existing or proposed zoning for the new parcel(s). Refer to Figure 12.16-2.

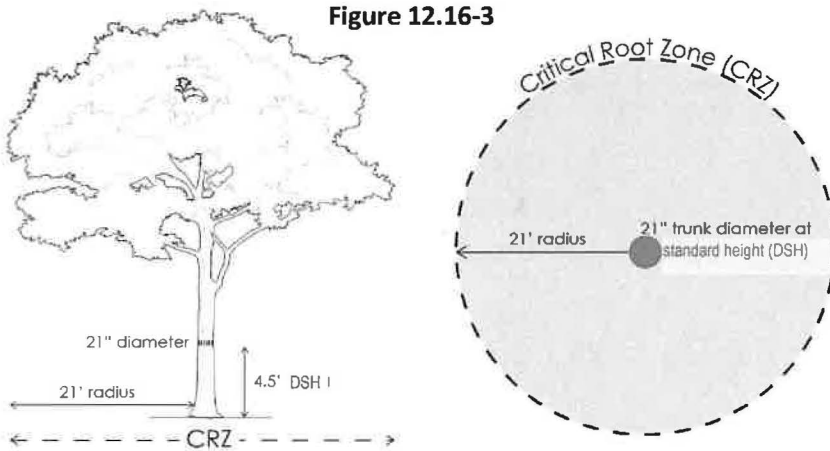


City Arborist. An Arborist who is a City employee whose job duties include the review, evaluation and preparation of reports and permits under this Chapter.

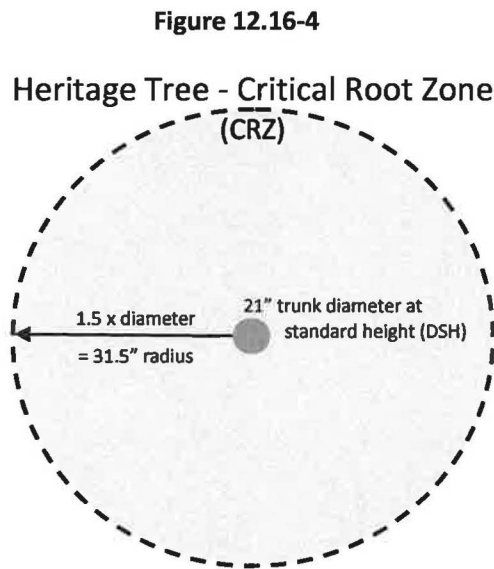
Certificate of Compliance. A written statement from an Arborist verifying that the conditions associated with a Tree Permit have been satisfied.

Commission. The Planning Commission or Historic District Commission depending on the location of the Regulated Activity.

Critical Root Zone (CRZ). The area of soil extending from the tree trunk where roots required for future tree health and survival are located. This Critical Root Zone area for all trees except Heritage Trees is a circle with a minimum radius of 1 foot for every 1 inch in trunk diameter at DSH. Refer to Figure 12.16-3



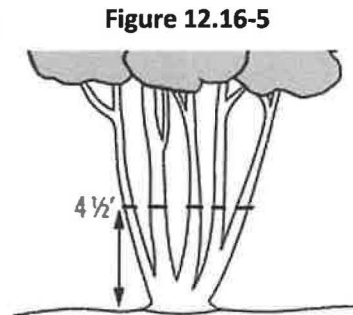
For Heritage Trees, the Critical Root Zone area shall be a circle with a minimum radius of 1.5 feet for every 1 inch in trunk diameter at DSH, unless reduced by the City Arborist. Refer to Figure 12.16-4.



Diameter at Standard Height (DSH). The diameter of a tree measured at four and one-half (4.5) feet above the ground while standing on the high side of the tree. For a tree other than a Multi-trunked Tree that branches at or below four and one-half feet, DSH shall mean the diameter at the narrowest point between the grade and the lowest branching point. The diameter shall be calculated by use of the following formula:

$$\text{diameter} = \text{circumference} / 3.142$$

For Multi-trunked Trees, the DSH shall be the diameter of each stem measured at four and one-half above the ground while standing on the high side of the tree added together in total. Refer to Figure 12.16-5.

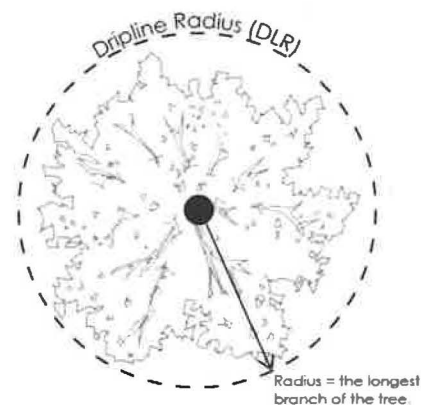


Extrapolated Diameter at Standard Height (DSH). This shall be used for purposes of calculating the mitigation for a Multi-trunked Tree. It is derived from adding the cross-sectional area of each stem measured at four and one-half (4.5) feet above grade to determine a value for the DSH. In a Multi-trunked Tree, this is calculated by taking the square root of the sum of each individual stem's DSH squared. The Extrapolated DSH value is used for determining mitigation and may be calculated using an alternative method acceptable to the City Arborist.

Director. The Director of the City's Community Development Department or his/her designee.

Dripline Radius (DLR). A perfect circle around the tree with the radius being equal to the longest branch of the tree. Refer to Figure 12.16-6.

**Figure 12.16-6**



Emergency. For purposes of this Chapter, emergency is defined as an imminent danger to the safety of persons or property and/or the imminent loss of water, sewer, gas or electrical service or access to public or private property(ies).

Heat Island. An urban or metropolitan area that has higher average temperatures than surrounding rural areas due to the greater absorption, retention, and generation of heat by buildings, pavements, and human activities.

Heritage Tree. Except for trees listed as "Not Eligible for Heritage Status" on the City's Master Tree List, a tree on the City's Master Tree List over 30 inches in DSH or a multi-trunked tree on the Master Tree List having a combined DSH of 50 inches or more.

ISA Best Management Practices. Recommended methods for the planting, care, maintenance, pruning of trees prepared by the International Society of Arboriculture.

**Landmark Tree.** A tree or group of trees determined by the City Council to confer a significant community benefit to the general public due to its size, age, location, historic association or ecological value.

**Major Pruning.** The cutting of any individual branch or root with a diameter of two inches or greater or a circumference of more than six and one-quarter inches at the location of the cut on such branch or root. It shall also include the cutting of a cumulative amount of more than ten percent of the Root System, the Tree Crown, or a combination of both within a 12-month period.

**Master Tree List.** A list prepared by the City, as amended from time to time, identifying the species of trees that may be planted as replacement trees, as Parking Lot Shading Trees, or as Street Trees as well as trees that are not-recommended or excluded from protection.

**Minor Pruning.** The cutting of any individual branch or root of less than two inches in diameter at the point of the cut on such branch or root. The cumulative amount of cutting shall not be more than ten percent the Root System, the Tree Crown, or a combination of both within a 12-month period. Pruning that substantially reduces the overall size or density of the tree or destroys the existing symmetry or natural shape of the tree is not considered Minor Pruning.

**Mitigation.** For purposes of this Chapter, this is the action or set of actions designed to reduce the negative effects resulting from the loss of a Protected Tree and the reduction to Folsom’s tree canopy.

**Monitoring Period.** A time period specified in the Tree Protection and Mitigation Plan and approved by the City Arborist in order to ensure that preserved trees and replacement trees are in good health and remain viable. For replacement trees, this time period is typically three years.

**Multi-trunked Tree.** A tree with multiple stems originating from a single root mass.

**Native Oak Tree.** One of the following indigenous species of tree or hybrids of any of the trees listed below, with a minimum diameter as shown in Table 12.16-7:

**Table 12.16-7  
Native Oak Trees**

<b>Common Name</b>	<b>Botanical Name</b>	<b>Trunk (DSH)</b>	<b>Multi-trunked Combined (DSH)*</b>
Valley Oak	Quercus lobata	6”	20”
Blue Oak	Quercus douglasii	6”	20”
Interior Live Oak	Quercus wislizenii	6”	20”
Coast Live Oak	Quercus agrifolia	6”	20”

\*A Native Multi-trunked Tree listed above with a single stem 6 inches or greater shall be considered a Native Oak Tree.

**Parking Lot Shading Tree.** Any tree planted in a parking lot in order to meet shade coverage requirements and as identified in the Zoning Code.

**Protected Tree.** Trees protected under this Chapter include Native Oak Trees, Heritage Trees, Landmark Trees, and Regulated Trees, as defined herein.

**Pruning.** To cut off or cut back parts a tree to enhance health and structure. Pruning refers to both above surface and underground cutting. See also “Major Pruning” and “Minor Pruning”.

**Reasonable Alternative Measures.** Measures determined and authorized by the Approving Authority or Appeal Authority that may be reasonably implemented to minimize impact to a Protected Tree in order to avoid activities which could result in greater impact to the tree or removal of the tree. Examples may include tree management practices such as root barriers, pruning, root pruning, and soil protection. It may also include minor modifications to the development standards set forth in the Zoning Code to allow a development to preserve existing trees on-site (which may require a variance or other land use approvals).

**Regulated Activity.** Activities involving Major Pruning of a Protected Tree, activities such as grading, trenching, paving or soil disturbance undertaken within the Tree Protection Zone of a Protected Tree, removal of a Protected Tree, cabling and/or bracing of a Protected Tree, or other activities that may impact the long-term health and survivability of a Protected Tree as may be determined by the City Arborist.

**Regulated Tree.** Trees required by the City’s Zoning Code, (such as Parking Lot Shading Trees and Street Trees), or required as conditions of development project approval (such as landscape buffer or screening trees), or required by this Chapter as mitigation for the removal of a Protected Tree(s).

**Replacement Tree.** A tree required to be planted as mitigation for removal of a Protected Tree in accordance with the requirements of this Chapter.

**Root System.** This configuration of the underground parts or appendages of a tree, providing several functions including anchoring and providing water and nutrients to the tree.

**Routine Maintenance.** Includes the following activities: Minor Pruning; dead branch removal; irrigation; mulch application; mowing or trimming grass or other ground cover close to a tree; application of fertilizer, insecticides, or herbicides in accordance with their label; or any other similar activities that promote the life, growth, or health of trees. Any procedure, technique, or practice that is considered unacceptable or prohibited under the City’s Tree Care and Maintenance Standards or by this Chapter is not Routine Maintenance.

**Street Tree.** A tree of an approved species in accordance with the Folsom Master Tree List located within 12.5’ of a street or sidewalk, measured from the back of the sidewalk or back of curb if no sidewalk exists. Street Trees can be either privately or publicly owned.

**Subject Property.** The property, or properties, for which a permit request has been filed.

**Terminal Leader.** This is the vertical stem(s) at the top of the trunk of a tree.

**Tree Care and Maintenance Standards.** Standards required by the City for the care and maintenance of Protected Trees based on the ANSI 300 Standards, the ISA Best Management Practices, and any other relevant standards as determined by the City Arborist and as amended by the City from time to time.

**Tree Crown.** This is the top part of the tree, which features branches, foliage, flowers, and seeds that grow out from the main trunk and support the various leaves used for photosynthesis.

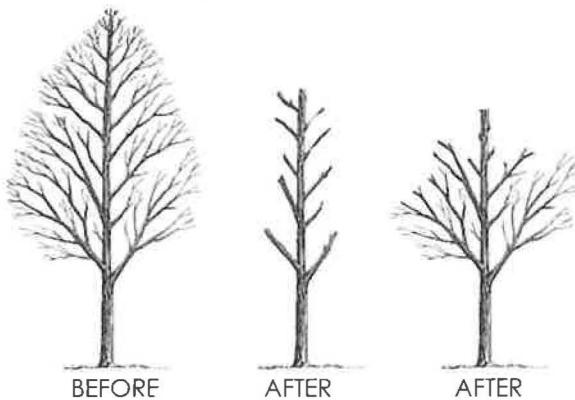
**Tree Permit.** A permit issued by the City covering any Regulated Activity affecting a Protected Tree, which may be a Tree Work Permit or a Tree Removal Permit or both.

**Tree Protection and Mitigation Plan.** A report and/or plan submitted for review and approval before the start of any Regulated Activity.

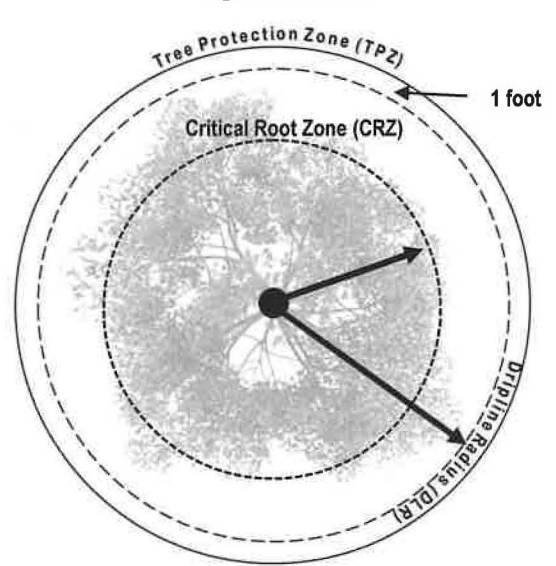
**Tree Protection Zone.** The circumference of the outermost edge of a tree's Critical Root Zone or Dripline Radius, whichever is greater, plus one foot. When depicted on a map, the Tree Protection Zone will appear as a perfect circle, or group of overlapping circles for multiple trees. Refer to Figure 12.16-8.

**Topping.** A type of pruning that is not Routine Maintenance and involves the removal of tops of trees, or large branches or trunks from tops of trees, leaving large stubs or lateral branches that are too small to assume the role of a Terminal Leader. Refer to Figure 12.16-9.

**Figure 12.16-9**



**Figure 12.16-8**





Urban Forest. A forest, or collection of trees, or the total of all trees on public and private properties that grow within an urban boundary.

Zoning Code. Title 17 of the Folsom Municipal Code.

12.16.040 Prohibited Activities

The following activities shall be prohibited with respect to Protected Trees:

- A. Topping.
- B. Attaching structures using nails, screws, and/or spikes except for the attachment of tags by an Arborist for purposes of tree identification.
- C. Wounding or breaking tree trunks or branches through contact with vehicles and heavy equipment.
- D. Wounding trunks with string weed trimmers, lawn mowers, and similar equipment.
- E. Causing injury by fire or excessive heat.
- F. Pruning activities not conducted in accordance with City's Tree Care and Maintenance Standards.
- G. The use of tree spikes or spurs while pruning.
- H. Any of the following activities within the Tree Protection Zone of any Protected Tree, unless specifically approved by the City and conducted in accordance with the standards of Section 12.16.130 (Conditions of Approval):
  - 1. Placement or storage of large quantities of soil and/or mulch greater than six inches in depth.
  - 2. Excavation and trenching.
  - 3. Changing soil grade by cutting or filling.
  - 4. Grading, tearing, and/or grubbing.
  - 5. Compacting soil with equipment, vehicles, material storage, and/or foot traffic.
  - 6. Installing impervious surfaces, including but not limited to parking lots, driveways, and walkways.
- I. Contamination of soil by washing out equipment (especially paint, stucco and concrete) and vehicle maintenance within the Tree Protection Zone.
- J. Contamination or compaction of soil by storing or placing construction materials or construction debris and waste within the Tree Protection Zone.
- K. Accumulation of water from construction-related activities within the Tree Protection Zone.

- L. Cutting down, destroying, effectively destroying through damaging, removing, or moving any Protected Tree without a Tree Work Permit or a Tree Removal Permit at any time unless specifically exempted by this Chapter.

12.16.050 Permit Required

- A. Tree Work Permit Required. A Tree Work Permit is required for any Regulated Activities undertaken with respect to a Protected Tree, except where specifically exempted by subsection “C” below:
- B. Tree Removal Permit Required. A Tree Removal Permit is required before removal of any Protected Tree, except where specifically exempted by subsection “C” below.
- C. Exemptions. The following activities with respect to Protected Tree are specifically exempted from the requirements for obtaining a Tree Work Permit or a Tree Removal Permit.
  1. Resurfacing, repaving, or concrete replacement of existing paved areas within the Tree Protection Zone, if conducted under the supervision of an Arborist to guarantee appropriate measures are taken to ensure tree survival.
  2. Parking or operation of motor vehicles within the Tree Protection Zone on existing paved areas.
  3. Placement or storage of equipment or construction material within the Tree Protection Zone on existing paved areas.
  4. Proper planting and maintenance of under-canopy landscaping in accordance with the City’s Tree Care and Maintenance Standards.
  5. Routine maintenance of Protected Trees.
  6. Emergency work involving the removal of limbs or trees damaged by extreme weather, chance occurrence, or unavoidable accident beyond the reasonable control of the property owner.
  7. Removal of a Protected Tree that is dead or dying as determined by an Arborist and/or verified by the City Arborist provided that the tree replacement requirements are met.
  8. Removal of a Protected Tree that poses an imminent safety risk to the public as determined by the City Arborist or City Fire Chief.
  9. Minor pruning activities.
  10. Activities that do not disturb or contaminate the soil within the Tree Protection Zone or result in physical contact to the Protected Tree.
  11. Public and private utilities performing tree pruning or removal activities as is necessary to maintain a safe operation of their facilities. However, the utility shall notify the Community Development Department at least seven (7) business days before taking any action. If the utility conducts routine maintenance in Folsom on a regular basis, receipt of an annual encroachment permit from the City shall satisfy the notification requirement of this section.

- D. Combined Activities. Separate but similar tree-related activities may be reviewed under one permit. The City's decision on the permit shall apply to all activities included in the permit.
- E. Limitation. Permit issued under this Chapter entitles the permittee to perform only the Regulated Activities authorized in the permit and is not valid for any other purpose.

#### 12.16.060 Application Requirements

- A. Application Form. All Tree Work Permit or Tree Removal Permit applications must be submitted in writing to the Community Development Department on a form provided by the City.
  - 1. Minimum submittal requirements shall be established by the Director. Additional information necessary for the complete evaluation of an application may be required by the City Arborist. All required material and information shall be provided by the applicant before the application may be deemed complete and accepted for processing.
  - 2. No application shall be considered complete for acceptance and processing until the required application fee is paid in full.
  - 3. For work within the Tree Protection Zone or work involving the removal of a Protected Tree, a Tree Protection and Mitigation Plan may be required as part of the permit application as determined by the City Arborist unless exempt under Section 12.16.050(C). If Protected Trees are present on or encroaching into a proposed development site, a Tree Protection and Mitigation Plan may be required as part of the entitlement application.
    - a. If all Regulated Activity is outside of the Tree Protection Zone of the Protected Trees, then only a site plan showing the location of the Protected Trees in accordance with Section 12.16.140(A) will be required.
- B. Application Fees. The City Council may establish a fee by resolution for the processing of permit applications under the provisions of this Chapter, which may be amended from time to time.

#### 12.16.070 Approving Authority

The Approving Authority may approve, modify, approve with conditions, or deny the permit application in accordance with this Chapter. The Approving Authority shall be responsible for the interpretation of provisions of this Chapter in the event of confusion or a conflict. The decision of the Approving Authority on a Tree Work Permit shall be final and not subject to appeal. A Tree Removal Permit may be appealed to the Appeal Authority pursuant to procedures set forth in Section 12.16.100 (Appeals).

#### 12.16.080 Findings for Approval

The following findings are required before issuance of the specified permit.

- A. Tree Work Permit. Before approving an application for a Tree Work Permit, the Approving Authority shall make the following findings:

1. The proposed activity is not detrimental to the immediate or long-term health of the Protected Tree; or
2. The proposed activity may impact the immediate health of the Protected Tree(s), but a Tree Protection and Mitigation Plan has been prepared that minimizes the impact and protects the long-term health of the tree(s) to the satisfaction of the Approving Authority; and
3. The proposed activity is in accordance with the provisions of this Chapter and all applicable City standards and policies.

B. **Tree Removal Permit.** Before approving an application for a Tree Removal Permit, the Approving Authority shall make at least one of the following findings:

1. The condition of the Protected Tree with respect to disease, danger of falling, or long-term health of the tree is such that the tree is not likely to survive.
2. The condition or location of the Protected Tree or its roots is interfering with water, sewer, gas, electrical services, streets or sidewalks and is likely to cause a foreseeable interruption in service or function to the subject property or properties in the vicinity and there are no Reasonable Alternative Measures to avoid, prevent or lessen the interference.
3. The Protected Tree or its roots are causing or will cause damage in the near future to any existing permanent structure or feature on the property or on any Adjacent property including pools, driveways, and there are no Reasonable Alternative Measures to avoid, prevent or remove and repair the damage or imminent damage.
4. Use of the property consistent with the Zoning Code cannot be made unless the Protected Tree is removed and there are no Reasonable Alternative Measures to allow for use of the property consistent with the Zoning Code.
5. The tree is a Protected Tree, other than a Native Oak Tree or Landmark Tree, in the front yard of a residential property of one-half acre or less with an existing residential structure on-site, and the property owner agrees to plant a replacement tree on the property consistent with the requirements of Section 12.16.150 (A)(1)(c).

12.16.090 **Notice of Decision**

A. Written notice of an application for a Tree Removal Permit shall be provided to owners of properties located immediately Adjacent to the subject property after an application has been received by the City. The notice shall include the following:

1. Location where the application may be viewed.
2. The timing for the decision on the application to be made by the Approving Authority.
3. The location where the decision and any conditions imposed as part of the approval or reasons for denial may be viewed.
4. The timeline and process for appeals, as applicable.

- B. **Written Notice.** Written notice of decision on an application for a Tree Work Permit or Tree Removal Permit shall be provided to the applicant as part of the permit issuance or denial. Notice of decision on a Tree Removal Permit will also be posted on the City's website.

12.16.100 Appeals

- A. **Right to Appeal.** The decision on a Tree Work Permit is final and not subject to appeal. For a Tree Removal Permit, any person dissatisfied with the determination of the Approving Authority may file an appeal with the Director. The decision of the Director may be appealed to the Planning Commission or the Historic District Commission depending upon the location of the Protected Tree. The decision of the Planning Commission or Historic District Commission may be appealed to the City Council.
  
- B. **Filing an Appeal.** An appeal shall be submitted in writing to the City Clerk within 10 calendar days following a decision rendered under this Chapter, with payment of an appeal fee adopted by the City Council. The appeal shall, at a minimum, state the following:
  - 1. The project or matter being appealed.
  - 2. The date of the City's decision that is the subject of the appeal.
  - 3. The specific finding(s), condition(s), standard, or action being appealed.
  - 4. A statement specifying the basis or grounds of the appeal, such as why the decision is not consistent with the standards and regulations of this Chapter.
  - 5. No appeal shall be deemed filed until the prescribed appeal fee has been paid.
  - 6. Failure to file a written appeal within the time and in the manner stated above shall constitute a waiver of the right to appeal.
  
- C. **Notice and Schedule of Appeal Hearings.**
  - 1. For appeal to the Director of a decision by the Approving Authority pursuant to this Chapter, no hearing shall be required prior to a decision by the Director on the appeal.
  - 2. For appeal to the Commission of a decision by the Director pursuant to this Chapter, the Director shall schedule an appeal hearing with the Planning Commission or the Historic District Commission, as applicable, as soon as practicable following receipt of the appeal. Notice of the date, time and place of the hearing shall be provided to the appellant and the project applicant no later than 10 calendar days before the date of the hearing. Any hearing may be continued from time to time.
  - 3. For appeal to the City Council of a decision by the Commission pursuant to this Chapter, the Director shall schedule an appeal hearing with the Council, as soon as practicable following receipt of the appeal. Notice of the date, time and place of the hearing shall be provided to the appellant and the project applicant no later than 10 calendar days before the date of the hearing. Any hearing may be continued from time to time.

- D. **Appeal Review and Action.** The Director, Planning Commission and/or Historic District Commission, and/or Council acting as Appeal Authority shall review all matters relating to the decision being appealed, de novo, and may make any order it deems just and equitable. The Appeal Authority may act to confirm, modify, or reverse the decision of the Approving Authority, in whole or in part, or add or amend such conditions as it deems necessary.
- E. **Notice of Appeal Decision.**
1. **Director Decisions.** At the conclusion of the review, the Director shall make findings supporting the decision on the appeal. Written notice of the decision shall be provided to the appellant and the project applicant.
  2. **Commission Decisions.** At the conclusion of the hearing, the Planning Commission or Historic District Commission shall make findings supporting its decision on the appeal. The decision of the Planning Commission or Historic District Commission shall be filed with the City Clerk and provided to the appellant and the project applicant.
  3. **Council Decisions.** At the conclusion of the hearing, the Council shall make findings supporting its decision on the appeal. The decision of Council shall be filed with the City Clerk and provided to the appellant and the project applicant.

12.16.110 **Effective Date and Permit Expiration**

A. **Effective Date.**

1. **Tree Work Permit.** Tree Work Permits shall become effective on the date an approval is issued by the Approving Authority.
2. **Tree Removal Permit.** Tree Removal Permits issued under this Chapter shall become effective 10 calendar days following the date of approval unless a timely appeal has been filed. Upon filing of a timely appeal, the effective date shall be suspended until such time that final action is taken on the appeal. If the Appeal Authority upholds a Tree Removal Permit application, the permit shall become effective on the day following the decision by the Appeal Authority.

B. **Time Limits.**

1. **Application Expiration.** Any application inactive for a period of six (6) months from the last written correspondence with the applicant shall expire, as determined by the Approving Authority. If the applicant subsequently wishes to continue to pursue the requested permit, a new application, including fees and all submittal requirements must be filed in compliance with this Chapter.
2. **Permit Expiration.** Any permit not exercised within six (6) months from the date of approval shall expire. The exercise of a permit occurs when the permittee performs substantial work for the activity approved under the permit, as determined by the Approving Authority.
3. **Associated Entitlements.** When a permit under this Chapter is approved in association with other project entitlements (i.e., tentative map, design review, etc.), the permit expiration date shall track the expiration of said project entitlements not to exceed two (2) years.



4. Extensions. An applicant may request an extension in writing for up to six (6) months for a permit or a permit application, which may be granted at the discretion of the Approving Authority. The request must include the reason(s) for the extension.

#### 12.16.120 Permit Compliance and Amendment

- A. Compliance with Permit Requirements. A Tree Permit shall entitle the applicant to perform only the Regulated Activity authorized by the permit. No person shall undertake any Regulated Activity that does not comply with an approved Tree Permit. Any proposed change in the nature or scope of the Regulated Activity that is not in compliance with the approved permit shall require an application to amend the approved permit, which shall be submitted, processed, and reviewed as a new application under the provisions of this Chapter.
- B. Substantial Compliance. The Approving Authority may approve minor changes to an approved permit if the proposed changes are in substantial compliance with the permit and permit conditions. Such proposed changes shall not significantly affect the scope and intent of the approved work or reduce any requirement intended to mitigate an impact to a Protected Tree.

#### 12.16.130 Conditions of Approval

The Approving Authority may impose such conditions as are necessary to ensure compliance with this Chapter with respect to the proposed project, including but not limited to conditions to lessen impacts to Protected Trees or to mitigate environmental impacts of the proposed activity. The following are standard conditions of approval that shall apply to each type of work listed below.

- A. Tree Pruning. Tree Work Permit for Protected Tree pruning activities shall be subject to the following standard conditions, in addition to any other condition imposed by the Approving Authority:
  1. All pruning activities shall be conducted in accordance with the City's Tree Care and Maintenance Standards.
  2. All work shall be performed by or under the supervision of an Arborist.
- B. Tree Protection Zone Work. Tree Work Permits for Regulated Activities conducted within the Tree Protection Zone shall be subject to the following standard conditions, in addition to any other condition imposed by the Approving Authority:
  1. A Tree Protection and Mitigation Plan may be required by the Approving Authority.
  2. All work shall be conducted and performed:
    - a. In accordance with the City's Tree Care and Maintenance Standards.
    - b. In accordance with the approved Tree Work Permit and, if required, the Tree Protection and Mitigation Plan.
    - c. By or under the supervision of an Arborist unless this requirement is waived by the Approving Authority.

3. For construction activities, each Protected Tree or group of Protected Trees to be preserved shall be enclosed with high visibility fencing prior to the commencement of any Regulated Activity.
4. Signs shall be posted on all sides of fences surrounding each Protected Tree or Trees stating that enclosed tree(s) are to be preserved. The signs shall state the penalty for damage to, or removal of, the Protected Tree. The size and number of posted signs required for the site shall be determined by the Approving Authority.
5. Any approved Tree Protection and Mitigation Plan must be submitted as part of the application and plan set submittal for the Regulated Activity such as applications and plans for a grading permit, building permit, landscape permit, etc.
6. An Arborist or their authorized representative shall be present on-site during all permit activities in order to monitor compliance with the permit, the permit conditions, and this Chapter to the satisfaction of the Approving Authority.
7. A Certificate of Compliance shall be submitted by an Arborist as follows:
  - a. Once all permit activities are complete – to confirm compliance with the Tree Protection and Mitigation Plan.
  - b. Once the Monitoring Period specified in the Tree Protection and Mitigation Plan has closed – to confirm that the Protected Trees are in good health and remain viable.

C. **Tree Removal.** A Tree Removal Permit for removal of a Protected Tree shall be subject to the following standard conditions, in addition to any other condition imposed by the Approving Authority:

1. A Tree Protection and Mitigation Plan may be required by the Approving Authority.
2. A Certificate of Compliance may be required by an Arborist to the Approving Authority as follows:
  - a. Once replacement planting is complete – to confirm that the replacement tree(s) have been planted in accordance with the submitted Tree Protection and Mitigation Plan and any other applicable conditions of approval.
  - b. Once the Monitoring Period specified in the Tree Protection and Mitigation Plan has closed – to confirm that the replacement trees are in good health and remain viable.

D. All Tree Permits shall be subject to the following:

1. **Tree Permit Kept on Site.** A copy of the applicable Tree Permit and Tree Protection and Mitigation Plan shall be kept at the project site at all times shall always be kept at the project site and shall be made available for inspection upon request.
2. **Permittee Responsibilities.** The permittee is responsible for compliance with all requirements of the Tree Permit.
3. **Indemnification.** Permittees of Tree Permits issued under this Chapter shall defend, protect, indemnify and hold harmless the City and its officials, agents and employees from any and all claims, demands, suits, causes of action, damages,

costs, expenses, losses, or liability, in law or in equity, of every kind and nature whatsoever arising out of or in connection with the issuance of the Tree Permit or the permittee's work performed under the Tree Permit.

#### 12.16.140 Tree Protection and Mitigation Plan Requirements

The Tree Protection and Mitigation Plan, if required under this Chapter, shall be prepared by an Arborist or other licensed professional, as approved by the Approving Authority, and contain the following information:

- A. A site plan, which shall include the following information, and any other information determined to be necessary by the Approving Authority.
  1. Physical characteristics (existing and proposed).
    - a. Property lines;
    - b. Streets, access easements and/or public or private driveways and other paved areas;
    - c. Buildings or structures;
    - d. Setbacks of all buildings and structures from property lines;
    - e. Parking and other paved areas;
    - f. Land uses on parcel (existing and proposed as applicable); and
    - g. Proposed grading and construction, including utilities, if available.
  2. Tree locations, including:
    - a. All trees located on the property;
    - b. Diameter at Standard Height of each tree;
    - c. Species of each tree;
    - d. Those Protected Trees which are to be preserved and which will be subject to Regulated Activity;
    - e. Protected Trees that may or will be impacted by the proposed Regulated Activities shall be clearly indicated;
    - f. The location of any replacement trees proposed as mitigation;
    - g. The exact location of the base and Tree Protection Zone for each tree within the project boundary;
    - h. The tree number(s) shall be shown on both the site plan and grading plan and on the trees themselves (attached by nonharmful methods);
    - i. The base elevation of each Protected Tree shall be shown on the site plan as well as the grading plan; and
    - j. A survey of the exact location(s) of such tree(s), both horizontally and vertically, shall be conducted by a professional engineer or a licensed land surveyor.
- B. An Arborist Report which includes the following and any other information determined to be necessary by the Approving Authority:
  1. A statement of qualifications for the Arborist(s) or others that prepare the Tree Protection and Mitigation Plan.
  2. Protected Trees shall be rated according to this American Society of Consulting Arborists (ASCA) Tree Rating System shown in Table 12.16-10.

**Table 12.16-10  
ASCA Tree Rating System**

<b>Rating</b>	<b>Rating No.</b>	<b>Rating Description</b>
Excellent	5	No problem(s)
Good	4	No apparent problem(s)
Fair	3	Minor problem(s)
Poor	2	Major problem(s)
Hazardous or Non-correctable	1	Extreme problem(s)
Dead	0	Dead

3. A description of Regulated Activities to be conducted.
4. A procedure and course of action recommended by an Arborist which addresses the impacts to individual Protected Trees from the proposed Regulated Activity and provides the details necessary for preservation and mitigation and which shall include the following:
  - a. For Regulated Activity to be conducted within a Tree Protection Zone, the Tree Protection and Mitigation Plan shall identify those methods that shall be used by the applicant to protect the tree(s) during the proposed Regulated Activities, consistent with the requirements of Section 12.16.150. The methods used shall include, but not be limited to, the following:
    - i. Preservation devices such as soil or surface protection, protective fencing, root protection devices or other such methods.
    - ii. The detailed recommendations for existing or proposed planting and/or irrigation within the Tree Protection Zone.
    - iii. Standards for performing work such as trenching, root cutting, or grading shall be consistent with the City's Tree Care and Maintenance Standards to preserve the Protected Tree.
  - b. For removal of a Protected Tree, the Tree Protection and Mitigation Plan shall include:
    - i. The number of replacement trees required to mitigate for removal of the Protected Tree(s) consistent with Section 12.16.150(A).
    - ii. The number of replacement trees that may be accommodated on the same property as the Protected Tree(s) proposed for removal. The number of replacement trees that may be accommodated on the property shall be determined by an Arborist based on the long-term viability of the replacement tree(s). Long-term viability shall be determined based on the following factors:

1. Whether the proposed location of the replacement tree can accommodate full growth.
  2. Quality of the environment in which the tree is to be located.
  3. Potential impact to the replacement tree from any proposed development or construction activities.
- iii. The schedule for planting of the replacement trees subject to approval of the Approving Authority.
  - iv. The strategy chosen by the applicant to satisfy the required mitigation shall be consistent with the provisions of Section 12.16.150(B).
  - v. If in-lieu fee payment is the only feasible option available to satisfy the mitigation requirements set forth in Section 12.16.150(B) then the information listed above in Section 12.16.140(B)(4) is not required.
- c. A monitoring program for the replacement trees, including a specified time period, the party responsible for monitoring, and the method and frequency by which monitoring reports will be submitted to the City.
  - d. Other items as determined by the Approving Authority to satisfy the requirements of this Chapter.

#### 12.16.150 Mitigation Requirements

Removal of any Protected Tree shall be mitigated in accordance with the provisions of this section.

#### A. Replacement Trees Required. Replacement trees shall be required as follows:

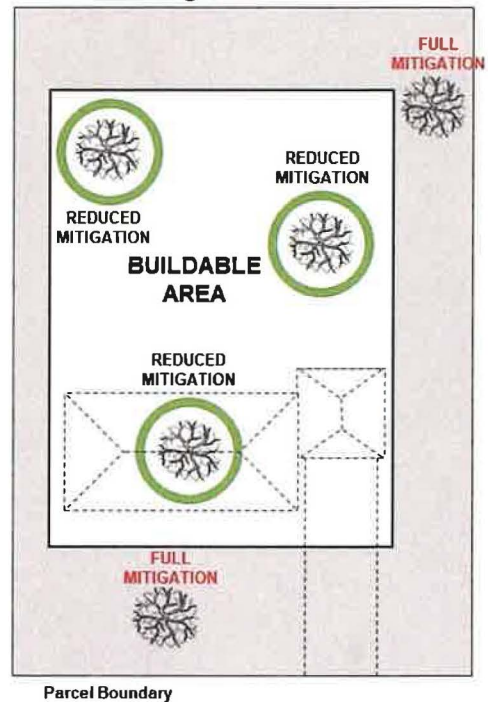
1. Protected Trees. Protected Trees rated 3, 4 or 5 in the ASCA Tree Rating System in Section 12.16.140(B) shall be replaced at a ratio of one-inch equivalent for every one-inch of DSH removed as shown in Table 12.16-11. Smaller trees such as saplings or trees in containers less than 15-gallons may be used, but two replacement trees of that size would be required for every inch of Protected Tree removed. Protected Trees rated 2 shall be replaced at a ratio of 0.5-inch equivalent for every one-inch removed. Protected Trees rated 0 or 1 require no replacement or any other mitigation unless a Parking Lot Shading Tree or Street Tree replacement is required under the Zoning Code. Before removal of a Landmark Tree, the landmark designation shall be declassified pursuant to Section 12.16.170(D).
  - a. Equivalency Table. The following equivalent sizes shall be used whenever new trees are planted pursuant to a Tree Protection and Mitigation Plan (refer to Table 12.16-11).

**Table 12.16-11  
Tree Replacement Equivalency Table**

<b>Replacement Tree Size</b>	<b>DSH Equivalency</b>
A sapling tree; or	0.5-inch DSH
Tree in container less than 15 gallons	0.5-inch DSH
15-gallon container tree	1-inch DSH
24-inch box tree	2-inch DSH
36-inch box tree	3-inch DSH

**Figure 12.16-12**

- b. **Reduced Mitigation Rate Within the Buildable Area of Residential Lots.** Within the buildable area of a parcel zoned to allow for residential development, the mitigation requirements shall be reduced by 50 percent if any part of the tree base is located within the Buildable Area as shown in Figure 12.16-12.
- c. **Removal of Street Trees on Residential Property with Existing Residential Dwellings.** Street trees on residential property one-half acre or less shall be replaced at a ratio of one replacement tree for every tree removed if the property has an existing residential structure on-site. For residential properties greater than one-half acre, two replacement trees for every Street Tree removed shall be required at the discretion of the Approving Authority. Regardless of property size, removal of Street Trees that are Native Oak Trees or Heritage Trees requires the mitigation set forth in Section 12.16.150(B).
- d. **Reduction or Waiver of Tree Replacement Requirements.** The Director may consider requests to reduce or waive the tree replacement requirements in this section provided that the applicant has met findings 1, or 2, or 3 as set forth in 12.16.080(B) and the Protected Tree(s) is removed pursuant to a Tree Removal Permit issued pursuant to this Chapter.





B. Mitigation Strategies.

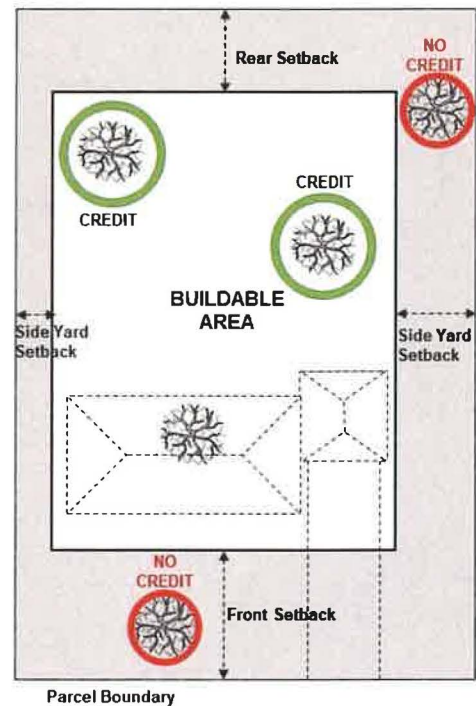
1. On-Site Replacement Planting. Replacement trees shall be planted on the same property as the Protected Tree proposed for removal, subject to review by the Approving Authority. Where the subject property is not able to accommodate the required number of replacement trees on-site, the payment of in-lieu fees shall be required in accordance with Section 12.16.150(B)(2).
  - a. Replacement Tree Species. Trees planted as replacement trees shall be the same species as those removed or a species that is acceptable to the Approving Authority, with consideration given to species diversity.
2. Payment of In-Lieu Fee. Payment of in-lieu fees may be allowed where the subject property is not able to accommodate the required number of replacement trees on-site. The in-lieu fee shall be calculated as a dollar amount for each DSH inch of Protected Tree removed, as adopted by City Council resolution.
3. Combination of Planting and Fee Payment. A combination of on-site replacement planting and payment of in-lieu fees may be used where the number of replacement trees cannot be accommodated on-site. The in-lieu payment shall be reduced based on the number of DSH inches of the replacement trees planted on-site.

- a. Tree Preservation Credit. Protected Trees, including Native Oaks measuring one inch DSH or greater, may be preserved in order to receive a Tree Preservation Credit (TPC). Credit of one-half inch DSH shall be granted for every inch DSH preserved. However, required mitigation cannot be entirely satisfied using Tree Preservation Credit alone. Even when credit is granted, in no case can mitigation for Protected Tree removal be less than either:

- i. The replanting, maintenance and monitoring for 3 years of one 15-gallon tree from a species of similar size at maturity that is listed on the Folsom Master Tree List; or
- ii. The in-lieu fee equivalent to the replacement of the Protected Tree at one-inch DSH.

Any tree that is to be considered for Tree Preservation Credit shall be evaluated, included in the Tree Protection and Mitigation Plan, and shall have been found to be rated a 3, 4, or a 5 by an Arborist based on the ASCA Tree Rating System identified in Section 12.16.140. Credits shall only be accepted if any part of the base of the tree to be preserved is

Figure 12.16-14



located within the Buildable Area of the parcel as shown in Figure 12.16-14, the Tree Protection Zone (TPZ) is protected on the construction site, the spacing is equal to or greater than the proper spacing dictated by the Folsom Master Tree List, and the tree is determined by the City Arborist to be viable long-term.

4. Other Strategies. Other strategies as may be determined appropriate by the Approving Authority and that meet the intent of mitigation for removal of the Protected Tree(s).

#### 12.16.160 Tree Planting and Replacement Fund

Mitigation fees and penalty assessments under this Chapter shall be deposited into the Tree Planting and Replacement Fund. The Tree Planting and Replacement Fund may be used for tree planting and revegetation projects such as parkways, parks, planting of trees along public trails and beautification projects, to purchase property for tree mitigation sites, or beautification projects, for the retention of a City Arborist, or for the development, staffing or implementation of an Urban Forestry program, if established. Funds shall not be made available for mitigation or planting on private property, with the following exceptions: 1) private property that is maintained by the City under the terms of a maintenance agreement; or 2) maintenance of Landmark Trees at the recommendation of the City Arborist. This fund shall be administered by the Community Development Department.

#### 12.16.170 Landmark Designation

- A. Establishment of Landmark Designation. Application for Landmark Designation. Any interested party may submit an application to the Community Development Department, requesting that the City Council establish by resolution a tree or group of trees as a Landmark Tree(s). Applications shall be made on a form supplied by the City and be subject to an application fee pursuant to the adopted fee schedule. The City Council may also, on its own motion and without the payment of a fee, commence the process of designating a Landmark Tree. If the owner of the proposed Landmark Tree(s) is not the applicant, the Community Development Department shall notify, by first-class mail, the owner of the proposed Landmark Tree(s) thirty days before the hearing on the application, and the owner must provide written confirmation to the City that they support the application. Once an application has been submitted, and before City Council action, the proposed Landmark Tree shall have the same status as a Protected Tree under this Chapter.

Designation of Landmark Trees. In order to designate a tree as a Landmark Tree, the City Council shall find that the tree is in good health and is a significant community benefit because it possesses one or more of the following attributes:

1. Historical value.
2. Outstanding habitat value.
3. Unusual species.
4. Superior beauty.

Property Owner Notification. If the City Council designates a tree as a Landmark Tree, the City Clerk shall mail a copy of the resolution to the owner of the tree and direct the City Arborist to add the tree to the list of Landmark Trees.

- B. Maintenance of Landmark Trees. Upon the request of the property owner, the City Arborist may cause a Landmark Tree to be inspected by an Arborist. A report on the health of the tree(s) and recommended maintenance shall be prepared if determined to be necessary by the City Arborist. Copies of the report shall be provided to the owner of the Landmark Tree(s).
- C. Documenting Landmark Trees. The Community Development Department shall map the location of Landmark Trees.
- D. Declassification of Landmark Designation.
  - 1. Application to Remove Landmark Designation. The owner of a Landmark Tree may submit an application to the Community Development Department, requesting that the City Council declassify a tree or group of trees previously designated as a Landmark Tree(s). Applications shall be made on a form supplied by the City and shall be subject to an application fee pursuant to the adopted fee schedule. The City Council may also, on its own motion and without the payment of such a fee, commence the process of declassifying a Landmark Tree(s). Unless the owner of the Landmark Tree is the applicant, the Community Development Department shall notify the owner by first-class mail thirty days before the City Council meeting scheduled for the proposed action.
  - 2. Declassification of Landmark Trees. In order to remove the landmark designation of a tree(s), the City Council shall find that the tree(s) is no longer a significant community benefit because it meets one or more of the following factors:
    - a. The tree(s) has significantly deteriorated in health or appearance.
    - b. The tree(s) no longer has habitat value.
    - c. The tree(s) prevents reasonable use of the property.
  - 3. Property Owner Notification. If the City Council declassifies a tree or group of trees previously designated as a Landmark Tree(s), the City Clerk shall mail a copy of the resolution to the owner of the tree(s) and direct the City Arborist to remove the tree(s) from the list of Landmark Trees.

12.16.180 Maintenance

- A. Every property owner shall maintain:
  - 1. Any Protected Tree located within the limits of their property in accordance with the requirements of this Chapter.
  - 2. Any Street Tree shall be pruned by the property owner in accordance with the requirements of this Chapter and shall maintain a minimum seven-foot vertical clearance over all public sidewalks, a minimum eight-foot vertical clearance over all public bicycle lanes, and a minimum 14.5-foot vertical clearance over all public streets.

- B. Nothing in this Chapter shall interfere with the application or enforcement of the requirements in Chapters 8.36 (Folsom Fire Code) and 8.37 (Abatement of Weeds, Refuse, and Abandoned Material) of the Folsom Municipal Code. In the event of a conflict with this Chapter, the requirements of Chapters 8.36 and 8.37 shall control; however, a Tree Removal Permit shall be required for the removal of Protected Trees. Permitted removal of Protected Trees shall be exempt from mitigation if the removal is either:
1. Part of a City-approved Fuel Modification Plan as set forth in Chapter 8.36; or
  2. The result of a Notice to Remove Weeds, Noxious Vegetation, Refuse and Other Obstructions issued by the Fire Chief in accordance with Chapter 8.37.

12.16.190 Street Tree Planting

- A. Street Tree Planting. Each applicant for a building permit for new construction of residential or commercial structures on parcels without existing Street Trees, or for a parcel map, subdivision map or planned development permit which seeks, in whole or in part, the improvement of real property, shall be responsible for the planting of Street Trees, unless waived by the City Arborist due to physical site constraints of the parcel. The species of trees to be planted shall be in accordance with the Master Tree List. As part of the application process, the City Arborist shall review and approve the species and size of the tree to be planted, the location of the planting and the stage of the development at which the tree is to be planted. There shall be at least one Street Tree for each single-family and two-family lot, except for corner lots, for which two trees shall be planted. For Street Trees for multi-family, mixed-use, commercial and industrial parcels, there shall be at least:
- a. One large-size tree species from the City's Master Tree List planted on center every forty feet of street frontage; or
  - b. One medium-size tree species from the City's Master Tree List planted on center for every 30 feet of street frontage; or
  - c. One small-size tree species from the City's Master Tree List planted on center for every 20 feet of street frontage; or
  - d. If the City Arborist confirms that the planting of Street Trees is not feasible then payment of an in-lieu fee by the applicant will be required based on the number of Street Trees that would have been required given the linear feet of street frontage of the project.
- B. Responsibility. The cost of the tree stock, the planting thereof and the maintenance of the tree pending occupancy of the property shall be the responsibility of the applicant. Unless the applicant can demonstrate to the satisfaction of the Community Development Department that adequate provision has been made for the planting and initial maintenance of the Street Trees, the applicant shall be required to furnish security which, at the option of and subject to the approval of the Director, shall be in the form of those alternatives authorized under Government Code Section 66499 et seq. Adequate provision may take the form of covenants, conditions and restrictions (CC&Rs) that require the planting and maintenance of Street Trees and that, in the opinion of the City

Attorney, are enforceable by property owners or an association of owners created by such CC&Rs.

#### 12.16.200 Parking Lot Shading Tree Planting

- A. Planting in Parking Lot. Each applicant for a building permit for new construction of a commercial structure(s) with surface parking on a parcel without Parking Lot Shading Trees, or for a parcel map, subdivision map or planned development permit which seeks, in whole or in part, the improvement of real property, shall be responsible for the planting of Parking Lot Shading Trees in accordance with the requirements of the Zoning Code. The species of trees to be planted shall be in accordance with the Master Tree List. As part of the application process, the City Arborist shall review and approve the species and size of the trees to be planted, the location within the parking lot where the trees are to be planted, the monitoring and maintenance period, and the total number of trees necessary to meet the requirements of the Zoning Code.
- B. Responsibility. The cost of the tree stock, the planting thereof and the maintenance of the tree pending occupancy of the property shall be the responsibility of the applicant. Unless the applicant can demonstrate to the satisfaction of the Community Development Department that adequate provision has been made for the planting and initial maintenance of the Parking Lot Trees, the applicant shall be required to furnish security which, at the option of and subject to the approval of the Director, shall be in the form of those alternatives authorized under Government Code Section 66499 et seq. Adequate provision may take the form of covenants, conditions and restrictions (CC&Rs) that require the planting and maintenance of Parking Lot Shading Trees and that, in the opinion of the City Attorney, are enforceable by property owners or an association of owners created by such CC&Rs.

#### 12.16.210 Solar Shade Control Act Exemption

The City is exempt from the provisions of the Solar Shade Control Act, Chapter 12 (commencing with Section 25980) of Division 15 of the California Public Resources Code.

#### 12.16.220 Violations, Enforcement, and Penalties

- A. Violations
1. A violation of this Chapter shall be an administrative violation as defined in Section 1.08.020. In addition to enforcement by any procedure set forth in Chapters 1.08 through 1.10, any violation of this Chapter shall be punishable as a misdemeanor, which shall be punishable by a fine not to exceed one thousand dollars, or by imprisonment in the County jail for not more than six months, or by both fine and imprisonment.
  2. Each of the sanctions for administrative violations identified in Section 1.09.013 shall be available to redress violation of the provisions of this Chapter.
  3. In addition to the criminal penalty set forth in subsection A of this section, based upon the criteria for the imposition of administrative sanctions set forth in Section 1.09.014, a violation of a provision of this Chapter shall be deemed a Level E violation, as that term is described in Section 1.09.012.



4. Notwithstanding the maximum fee level identified in Section 1.09.012(A), the monetary sanction for the removal of a Protected Tree or damage resulting in a critical impact to a Protected Tree, as determined by the City Arborist, shall be in an amount at least two times what would have been charged as an in-lieu fee under Section 12.16.150(B)(2) of this Chapter.

B. Enforcement

1. This Chapter shall be enforced pursuant to the provisions of Chapters 1.08 through 1.10 of the Folsom Municipal Code.

C. Enforcement Procedures—Notice to Correct

1. Prior to the assessment of any monetary sanction or the commencement of any other enforcement action pursuant to this Chapter, the Director shall follow the procedures set forth in Chapter 1.09 of the Folsom Municipal Code.

**SECTION 3 SEVERABILITY**

If any section, subsection, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining chapters of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions to be declared invalid or unconstitutional.

**SECTION 4 EFFECTIVE DATE**

This ordinance shall become effective April 1, 2020, provided it is published in full or in summary within twenty (20) days after its adoption in a newspaper of general circulation in the City of Folsom.

This ordinance was introduced at the regular meeting of the City Council for the first reading on January 14, 2020, and the second reading occurred at the regular meeting of the City Council of January 28, 2020.

On a motion by Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, the foregoing ordinance was passed and adopted by the City Council of the City of Folsom, State of California, this day of January 28, 2020 by the following vote, to wit.

AYES: Council Member(s):

NOES: Council Member(s):

ABSTAIN: Council Member(s):

ABSENT: Council Member(s):

Sara Aquino, MAYOR

ATTEST:

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Christa Freemantle, CITY CLERK



## **Attachment 2**

### **Summary of Significant Changes to the Tree Preservation Ordinance dated December 30, 2019**



## City of Folsom Tree Preservation Ordinance Update Summary of Significant Changes

The updated Tree Preservation Ordinance includes the following major changes from the City's current ordinance. The related sections in the updated ordinance are included in parentheses.

- 1. Permits.** Two different permits depending on type of work (Tree Work Permit and Tree Removal Permit) instead of just one Tree Permit (Sections 12.16.020 and 12.16.050).
  - Reason for Change: Allows staff to develop standard conditions for each type of permit since each permit involves different types of tree work.
- 2. Protected Tree.** Broadens definition to include parking lot shading trees and trees required as mitigation (Section 12.16.020).
  - Reason for Change: Ensures that parking lot shading trees and trees planted as mitigation are not damaged or removed without City review and mitigation.
- 3. Heritage Tree.** Definition expanded to include all large trees over 30 inches with exclusions consistent with the City's Master Tree List (Section 12.16.020).
  - Reason for Change: Expands protection to larger trees that have the greatest benefits in terms of shading, health, sustainability, etc.
- 4. Tree Protection Zone.** Better defines and expands area of protection (Section 12.16.020).
  - Reason for Change: Current ordinance does not correctly define this area. It refers to the dripline which is not the same. This provides a clear definition with illustrations.
- 5. Findings.** Requires applicants to meet findings before Tree Work Permit or Tree Removal Permit issuance (Section 12.16.080).
  - Reason for Change: Not clear in current ordinance under what conditions the applicant could remove a tree or work within the Tree Protection Zone. New ordinance states the findings that staff must make when granting a permit.
- 6. Standard Conditions.** Identifies standard conditions of approval for each permit type (Section 12.16.130)
  - Reason for Change: Current ordinance does not have standard conditions. These are provided to let the applicant know in advance the typical conditions that will be part of their project. These include such things as monitoring by a certified arborist, best practices for tree work, and, in some cases, preparation of a Tree Protection and Mitigation Plan.
- 7. Tree Care and Maintenance Standards.** Uses industry standards for tree care and maintenance.
  - Reason for Change: Current ordinance has no standards for maintenance. This establishes best practices for tree care and maintenance based on those standards established by the International Society of Arboriculture (ISA) and the American National Standards Institute (ANSI).
- 8. Tree Protection and Mitigation Plan.** Expands and clarifies requirement for the plan that focuses on minimizing impact on trees and tree removal only when necessary (Section 12.16.140).
  - Reason for Change: Rarely used in current ordinance because applicants typically paid the in-lieu fee as mitigation. Now plan must be prepared prior to any decision regarding mitigation (i.e., replanting, in-lieu fee payment or both).
- 9. Reasonable Alternative Measures.** Adds new concept to provide flexibility to encourage tree preservation rather than removal (Sections 12.16.020 and 12.16.080).

- Reason for Change: Does not exist in current ordinance. Provides flexibility and incentives for applicant to preserve tree(s) on-site. Examples include use of root barriers, minor deviations from standard setbacks, etc.
10. **Mitigation**. Focused on tree replacement and replanting rather than just in-lieu payment (Section 12.16.150). Allows Director to consider reducing or waiving mitigation if tree must be removed because it is either dead or causing damage to buildings on the property.
- Reason for Change: Most applicants paid in-lieu fee rather than attempt to preserve tree. New strategy emphasizes preservation first then replanting and then in-lieu payment when preservation or replanting are not feasible.
11. **Tree Replacement Ratio**. Establishes inch for inch replacement requirement except for residential street trees which is a one-to-one tree ratio (Section 12.16.150).
- Reason for Change: Current ordinance has such a high replacement requirement that it encouraged applicants to pay the in-lieu fee rather than plant replacement trees. The new ordinance requires:
    - Planting of replacement trees on-site; and/or
    - If not feasible, then payment of in-lieu fee calculated based on a dollar amount for each inch at diameter at breast height of protected tree removed (to be established separately by City Council resolution); or
    - Other strategies as may be determined appropriate by the Director if it meets the intent of the ordinance.
12. **Credits**. Provides mitigation credits for trees preserved on-site (Section 12.16.150).
- Reason for Change: The current ordinance does not provide an incentive to preserve trees. With the new ordinance, applicants can receive mitigation credit for trees within the available buildable area of the parcel that remain on-site.
13. **Trees in Building Footprint**. Reduces mitigation for trees located within proposed building footprint (Section 12.16.150).
- Reason for Change: Current ordinance required one 15-gallon tree for every Protected Tree removed, but in practice a reduced mitigation in-lieu fee was paid instead. The new ordinance requires replanting and/or payment of an in-lieu fee, but those requirements are reduced by half for trees within the building envelope.
14. **Tree Planting and Mitigation Fund**. Clarifies and, in a couple instances, expands the allowable use of the funds to support tree planting and urban forestry efforts (Section 12.16.160).
- Reason for Change: While this is included in both versions of the ordinance, the new ordinance clarifies the use of the funds including use for the development, staffing or implementation of an Urban Forestry program since this is a General Plan implementation program (refer to General Plan Program NCR-1: Urban forestry program). It also allows use of the funds for planting of trees on private property maintained by the City under the terms of a maintenance agreement with the property owner. The funds will be managed by the Community Development Department since the City Arborist resides in that department.
15. **Exemption from Solar Shade Control Act**. The new ordinance would exempt the City from this State law so that homeowners are not forced to significantly prune, damage, or remove Protected Trees that may partially shade solar panels (Section 12.16.210).
- Reason for Change: Though the Solar Shade Control Act was enacted in 1978, it was amended in 2008 long after adoption of the current Tree Preservation Ordinance. The amended law allows jurisdictions to exempt themselves from the law if they have a tree preservation ordinance or local solar shade ordinance. Sacramento, Rancho Cordova, Citrus Heights and Davis have all exempted themselves from the law.

A detailed section by section comparison of the existing and new ordinance has been prepared for the environmental analysis (Addendum to the General Plan Final Program Environmental Impact Report).

## **Attachment 3**

**Public Hearing Draft Tree Preservation Ordinance dated  
December 30, 2019 with track changes showing edits to the  
October 2019 Public Review Draft Tree Preservation Ordinance**





CITY OF  
**FOLSOM**  
DISTINCTIVE BY NATURE

**City of Folsom**  
**Tree Preservation Ordinance**  
**Update**

**FINAL DRAFT**

**December 30, 2019**

**Revisions to Chapter 12.16**  
**of the Folsom Municipal Code**

# CHAPTER 12.16 TREE PRESERVATION ORDINANCE

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## 12.16.010 Purpose and Intent

- A. **Purpose.** Trees are both community and environmental assets, unique in their ability to provide a multitude of benefits that appreciate over time. In addition to many others, these benefits include life-giving oxygen, filtration of air pollutants, protection from heat and ultra-violet radiation~~essential shade~~, energy savings, reduced Heat Island effect, habitat for wildlife, and carbon sequestration, and improvement of property values. The purpose of this chapter is to advance these aesthetic, economic, environmental, and social contributions of ~~our~~ the City's Urban Forest through the creation and preservation of tree resources. In order to promote the public health, safety and general welfare, enhance the beauty of Folsom 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~~ City Council finds it necessary to establish standards and measures for the preservation of trees.
- B. **Intent.** The provisions of this ~~chapter~~ Chapter are enacted to:
1. Establish and maintain the optimum amount of tree cover on public and private lands, ~~to enhance the natural scenic beauty, moderate climatic conditions, and sustain property values.~~
  2. Promote conservation of tree resources and long-term sustainability.
  3. Safeguard the health of the City's Urban Forest by ensuring proper tree management practices.
  4. Protect the visual and aesthetic character of the City.
  5. Implement the conservation goals of the General Plan.
  6. Establish procedures for the City to administer this tree preservation ordinance.

## 12.16.020 Definitions

This section includes the definition of terms and phrases used in this Chapter that are technical or specialized, or that may not reflect common usage. If any of the definitions in this Chapter conflict with definitions in other provisions of the Municipal Code, the terms and phrases as defined in this Chapter shall control for the purposes of this Chapter. If a word is not defined in this Chapter, the Community Development Director shall determine the most appropriate definition for purposes of enforcing the ~~Tree~~ tree preservation ordinance.

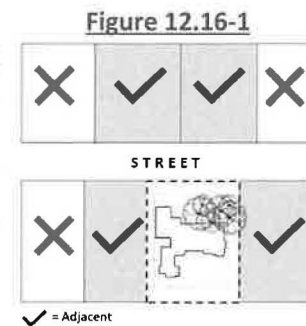
**Adjacent.** Having a common property line, or immediately next to a property or to a property located across from ~~to~~ an alley, path, private street, easement, or public street as shown in Figure 12.16-1.

**ANSI A300 Standards.** The most current version of Tree Care Operations – Tree, Shrub and ~~other~~ Other Woody Plant Maintenance – Standard Practices of the American National Standards Institute, as amended from time to time.

**Appeal Authority.** The Director or Commission authorized under this Chapter to consider appeals of ~~Tree Removal Permits~~ decisions by the Approving Authority.

**Approving Authority.** The City Arborist is the Approving Authority for the Tree Work Permit and Tree Removal Permit covered by this Chapter.

**Arborist Report.** A report prepared by an Arborist containing specific information on location, condition, potential impacts of development, recommended actions and mitigation measures relating to 1 or more trees on an individual lot or project site.





**Arborist.** An individual certified as an Arborist by the International Society of Arboriculture (ISA) and holds a current and unexpired certification.

**Buildable Area.** The area of a parcel where buildings may be constructed excluding front, rear and side yard setbacks as required by the Zoning Code. In the case of a parcel that is to be subdivided, the buildable footprint would be the Buildable Area of each proposed new parcel excluding front, rear and side yard setbacks as required by the existing or proposed zoning for the new parcel(s). Refer to Figure 12.16-2.

**City Arborist.** An Arborist who is a City employee whose job duties include the review, evaluation and preparation of reports and permits under this Chapter.

~~Director. The Director of the City's Community Development Department or his/her designee.~~

**Certificate of Compliance.** A letter-written statement from an Arborist verifying that the conditions associated with a Tree Permit have been satisfied.

**Commission.** The Planning Commission or Historic District Commission depending on the location of the Regulated Activity.

**Critical Root Zone (CRZ).** The area of soil extending from the tree trunk where roots required for future tree health and survival are located. This Critical Root Zone area for all trees except Heritage Trees is a circle with a minimum radius of 1 foot for every 1 inch in trunk diameter at DBH/DSH. Refer to Figure 12.16-3 For Heritage Trees, the Critical Root Zone area shall be a circle with a minimum radius of 1.5 feet for every 1 inch in trunk diameter at DBH, unless reduced by the City Arborist.

Figure 12.16-2

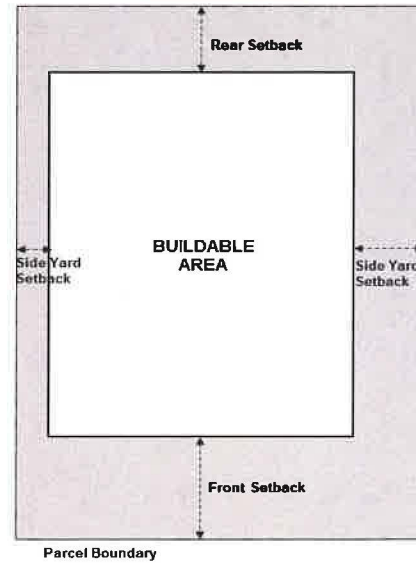
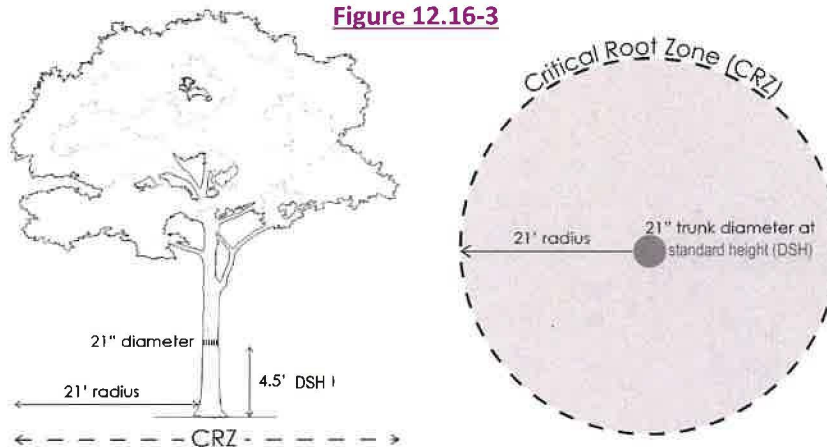
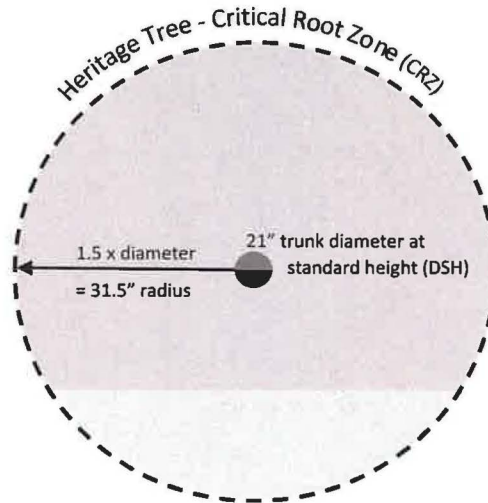


Figure 12.16-3



For Heritage Trees, the Critical Root Zone area shall be a circle with a minimum radius of 1.5 feet for every 1 inch in trunk diameter at DSH, unless reduced by the City Arborist. Refer to Figure 12.16-4.

Figure 12.16-4



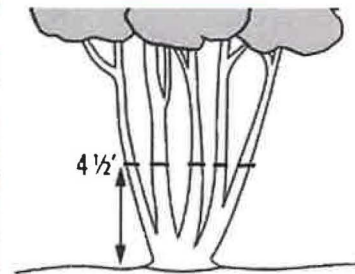
~~Diameter at Breast Height~~**Diameter at Standard Height (DBHDSH)**. The diameter of a tree measured at four and one-half (4.5) feet above the ground while standing on the high side of the tree. For a tree other than a Multi-trunked Tree that branches at or below four and one-half feet, **DBHDSH** shall mean the diameter at the narrowest point between the grade and the lowest branching point. The diameter shall be calculated by use of the following formula:

$$\text{diameter} = \text{circumference} / 3.142$$

For ~~Multi-trunk~~**Multi-trunked** Trees, the **DBHDSH** shall be the diameter of each stem measured at four and one-half above the ground while standing on the high side of the tree added together in total. Refer to Figure 12.16-5.

**Extrapolated Diameter at Standard Height (DSH)**. This shall be used for purposes of calculating the mitigation for a Multi-trunked Tree. It is derived from adding the cross-sectional area of each stem measured at four and one-half (4.5) feet above grade to determine a value for the DSH. In a Multi-trunked Tree, this is calculated by taking the square root of the sum of each individual stem's DSH squared. The Extrapolated DSH value is used for determining mitigation and may be calculated using an alternative method acceptable to the City Arborist.

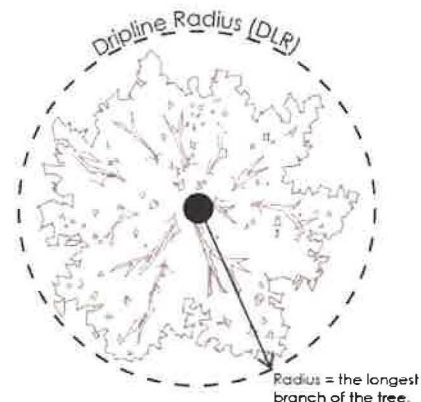
Figure 12.16-5



**Director.** The Director of the City's Community Development Department or his/her designee.

**Dripline Radius (DLR).** A perfect circle around the tree with the radius being equal to the longest branch of the tree. Refer to Figure 12.16-6.

Figure 12.16-6





**Emergency.** For purposes of this Chapter, emergency is defined as an imminent danger to the safety of persons or property and/or the imminent loss of water, sewer, gas or electrical service or access to public or private property(ies).

**Extrapolated Diameter at Breast Height (DBH).** This is method of calculating the DBH of a multitrunked tree that is derived from adding the cross-sectional area of each stem measured at 4.5 feet above grade to determine a value for the DBH. In a Multitrunked Tree, this is calculated by taking the square root of the sum of each individual stem's DBH squared. The extrapolated DBH value is used for determining mitigation and may be calculated using an alternative method acceptable to the City Arborist.

**Heat Island.** An urban or metropolitan area that has higher average temperatures than surrounding rural areas due to the greater absorption, retention, and generation of heat by buildings, pavements, and human activities.

**Heritage Tree.** Except for trees listed as "Not Eligible for Heritage Status" on the City's Master Tree List, a tree on the City's Master Tree List over 30 inches in DBHDSH or a multitrunkmulti-trunked tree on the Master Tree List having a combined DBHDSH of 50 inches or more.

**International Society of Arboriculture (ISA).** A nonprofit organization and network of practitioners, scientists, and students that is recognized as a source for arboricultural information and knowledge.

**ISA Best Management Practices.** Recommended methods for the planting, care, maintenance, pruning of trees prepared by the International Society of Arboriculture.

**Landmark Tree.** A tree or group of trees determined by the City Council to confer a significant community benefit to the general public due to its size, age, location, historic association or ecological value.

**Major Pruning.** The cutting of any individual branch or root with a diameter of two inches or greater or a circumference of more than six and one-quarter inches at any point on the location of the cut on such branch or root. It shall also include the cutting of a cumulative amount of more than ten percent of a combination of the Root System, the Tree Crown, or a combination of both within a 12-month period.

**Master Tree List.** A list prepared by the City, as amended from time to time, identifying the species of trees that may be planted as replacement trees, as Parking Lot Shading Trees, or as Street Trees as well as trees that are not-recommended or excluded from protection.

**Minor Pruning.** The cutting of any individual branch or root of less than two inches in diameter at any point the point of the cut on such branch or root. The cumulative amount of cutting shall not be more than ten percent of a combination of the Root System, and the Tree Crown, or a combination of both within a 12-month period. Pruning that substantially reduces the overall size or density of the tree or destroys the existing symmetry or natural shape of the tree is not considered Minor Pruning.

**Mitigation.** For purposes of this Chapter, this is the action or set of actions designed to reduce the negative effects resulting from the loss of a Protected Tree and the reduction to Folsom's tree canopy.

**Monitoring Period.** A time period specified in the Tree Protection and Mitigation Plan and approved by the City Arborist in order to ensure that preserved trees and replacement trees are in good health and remain viable. For replacement trees, this time period is typically three years.

**MultitrunkMulti-trunked Tree.** A tree with multiple stems originating from a single root mass.

**Native Oak Tree.** One of the following indigenous species of tree or hybrids of any of the trees listed below, with a minimum diameter as shown in Table 12.16-7:

**Table 12.16-7**  
**Native Oak Trees**

<b>Common Name</b>	<b>Botanical Name</b>	<b>Trunk (DBHDSH)</b>	<b>MultitrunkMulti-trunked Combined (DBHDSH)*</b>
Valley Oak	Quercus lobata	6"	20"
Blue Oak	Quercus douglasii	6"	20"
Interior Live Oak	Quercus wislizenii	6"	20"
Coast Live Oak	Quercus agrifolia	6"	20"

\*A Native ~~Multitrunk~~Multi-trunked Tree listed above with a single stem 6 inches or greater shall be considered a Native Oak Tree.

**Parking Lot Shading Tree.** Any tree planted in a parking lot in order to meet shade coverage requirements and as identified in Section 17.57.070 of the Zoning Code.

**Protected Tree.** Trees protected under this Chapter include Native Oak Trees, Heritage Trees, Landmark Trees, and Regulated Trees, and Street Trees, as defined herein.

**Pruning.** To cut off or cut back parts a tree to enhance health and structure. Pruning refers to both above surface and underground cutting. See also "*Major Pruning*" and "*Minor Pruning*".

**Reasonable Alternative Measures.** Measures determined and authorized by the Approving Authority or Appeal Authority that may be reasonably implemented to minimize impact to a Protected Tree in order to avoid activities which could result in greater impact to the tree or removal of the tree. Examples may include tree management practices such as root barriers, pruning, root pruning, and soil protection. It may also include a minor deviation from modifications to the setbacks-development standards set forth in the Zoning Code to allow a development to preserve existing trees on-site (which may require a variance or other land use entitlements approvals); or the planting of replacement trees on suitable off-site locations.

**Regulated Activity.** Activities involving Major Pruning of a Protected Tree, ~~any activities~~ such as grading, trenching, paving or soil disturbance undertaken within the Tree Protection Zone of a Protected Tree, removal of a Protected Tree, cabling and/or bracing of a Protected Tree, or other activities that may impact the long-term health and survivability of a Protected Tree as may be determined by the City Arborist.

**Regulated Tree.** Trees required ~~in accordance with the standards of~~ by the City's Zoning Code, (such as Parking Lot Shading Trees and Street Trees), or required as conditions of development project approval (such as landscape buffer or screening trees), or required by this Chapter as mitigation for the removal of a Protected Tree(s).

**Replacement Tree.** A tree required to be planted as mitigation for removal of a Protected Tree in accordance with the requirements of this Chapter.



**Root System.** ~~This~~ The configuration of ~~the~~ underground ~~tentacles-parts or appendages~~ is one of its most important elements of a tree, providing several vital functions including anchoring and providing water and nutrients to the tree. ~~Roots store nutrients for the tree during the winter and transport water and minerals during the active part of the growing season. Roots also provide an anchor to the tree, keeping it from toppling during extreme weather conditions.~~

**Routine Maintenance.** Includes the following activities: Minor Pruning; dead ~~wood-branch~~ removal; irrigation; mulch application; mowing or trimming grass or other ground cover close to a tree; application of fertilizer, insecticides, or herbicides in accordance with their label; or any other similar activities that promote the life, growth, or health of trees. Any procedure, technique, or practice that is expressly prohibited~~considered unacceptable or prohibited~~ under the ANSI A300 standards~~City's Tree Care and Maintenance Standards~~ or by this Chapter is not Routine Maintenance.

**Street Tree.** A tree of an approved species in accordance with the Folsom Master Tree List located within 12.5' of a street or sidewalk, measured from the back of the ~~curb or back of the sidewalk~~sidewalk or back of curb if no sidewalk exists. Street Trees can be either privately or publicly owned.

**Subject Property.** The property, or properties, for which a permit request has been filed.

**Terminal Leader.** This is the vertical stem(s) at the top of the trunk of a tree.

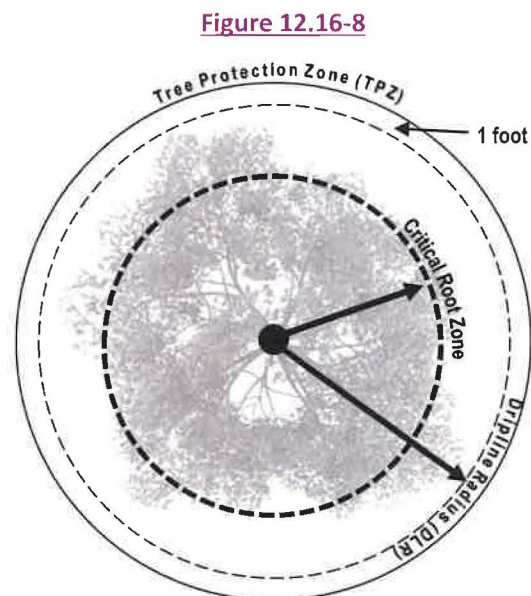
**Tree Care and Maintenance Standards.** Standards required by the City for the care and maintenance of Protected Trees based on the ANSI 300 Standards, the ISA Best Management Practices, and any other relevant standards as determined by the City Arborist; and as amended by the City from time to time.

**Tree Crown.** This is the top part of the tree, which features branches, foliage, flowers, and seeds -that grow out from the main trunk and support the various leaves used for photosynthesis.

**Tree Permit.** A permit issued by the City of Folsom covering any Regulated Activity affecting a Protected Tree, which may be a Tree Work Permit or a Tree Removal Permit or both.

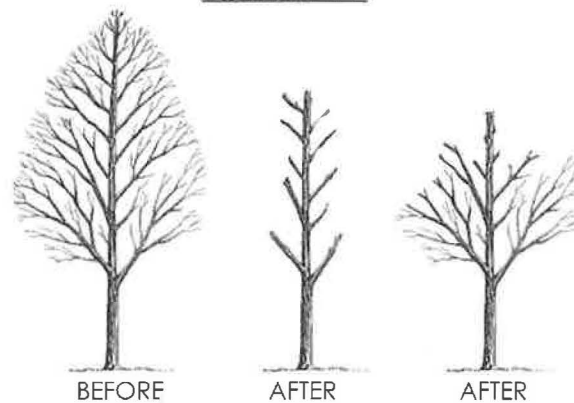
**Tree Protection and Mitigation Plan.** A report and/or plan submitted for review and approval before the start of any Regulated Activity.

**Tree Protection Zone (TPZ).** The circumference of the outermost edge of a tree's Critical Root Zone or Dripline Radius, whichever is greater, plus one foot. When depicted on a map, the Tree Protection Zone will appear as a perfect circle, or group of overlapping circles for multiple trees. Refer to Figure 12.16-8.



**Topping.** A type of pruning that is not Routine Maintenance and involves the removal of tops of trees, or large branches or trunks from tops of trees, leaving large stubs or lateral branches that are too small to assume the role of a Terminal Leader. Refer to Figure 12.16-9.

Figure 12.16-9



**Urban Forest.** A forest, or collection of trees, or the total of all trees on public and private properties that grow within the Cityan urban boundary-boundaries.

**Zoning Code.** Title 17 of the Folsom Municipal Code.

### **12.16.030 Applicability**

The provisions of this Chapter shall apply to all Regulated Activities affecting Protected Trees, excluding those activities undertaken by the City. Trees that are not Protected Trees are not subject to the provisions of this Chapter. When a tree qualifies as more than one type of Protected Tree, the more stringent requirements apply.

### **12.16.040 Prohibited Activities**

The following activities shall be prohibited with respect to Protected Trees:

- A. Topping.
- B. Attaching structures (such as birdhouses, tree houses, or ladder steps for climbing into a tree) anything using nails, screws, and/or spikes except for the attachment of tags by an Arborist for purposes of tree identification.
- C. Wounding or breaking tree trunks or branches through contact with vehicles and heavy equipment.
- D. Wounding trunks with string weed trimmers, lawn mowers, and similar equipment.
- E. Causing injury by fire or excessive heat.
- F. Pruning activities not conducted in accordance with City's Tree Care and Maintenance Standards.
- G. The use of tree spikes or spurs while pruning.
- H. Any of the following activities within the Tree Protection Zone of any Protected Tree, unless specifically approved by the City and conducted in accordance with the standards of Section 12.16.140-130 (Standard-Conditions of Approval):
  1. Placement or sStorage of large quantities of soil and/or mulch greater than six inches in depth.

2. -Excavation and trenching.
3. Changing soil grade by cutting or filling.
4. Grading, tearing, and/or grubbing.
5. Compacting soil with equipment, vehicles, material storage, and/or foot traffic.
- ~~6. Washing out equipment (especially paint, stucco and concrete) and vehicle maintenance.~~
- ~~7.6. Installing impervious surfaces, including but not limited to parking lots, driveways, and walkways.~~
- ~~8. Storing or placing construction materials or construction debris and waste.~~
- ~~9. Accumulation of water from construction-related activities.~~
- I. Contamination of soil by ~~w~~ashing out equipment (especially paint, stucco and concrete) and vehicle maintenance within the Tree Protection Zone.
- J. Contamination or compaction of soil by ~~s~~toring or placing construction materials or construction debris and waste within the Tree Protection Zone.
- K. Accumulation of water from construction-related-activities within the Tree Protection Zone.
- ~~H.L.~~ Cutting down, destroying, effectively destroying through damaging, removing, or moving any Protected Tree without a Tree Work Permit or a Tree Removal Permit at any time unless specifically exempted by this Chapter.

## 12.16.050 Permit Required

- A. **Tree Work Permit Required.** A Tree Work Permit is required for any Regulated Activities undertaken with respect to a Protected Tree, except where specifically exempted by subsection "C" below:
- B. **Tree Removal Permit Required.** A Tree Removal Permit is required before removal of any Protected Tree, except where specifically exempted by subsection "C" below.
- C. **Exemptions.** The following activities with respect to Protected Tree are specifically exempted from the requirements for obtaining a Tree Work Permit or a Tree Removal Permit.
  1. Resurfacing, repaving, or concrete replacement of existing paved areas within the Tree Protection Zone, if conducted under the supervision of an Arborist to guarantee appropriate measures are taken to ensure tree survival.
  2. Parking or operation of motor vehicles within the Tree Protection Zone on existing paved areas.
  3. Placement or storage of equipment or construction material within the Tree Protection Zone on existing paved areas.
  4. ~~Maintenance~~ Proper planting and maintenance of under-canopy landscaping in accordance with the City's Tree Care and Maintenance Standards.
  5. Routine maintenance of Protected Trees.
  6. Emergency work involving the removal of limbs or trees damaged by sudden or extreme weather, chance occurrence, or unavoidable accident beyond the reasonable control of the property owner provided that the tree replacement requirements are met.
  7. Removal of a Protected Tree that is dead or dying as determined by an Arborist and/or verified by the City Arborist provided that the property complies with the tree replacement requirements of the Zoning Code are met.



8. Removal of a Protected Tree that poses an imminent safety risk to the public as determined by the City Arborist or City Fire Chief.
  9. Minor pruning activities.
  10. Activities that do not disturb or contaminate the soil within the Tree Protection Zone or result in physical contact to the Protected Tree.
  - ~~10.11. Public and private utilities subject to the jurisdiction of the California Public Utilities Commission performing tree pruning activities or removal activities as is necessary to comply with the safety regulations of said commission and to maintain a safe operation of their facilities. However, they the utility shall notify the Community Development Department at least seven (7) business days before taking any action. If the utility conducts routine maintenance in Folsom on a regular basis, receipt of an annual encroachment permit from the City shall satisfy the notification requirement of this section. The City may cause such pruning work to be inspected and the City shall have the authority to stop any tree pruning performed by a utility if such practices are not being followed.~~
- D. **Combined Activities.** Separate but similar tree-related activities may be reviewed under one permit. The City's decision on the permit shall apply to all activities included in the permit.
- E. **Limitation.** Permit issued under this Chapter entitles the permittee to perform only the Regulated Activities authorized in the permit and is not valid for any other purpose.

## 12.16.060 Application Requirements

- A. **Application Form.** All Tree Work Permit or Tree Removal Permit applications must be submitted in writing to the Community Development Department on a form provided by the City.
1. Minimum submittal requirements shall be established by the [City Director](#). Additional information necessary for the complete evaluation of an application may be required by the City Arborist. All required material and information shall be provided by the applicant before the application may be deemed complete and accepted for processing.
  2. No application shall be considered complete for acceptance and processing until the required application fee is paid in full.
  3. For work within the Tree Protection Zone or work involving the removal of a Protected Tree, a Tree Protection and Mitigation Plan ~~is may be~~ required as part of the permit application ~~as determined by the City Arborist~~ unless exempt under Section 12.16.050(C). If Protected Trees are present on ~~or encroaching into the a~~ proposed development site, a Tree Protection and Mitigation Plan ~~is may be~~ required as part of ~~the~~ entitlement application ~~and before submittal of a Tree Permit application~~.
    - a. If all Regulated Activity is outside of the Tree Protection Zone of the Protected Trees, then only a site plan showing the location of the Protected Trees in accordance with Section 12.16.140(A) will be required.
- B. **Application Fees.** The City Council may establish a fee by resolution for the processing of permit applications under the provisions of this Chapter, which may be amended from time to time.

## 12.16.070 Approving Authority

The Approving Authority may approve, modify, ~~conditionally approve~~ with conditions, or deny the permit application in accordance with this Chapter. The Approving Authority shall be responsible for the interpretation of provisions of this Chapter in the event of confusion or a conflict. The decision of the Approving Authority on a Tree Work Permit shall be final and not subject to appeal. A Tree Removal Permit may be appealed to the Appeal Authority pursuant to procedures set forth in Section 12.16.~~110~~ 100 (Appeals).

## ~~12.16.080 Conditions of Approval~~

~~The Approving Authority may impose such conditions as are necessary to ensure compliance with this Chapter with respect to the proposed project, including but not limited to conditions to lessen impacts to Protected Trees or to mitigate environmental impacts of the proposed activity.~~

## 12.16.~~090~~080 Findings for Approval

The following findings are required before issuance of the specified permits.

- A. **Tree Work Permit.** Before approving an application for a Tree Work Permit, the Approving Authority shall make the following findings:
  1. The proposed activity is not detrimental to the immediate or long-term health of the Protected Tree; or
  2. The proposed activity ~~is detrimental to~~ may impact the immediate health of the Protected Tree(s), but a Tree Protection and Mitigation Plan has been prepared that minimizes the impact and protects the long-term health of the tree(s) to the satisfaction of the ~~City Arborist~~ Approving Authority; and
  3. The proposed activity is in accordance with the provisions of this Chapter and all applicable City standards and policies.
- B. **Tree Removal Permit.** Before approving an application for a Tree Removal Permit, the Approving Authority shall make at least one of the following findings:
  1. The condition of the Protected Tree with respect to disease, danger of falling, or long-term health of the tree is such that the tree is not likely to survive.
  2. The condition or location of the Protected Tree or its roots is interfering with water, sewer, gas, electrical services, streets or sidewalks and is likely to cause a foreseeable interruption in service or function to the subject property or properties in the vicinity and there are no Reasonable Alternative Measures to avoid, prevent or lessen the interference.
  3. The Protected Tree or its roots are causing, ~~or threatening to will~~ cause, ~~damage in the near future~~ to any existing permanent structure or feature on the property or on any adjacent Adjacent property including pools, driveways, and there are no Reasonable Alternative Measures to avoid, prevent ~~or lessen~~ remove or repair the damage or ~~threatened imminent~~ damage.
  4. Use of the property consistent with the Zoning Code ~~could~~ cannot be made unless the Protected Tree is removed and there are no Reasonable Alternative Measures to allow for use of the property consistent with the Zoning Code.



5. The tree is a Protected Tree, other than a Native Oak Tree or Landmark Tree, in the front yard of a residential property of one-half acre or less with an existing residential structure on-site, and the property owner agrees to plant a replacement tree on the property consistent with the requirements of Section 12.16.150 (A)(1)(c).

## **12.16.10090 Notice of Decision**

- A. Written notice of ~~decision on an~~ application for a Tree Removal Permit shall be provided to ~~the applicant and~~ owners of properties located immediately ~~adjacent~~Adjacent to the subject property after an application has been received by the City. The notice shall include the following:
  1. ~~The location where the application may be viewed~~application.
  2. ~~The~~The timing for the decision made on the application to be made by the Approving Authority.
  3. The location where the decision and any ~~C~~conditions imposed as part of the approval or reasons for denial may be viewed.
  - ~~3.4.~~The timeline and process for appeals, as applicable.
- B. Written Notice. Written notice of decision on an application for a Tree Work Permit or Tree Removal Permit shall be provided to the applicant as part of the permit issuance or denial. Notice of decision on a Tree Removal Permit will also be posted on the City's website.

## **12.16.11010 Appeals**

- A. **Right to Appeal.** The decision on a Tree Work Permit is final and not subject to appeal. For a Tree Removal Permit, any person dissatisfied with the determination of the Approving Authority may file an appeal with the Director. The decision of the Director may be appealed to the Planning Commission or the Historic District Commission depending upon the location of the Protected Tree. The decision of the Planning Commission or Historic District Commission may be appealed to the City Council~~shall be final for all purposes and not appealable further~~.
- B. **Filing an Appeal.** An appeal shall be submitted in writing to the City Clerk within 10 calendar days following a decision rendered under this Chapter, with payment of an appeal fee adopted by the City Council. The appeal shall, at a minimum, state the following:
  1. The project or matter being appealed.
  2. The date of the City's decision that is the subject of the appeal.
  3. The specific finding(s), condition(s), standard, or action being appealed.
  4. A statement specifying the basis or grounds of the appeal, such as why the decision is not ~~in~~agreement~~consistent~~ with the standards and regulations of this Chapter.
    - ~~a. How the decision of the Approving Authority should be changed.~~
  5. No appeal ~~request~~ shall be deemed filed until the prescribed appeal fee has been paid.
  6. ~~If an appeal is not~~Failure to filed a written appeal within the time and in the manner stated above shall constitute a waiver of the right to appeal ~~shall be deemed waived~~.
- C. **Notice and Schedule of Appeal Hearings.**
  1. For appeal to the Director of a decision by the Approving Authority pursuant to this Chapter, no hearing shall be required prior to a decision by the Director on the appeal.

2. ~~For appeal to the Commission of a decision by the Director pursuant to this Chapter, the~~The Director shall schedule ~~an the~~ appeal hearing with the Planning Commission or the Historic District Commission, as applicable, as soon as practicable following receipt of the appeal. Notice of the date, time and place of the hearing shall be provided to the appellant and the project applicant no later than 10 calendar days before the date of the hearing. Any hearing may be continued from time to time.
3. ~~For appeal to the City Council of a decision by the Commission pursuant to this Chapter, the~~ Director shall schedule an appeal hearing with the Council, as soon as practicable following receipt of the appeal. Notice of the date, time and place of the hearing shall be provided to the appellant and the project applicant no later than 10 calendar days before the date of the hearing. Any hearing may be continued from time to time.

**D. Appeal Hearing Review and Action.** The ~~Director, Planning Commission and/or Historic District Commission, and/or Council acting as~~ Appeal Authority shall review ~~the entire proceeding or proceedings~~all matters relating to the ~~act or~~ decision being appealed, de novo, and may make any order it deems just and equitable. The Appeal Authority may act to confirm, modify, or reverse the decision of the Approving Authority, in whole or in part, or add or amend such conditions as it deems necessary, including but not limited to the approval or denial of the Tree Removal Permit application, the addition or modification of any condition applicable to an approved Tree Removal Permit.

**E. Notice of Appeal Decision.**

1. Director Decisions. At the conclusion of the review, the Director shall make findings supporting the decision on the appeal. Written notice of the decision shall be provided to the appellant and the project applicant.
- ~~1-2.~~ Commission Decisions. At the conclusion of the hearing, the Planning Commission or Historic District Commission shall make findings supporting its decision on the appeal. The decision of the Planning Commission or Historic District Commission shall be filed with the City Clerk and provided to the appellant and the project applicant.
- ~~2-3.~~ Council Decisions. At the conclusion of the hearing, the Council shall make findings supporting its decision on the appeal. The decision of Council shall be filed with the City Clerk and provided to the appellant and the project applicant.

## **12.16.120110 Effective Date and Permit Expiration**

**A. Effective Date.**

1. Tree Work Permit. Tree Work Permits shall become effective on the date an approval is issued by the Approving Authority.
2. Tree Removal Permit. Tree Removal Permits issued under this Chapter shall become effective 10 calendar days following the date of approval unless a timely appeal has been filed. Upon filing of a timely appeal, the effective date shall be suspended until such time that final action is taken on the appeal. If the Appeal Authority upholds ~~or grants~~ a Tree Removal Permit application, the permit shall become effective on the date of day following the approval decision by the Approving Appeal Authority.



## B. Time Limits.

1. *Application Expiration.* Any application inactive for a period of ~~six (6)~~ months from the last written correspondence with the applicant shall expire, as determined by the ~~City Arborist~~Approving Authority. If the applicant subsequently wishes to continue to pursue the requested permit, a new application, including fees and all submittal requirements must be filed in compliance with this Chapter.
2. *Permit Expiration.* Any permit not exercised within ~~six (6)~~ 6 months from the date of approval shall expire. The exercise of a permit occurs when the permittee performs substantial work for the activity approved under the permit, as determined by the ~~Director~~Approving Authority.
3. *Associated Entitlements.* When a permit under this Chapter is approved in association simultaneously with other project entitlements (i.e., tentative maps, design review, etc.), the permit expiration date shall track the expiration of said project entitlements not to exceed two (2) years.
4. *Extensions.* An applicant may request an extension in writing for up to six (6) months for a permit or a permit application, which may be granted at the discretion of the Approving Authority. The request must include the reason(s) for the extension.

## ~~12.16.130-120~~ Regulated Activity Authorized by Permit Compliance and Amendment

- A. **Compliance with Permit Requirements.** A Tree Permit shall entitle the applicant to perform only the Regulated Activity authorized by the permit. No person shall undertake any Regulated Activity that does not comply with an approved Tree Permit. Any proposed change in the nature or scope of the Regulated Activity that is not in compliance with the approved permit shall require an application to amend the approved permit, which shall be submitted, processed, and reviewed as a new application under the provisions of this Chapter.
- B. **Substantial Compliance.** The ~~City Arborist~~Approving Authority may approve minor changes to an approved permit if the proposed changes are in substantial compliance with the permit and permit conditions. Such proposed changes shall not significantly affect the scope and intent of the approved work or reduce any requirement intended to mitigate an impact to a Protected Tree.

## ~~12.16.140-130~~ Standard Conditions of Approval

The Approving Authority may impose such conditions as are necessary to ensure compliance with this Chapter with respect to the proposed project, including but not limited to conditions to lessen impacts to Protected Trees or to mitigate environmental impacts of the proposed activity. The following are standard conditions of approval that shall apply to each type of work listed below.

- A. **Tree Pruning.** Tree Work Permit for Protected Tree pruning activities shall be subject to the following standard conditions, in addition to any other condition imposed by the Approving Authority:
  1. All pruning activities shall be conducted in accordance with the City's Tree Care and Maintenance Standards.
  - ~~2. No more than one-quarter of the foliage of a tree shall be removed in any one growing season.~~
  - ~~3-2.~~ All work shall be performed by or under the supervision of an Arborist.

B. **Tree Protection Zone Work.** Tree Work Permits for Regulated Activities conducted within the Tree Protection Zone shall be subject to the following standard conditions, in addition to any other condition imposed by the Approving Authority:

1. A Tree Protection and Mitigation Plan ~~shall~~ may be required by the Approving Authority ~~be prepared in accordance with Section 12.16.150.~~
2. All work shall be conducted and performed:
  - a. In accordance with the City's Tree Care and Maintenance Standards.
  - b. In accordance with the approved Tree Work Permit and, if required, the Tree Protection and Mitigation Plan ~~and the Tree Work Permit.~~
  - c. By or under the supervision of an Arborist unless this requirement is waived by the Approving Authority.
3. For construction activities, each Protected Tree or group of Protected Trees to be preserved shall be enclosed with high visibility fencing prior to the commencement of any Regulated Activity.
4. Signs shall be posted on all sides of fences surrounding each Protected Tree or Trees stating that enclosed tree(s) are to be preserved. The signs shall state the penalty for damage to, or removal of, the Protected Tree. The size and number of posted signs required for the site shall be determined by the Approving Authority.
5. Any approved Tree Protection and Mitigation Plan must be submitted as part of the application and plan set submittal for the Regulated Activity such as applications and plans for a grading permit, building permit, landscape permit, etc.
- 3.6. An Arborist or their authorized representative shall be present on-site during all permit activities in order to monitor compliance with the permit, the permit conditions, and this Chapter to the satisfaction of the Approving Authority.
- 4.7. A Certificate of Compliance shall be submitted by an Arborist to the Approving Authority as follows:
  - a. Once all permit activities are complete – to confirm compliance with the Tree Protection and Mitigation Plan.
  - b. Once the ~~monitoring~~ Monitoring period ~~Period~~ specified in the Tree Protection and Mitigation Plan has closed – to confirm that the Protected Trees are in good health and remain viable.

C. **Tree Removal.** A Tree Removal Permit for removal of a Protected Tree shall be subject to the following standard conditions, in addition to any other condition imposed by the Approving Authority:

1. A Tree Protection and Mitigation Plan ~~shall~~ may be required by the Approving Authority ~~be prepared in accordance with Section 12.16.150.~~
2. ~~An Arborist shall be present on-site during constructional permit activities in order to monitor compliance with the permit, the permit conditions, and this Chapter.~~
- 3.2. A Certificate of Compliance shall ~~may be~~ submitted ~~required~~ by an Arborist to the Approving Authority as follows:
  - a. Once replacement planting is complete – to confirm that the replacement tree(s) have been planted in accordance with the submitted Tree Protection and Mitigation Plan and any other applicable conditions of approval.



- b. Once the ~~monitoring~~ Monitoring period ~~Period~~ specified in the Tree Protection and Mitigation Plan has closed – to confirm that the replacement trees are in good health and remain viable.

D. All Tree Permits shall be subject to the following:

1. Tree Permit Kept on Site. A copy of the applicable Tree Permit and Tree Protection and Mitigation Plan shall be kept at the project site at all times shall always be kept at the project site and shall be made available for inspection upon request.
2. Permittee Responsibilities. The permittee is responsible for compliance with all requirements of the Tree Permit.
- 1.3. Indemnification. Permittees of Tree Permits issued under this Chapter shall defend, protect, indemnify and hold harmless the City and its officials, agents and employees from any and all claims, demands, suits, causes of action, damages, costs, expenses, losses, or liability, in law or in equity, of every kind and nature whatsoever arising out of or in connection with the issuance of the Tree Permit or the permittee's work performed under the Tree Permit.

## **12.16.150-140 Tree Protection and Mitigation Plan Requirements**

A ~~The~~ Tree Protection and Mitigation Plan, if required under this Chapter, shall be prepared by an Arborist or other licensed professional, as approved by the Approving Authority, and contain the following information:

- A. The location, species, Diameter at Breast Height, Tree Protection Zone, and health of each Protected Tree on the subject property, and Adjacent neighboring properties as confirmed by an Arborist shall be shown on a map. A site plan, which shall include the following information, and any other information determined to be necessary by the Approving Authority.
  1. Physical characteristics (existing and proposed).
    - a. Property lines;
    - b. Streets, access easements and/or public or private driveways and other paved areas;
    - c. Buildings or structures;
    - d. Setbacks of all buildings and structures from property lines;
    - e. Parking and other paved areas;
    - f. Land uses on parcel (existing and proposed as applicable); and
    - g. Proposed grading and construction, including utilities, if available.
  2. Tree locations, including:
    - a. All trees located on the property;
    - b. Diameter at Standard Height of each tree;
    - c. Species of each tree;
    - d. Those Protected Trees which are to be preserved and which will be subject to Regulated Activity;
    - e. Protected Trees that may or will be impacted by the proposed Regulated Activities shall be clearly indicated;
    - f. The location of any replacement trees proposed as mitigation;



- g. The exact location of the base and Tree Protection Zone for each tree within the project boundary;
  - h. The tree number(s) shall be shown on both the site plan and grading plan and on the trees themselves (attached by nonharmful methods);
  - i. The base elevation of each Protected Tree shall be shown on the site plan as well as the grading plan; and
  - j. A survey of the exact location(s) of such tree(s), both horizontally and vertically, shall be conducted by a professional engineer or a licensed land surveyor.
- B. An Arborist Report which includes the following and any other information determined to be necessary by the Approving Authority:
- 1. A statement of qualifications for the Arborist(s) or others that prepare the Tree Protection and Mitigation Plan.
  - 2. Protected Trees shall be rated according to this American Society of Consulting Arborists (ASCA) Tree Rating System shown in Table 12.16-10.

**Table 12.16-10**  
**ASCA Tree Rating System**

<u>Rating</u>	<u>Rating No.</u>	<u>Rating Description</u>
<u>Excellent</u>	<u>5</u>	<u>No problem(s)</u>
<u>Good</u>	<u>4</u>	<u>No apparent problem(s)</u>
<u>Fair</u>	<u>3</u>	<u>Minor problem(s)</u>
<u>Poor</u>	<u>2</u>	<u>Major problem(s)</u>
<u>Hazardous or Non-correctable</u>	<u>1</u>	<u>Extreme problem(s)</u>
<u>Dead</u>	<u>0</u>	<u>Dead</u>

- 3. A description of Regulated Activities to be conducted.
- 4. Protected Trees that may or will be impacted by the proposed Regulated Activities shall be clearly indicated. A procedure and course of action recommended by an Arborist which addresses the impacts to individual Protected Trees from the proposed Regulated Activity and provides the details necessary for preservation and mitigation and which shall include the following:
  - A. A plan for the protection and/or mitigation of Protected Trees shall be outlined as follows:
    - a. For Regulated Activity to be conducted within a Tree Protection Zone, the Tree Protection and Mitigation Plan shall identify those methods that shall be used by the applicant to protect the tree(s) during the proposed Regulated Activities, consistent with the standards-requirements of Section 12.16.160150. The methods used shall include, but not necessarily be limited to, the following:
      - i. Preservation devices such as ground-soil or surface protection, protective fencing, root protection devices or other such methods.
      - ii. The detailed recommendations for existing or proposed planting and/or irrigation within the Tree Protection Zone.

- iii. Standards for performing work such as trenching, root cutting, or grading shall be consistent with the City's Tree Care and Maintenance Standards to preserve the Protected Tree.
- b. For removal of a Protected Tree, the Tree Protection and Mitigation Plan shall include:
  - i. The number of replacement trees required to mitigate for removal of the Protected Tree(s) consistent with Section 12.16.160150(A).
  - ii. The number of replacement trees that may be accommodated on the same property as the Protected Tree(s) proposed for removal. The number of replacement trees that may be accommodated on the property shall be determined by an Arborist based on the long-term viability of the replacement tree(s). Long-term viability shall be determined based on the following factors:
    - 1. Whether the proposed location of the replacement tree can accommodate full growth.
    - 2. Quality of the environment in which the tree is to be located.
    - 3. Potential impact to the replacement tree from any proposed development or construction activities.
  - ~~iii. A site plan showing the location of the Protected Trees to be removed and a planting plan identifying the proposed location of any replacement trees.~~
  - iii. The schedule for planting of the replacement trees subject to approval of the City Arborist Approving Authority.
  - ~~iv. The strategy chosen by the applicant to satisfy the required mitigation shall be consistent with the provisions of Section 12.16.160150(B).~~
  - ~~iv.v. If in-lieu fee payment is the only feasible option available to satisfy the mitigation requirements set forth in Section 12.16.150(B) then the information listed above in Section 12.16.140(B)(4) is not required.~~
- c. A monitoring program for the replacement trees, including a specified time period, the party responsible for monitoring, and the method and frequency by which monitoring reports will be submitted to the City.
- d. Other items as determined by the City Approving Authority to satisfy the requirements of this Chapter.

## 12.16.160 150 Mitigation Requirements

Removal of any Protected Tree shall be mitigated in accordance with the provisions of this section.

### A. Replacement Trees Required. Replacement trees shall be required as follows:

1. *Protected Trees*. Protected Trees rated 3, 4 or 5 in the ASCA Tree Rating System in Section 12.16.140(B) shall be replaced at a ratio of one-inch equivalent at DBH for every one-inch of DBH DSH removed as set forth shown in the table Table 12.16-11. Smaller trees such as saplings or trees in containers less than 15-gallons may be used, but two replacement trees of that size would be required for every inch of Protected Tree removed. below in Section 12.16.160(A)(1)(a). Protected Trees rated 2 shall be replaced at a ratio of 0.5-inch equivalent for every one-inch removed. Protected Trees rated 0 or 1 require no replacement or any other mitigation unless a Parking Lot Shading Tree or Street Tree replacement is required under the Zoning Code. Before removal of a Landmark Tree, the landmark designation shall be declassified pursuant to Section 12.16.180170(D).



- a. *Equivalency Table.* The following equivalent sizes shall be used whenever new trees are planted pursuant to a Tree Protection and Mitigation Plan (refer to Table 12.16-11).

**Table 12.16-11**  
**Tree Replacement Equivalency Table**

Replacement Tree Size	DBHDSH Equivalency
A sapling tree; or	0.5-inch DBHDSH
Tree in container less than 15 gallons	0.5-inch DBHDSH
15-gallon container tree	1-inch DBHDSH
24-inch box tree	2-inch DBHDSH
36-inch box tree	3-inch DBHDSH

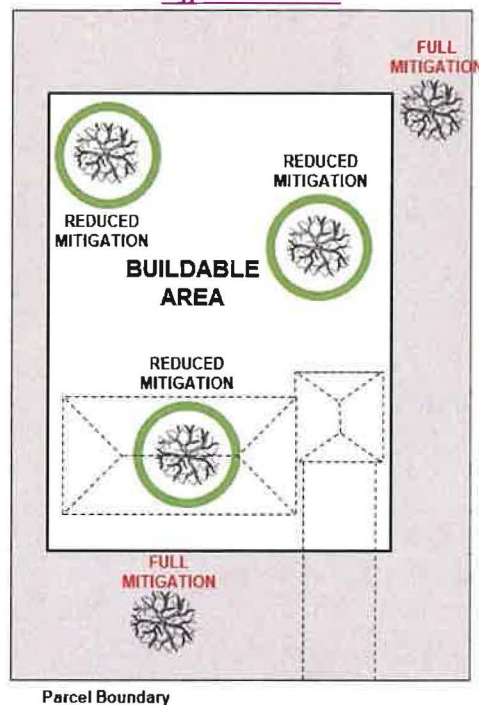
- b. *Reduced Mitigation Rate Within the Buildable Footprint Area of Residential Lots.* Within the ~~designated~~ buildable footprint ~~area~~ of a parcel zoned to allow for residential development, the mitigation requirements shall be reduced by 50 percent if any part of the tree base is located within the Buildable Area as shown in Figure 12.16-12.

- c. *Removal of Street Trees on Residential Property with Existing Single-Family or Two-Family Residential Dwellings.*

Street trees on residential property one-half acre or less shall be replaced at a ratio of one replacement tree for every tree removed if the property has an existing ~~single-family or two-family residential structure on-site.~~ For residential properties greater than one-half acre, two replacement trees for every Street Tree removed shall be required at the discretion of the Approving Authority. Regardless of property size, removal of Street Trees that are Native Oak Trees or Heritage Trees requires the mitigation set forth in Section 12.16.150(B).

- e.d. *Reduction or Waiver of Tree Replacement Requirements.* The Director may consider requests to reduce or waive the tree replacement requirements in this section provided that the applicant has met findings 1, or 2, or 3 as set forth in 12.16.080(B) and the Protected Tree(s) is removed pursuant to a Tree Removal Permit issued pursuant to this Chapter.

**Figure 12.16-12**

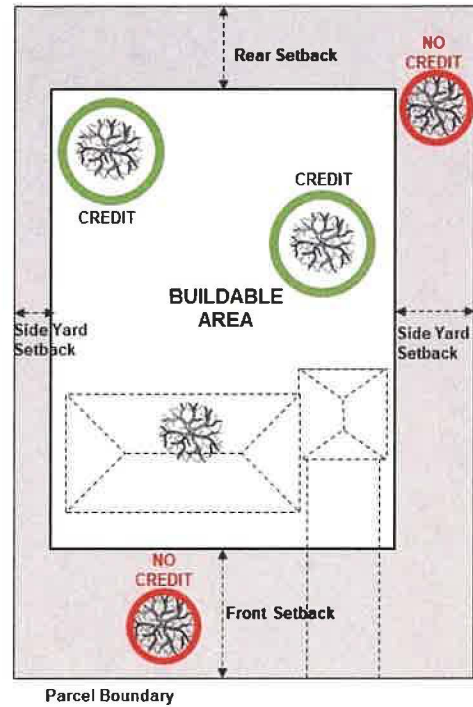


i. ~~Credit for Existing Trees.~~

ii. ~~Existing tree(s) on the same property may satisfy up to 50 percent of the replacement tree requirement if the existing tree is either the same species as the tree proposed for removal or a species identified on the approved Master Tree List; and the long-term viability of the existing tree as determined by an Arborist, based on the following:~~

- ~~d. Location of the existing tree in relation to the tree proposed for removal.~~
- ~~e. Quality of the environment in which the existing tree is located.~~
- ~~f. Potential impact to the existing tree from any proposed development.~~
- ~~g. The credit shall be applied at a rate of one-half inch for each inch of DBH of existing tree.~~

Figure 12.16-13



B. Mitigation Strategies.

1. On-Site Replacement Planting. Replacement trees shall be planted on the same property as the ~~tree~~ Protected Tree proposed for removal, subject to review by the Approving Authority. Where the subject property is not able to accommodate the required number of replacement trees on-site, the payment of in-lieu fees shall be required in accordance with Section 12.16.160150(B)(2).

h.a. Replacement Tree Species. Trees planted as replacement trees shall be the same species as those removed or a species that is acceptable to the Approving Authority, with consideration given to species diversity.

1-2. Payment of In-Lieu Fee. Payment of in-lieu fees may be allowed where the subject property is not able to accommodate the required number of replacement trees on-site ~~except as provided below in Section 12.16.160(B)(2)(a).~~ The in-lieu fee shall be calculated as a dollar amount for each DSH inch ~~of DBH~~ of Protected Tree removed, as adopted by City Council resolution.

2-3. Combination of Planting and Fee Payment. A combination of on-site replacement planting and payment of in-lieu fees may be used where the number of replacement trees cannot be accommodated on-site. The in-lieu payment shall be reduced based on the number of DSH inches ~~at DBH~~ of the replacement trees planted on-site.



4. Tree Preservation Credit. Protected Trees, including Native Oaks measuring one inch DSH or greater, may be preserved in order to receive a Tree Preservation Credit. Credit of one-half inch DSH shall be granted for every inch DSH preserved. However, required mitigation cannot be entirely satisfied using Tree Preservation Credit alone. Even when credit is granted, in no case can mitigation for Protected Tree removal be less than either:

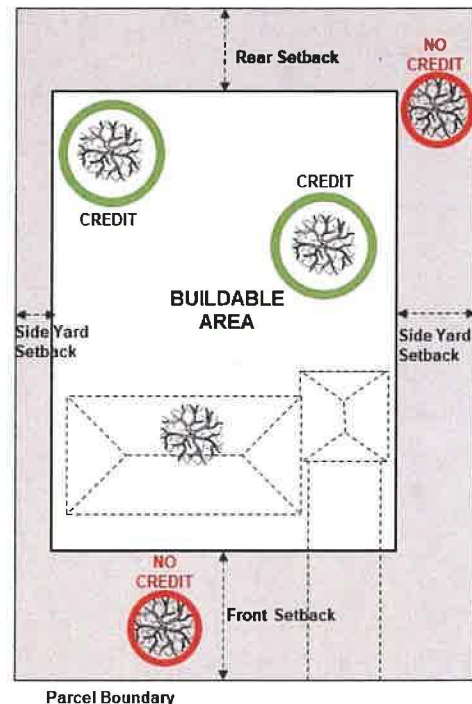
- a. The replanting, maintenance and monitoring for 3 years of one 15-gallon tree from a species of similar size at maturity that is listed on the Folsom Master Tree List; or
- b. The in-lieu fee equivalent to the replacement of the Protected Tree at one-inch DSH.

Any tree that is to be considered for Tree Preservation Credit shall be evaluated, included in the Tree Protection and Mitigation Plan, and shall have been found to be rated a 3, 4, or a 5 by an Arborist based on the ASCA Tree Rating System identified in Section 12.16.140. Credits shall only be accepted if any part of the base of the tree to be preserved is located within the Buildable Area of the parcel as shown in Figure 12.16-13, the Tree Protection Zone is protected on the construction site, the spacing is equal to or greater than the proper spacing dictated by the Folsom Master Tree List, and the tree is determined by the City Arborist to be viable long-term.

3.5. Other Strategies. Other strategies as may be determined appropriate by the Approving Authority and that meet the intent of mitigation for removal of the Protected Tree(s).

~~For purposes of determining mitigation requirements for multitrunked trees, the extrapolated DBH shall be used.~~

Figure 12.16-13



## 12.16.170160 Tree Planting and Replacement Fund

Mitigation fees and penalty assessments under this Chapter shall be deposited into the Tree Planting and Replacement Fund. ~~The tree-Tree planting-Planting and replacement-Replacement fund-Fund~~ may be used for tree planting and revegetation projects such as parkways, parks, planting of trees along public trails, and beautification projects, to purchase property for tree mitigation sites, ~~revegetation projects~~ or beautification projects, for the retention of a City Arborist, or for the development, staffing or implementation of an Urban Forestry program, if established. Funds shall not be made available for mitigation or planting on private property, with the following exceptions: 1) private property that is maintained by the City under the terms of a maintenance agreement; or 2) maintenance of Landmark Trees ~~and maintenance of trees on property subject to a conservation easement~~ at the recommendation of the City Arborist. This fund shall be administered by the Community Development Department.

## **12.16.180170 Landmark Designation**

### **A. Establishment of Landmark Designation.**

*Application for Landmark Designation.* Any interested party may submit an application to the Community Development Department, requesting that the City Council establish by resolution a tree or group of trees as a Landmark Tree(s). Applications shall be made on a form supplied by the City and be subject to an application fee pursuant to the adopted fee schedule. The City Council may also, on its own motion and without the payment of a fee, commence the process of designating a Landmark Tree. If the owner of the proposed Landmark Tree(s) is not the applicant, the Community Development Department shall notify, by first-class mail, the owner of the proposed Landmark Tree(s) thirty days before the hearing on the application, and the owner must provide written confirmation to the City that they support the application. Once an application has been submitted, and before City Council action, the proposed Landmark Tree shall have the same status as a Protected Tree under this Chapter.

*Designation of Landmark Trees.* In order to designate a tree as a Landmark Tree, the City Council shall find that the tree is in good health and is a significant community benefit because it possesses one or more of the following attributes:

1. Historical value.
2. Outstanding habitat value.
3. Unusual species.
- 1-4. Superior beauty.
  - a. Excellent health rating.
  - b. Outstanding habitat value.
  - c. Unusual species.
  - d. Superior beauty.

*Property Owner Notification.* If the City Council designates a tree as a Landmark Tree, the City Clerk shall mail a copy of the resolution to the owner of the tree and direct the City Arborist to add the tree to the list of Landmark Trees.

- B. Maintenance of Landmark Trees.** Upon the request of the property owner, the City Arborist may cause a Landmark Tree to be inspected by an Arborist. A report on the health of the tree(s) and recommended maintenance shall be prepared if determined to be necessary by the City Arborist. Copies of the report shall be ~~recorded and~~ provided to the owner of the Landmark Tree(s).
- C. Documenting Landmark Trees.** The Community Development Department shall map the location of Landmark Trees.
- D. Declassification of Landmark Designation.**
1. *Application to Remove Landmark Designation.* The owner of a Landmark Tree may submit an application to the Community Development Department, requesting that the City Council declassify a tree or group of trees previously designated as a Landmark Tree(s). Applications shall be made on a form supplied by the City and shall be subject to an application fee pursuant to the adopted fee schedule. The City Council may also, on its own motion and without the payment of such a fee, commence the process of declassifying a Landmark Tree(s). Unless the owner of the Landmark Tree is the applicant, the Community Development Department shall notify the owner by first-class mail thirty days before the City Council meeting scheduled for the proposed action.



2. *Declassification of Landmark Trees.* In order to remove the landmark designation of a tree(s), the City Council shall find that the tree(s) is no longer a significant community benefit because it meets one or more of the following factors:
  - a. The tree(s) has significantly deteriorated in health or appearance.
  - b. The tree(s) no longer has habitat value.
  - c. The tree(s) prevents reasonable use of the property.
3. *Property Owner Notification.* If the City Council declassifies a tree or group of trees previously designated as a Landmark Tree(s), the City Clerk shall mail a copy of the resolution to the owner of the tree(s) and direct the City Arborist to remove the tree(s) from the list of Landmark Trees.

## 12.16.190180 Maintenance

- A. Every property owner shall maintain:
  1. Any Protected Tree located within the limits of their property in accordance with the ~~requirements standards~~ of this Chapter.
  2. Any Street Tree shall be pruned by the property owner in accordance with the ~~requirements standards~~ of this Chapter and shall maintain a minimum seven-foot vertical clearance over all public sidewalks, ~~a minimum eight-foot vertical clearance over all public bicycle lanes,~~ and a minimum 14.5-foot vertical clearance over all public streets.
- B. ~~Nothing in this Ordinance Chapter shall interfere with the requirements application or enforcement of the requirements of in Chapters 8.36 (Folsom Fire Code) and 8.37 (Abatement of Weeds, Refuse, and Abandoned Material) of the Folsom Municipal Code. In the event of a conflict with this Chapter, the requirements of Chapters 8.36 and 8.37 shall control; h~~However, ~~a Tree Removal Permit shall be required for the removal of Protected Trees. Permitted removal of Protected Trees shall be exempt from mitigation if the removal is either:~~
  1. ~~Part of a City-approved Fuel Modification Plan as set forth in Chapter 8.36; or~~
  2. ~~The result of a Notice to Remove Weeds, Noxious Vegetation, Refuse and Other Obstructions issued by the Fire Chief in accordance with Chapter 8.37.~~
  1. ~~In the event of a conflict with this Chapter, the requirements of Chapters 8.36 and 8.37 shall control.~~

## 12.16.200190 Street Tree Planting

- A. **Street Tree Planting.** Each applicant for a building permit for new construction of residential or commercial structures on parcels without existing Street Trees, or for a parcel map, subdivision map or planned development permit which seeks, in whole or in part, the improvement of real property, shall be responsible for the planting of Street Trees, ~~unless waived by the City Arborist due to physical site constraints of the parcel.~~ The species of trees to be planted shall be in accordance with the Master Tree List. As part of the application process, the City Arborist shall review and approve the ~~species and~~ size of the tree to be planted, the location of the planting and the stage of the development at which the tree is to be planted. There shall ~~be~~ at least one Street Tree for each single-family ~~and two-family~~ lot, except for corner lots, for which two trees shall be planted. ~~For Street Trees for multi-family, mixed-use, commercial and industrial parcels, there shall be at least:~~
  - a. ~~One large-size tree species from the City's Master Tree List planted on center Street Tree for every fifty forty feet of street frontage planted on center; or for commercial and industrial parcels. In multifamily developments, the number of trees shall be~~

determined by the City Arborist, but not more than one tree for each dwelling unit may be required.

- b. One medium-size tree species from the City's Master Tree List planted on center for every 30 feet of street frontage; or
- c. One small-size tree species from the City's Master Tree List planted on center for every 20 feet of street frontage; or
- a-d. If the City Arborist confirms that the planting of Street Trees is not feasible then payment of an in-lieu fee by the applicant will be required based on the number of Street Trees that would have been required given the linear feet of street frontage of the project.

- B. **Responsibility.** The cost of the tree stock, the planting thereof and the maintenance of the tree pending occupancy of the property shall be the responsibility of the applicant. Unless the applicant can demonstrate to the satisfaction of the Community Development Department that adequate provision has been made for the planting and initial maintenance of the Street Trees, the applicant shall be required to furnish security which, at the option of and subject to the approval of the Director, shall be in the form of those alternatives authorized under Government Code Section 66499 et seq. Adequate provision may take the form of covenants, conditions and restrictions (CC&Rs) that require the planting and maintenance of Street Trees and that, in the opinion of the City Attorney, are enforceable by property owners or an association of owners created by such CC&Rs.

## **12.16.210200 Parking Lot Shading Tree Planting**

- A. **Planting in Parking Lot.** Each applicant for a building permit for new construction of a commercial structure(s) with surface parking on a parcel without Parking Lot Shading Trees, or for a parcel map, subdivision map or planned development permit which seeks, in whole or in part, the improvement of real property, shall be responsible for the planting of Parking Lot Shading Trees in accordance with the requirements of Section 17.57.070 of the Folsom Municipalthe Zoning Code. The species of trees to be planted shall be in accordance with the Master Tree List. As part of the application process, the City Arborist shall review and approve the species and size of the trees to be planted, the location within the parking lot where the trees are to be planted, the monitoring and maintenance period, and the total number of trees necessary to meet the requirements of Chapter 17.57.070the Zoning Code.
- B. **Responsibility.** The cost of the tree stock, the planting thereof and the maintenance of ~~such the~~ tree pending occupancy of the property shall be the responsibility of the applicant. Unless the applicant can demonstrate to the satisfaction of the Community Development Department that adequate provision has been made for the planting and initial maintenance of the Parking Lot Trees, the applicant shall be required to furnish security which, at the option of and subject to the approval of the Director, shall be in the form of those alternatives authorized under Government Code Section 66499 et seq. Adequate provision may take the form of covenants, conditions and restrictions (CC&Rs) that require the planting and maintenance of Parking Lot Shading Trees and that, in the opinion of the City Attorney, are enforceable by property owners or an association of owners created by such CC&Rs.

## **12.16.220210 Solar Shade Control Act Exemption**

The City is exempt from the provisions of the Solar Shade Control Act, Chapter 12 (commencing with Section 25980) of Division 15 of the California Public Resources Code.

## **12.16.230220 Violations, Enforcement, and Penalties**

### **A. Violations**

1. A violation of this Chapter shall be an administrative violation as defined in Section 1.08.020. In addition to enforcement by any procedure set forth in Chapters 1.08 through 1.10, any violation of this Chapter shall be punishable as a misdemeanor, which shall be punishable by a fine not to exceed one thousand dollars, or by imprisonment in the County jail for not more than six months, or by both fine and imprisonment.
2. Each of the sanctions for administrative violations identified in Section 1.09.013 shall be available to redress violation of the provisions of this Chapter.
3. In addition to the criminal penalty set forth in subsection A of this section, based upon the criteria for the imposition of administrative sanctions set forth in Section 1.09.014, a violation of a provision of this Chapter shall be deemed a Level E violation, as that term is described in Section 1.09.012.
4. Notwithstanding the ~~minimum-maximum~~ fee level identified in Section 1.09.012(A), the monetary sanction for the removal of a Protected Tree or damage resulting in a critical impact to a Protected Tree, as determined by the City Arborist, shall be in an amount at least two times what would have been charged as an in-lieu fee under Section 12.16.1560(B)(2) of this Chapter.

### **B. Enforcement**

1. This Chapter shall be enforced pursuant to the provisions of Chapters 1.08 through 1.10 of the Folsom Municipal Code.

### **C. Enforcement Procedures—Notice to Correct**

1. Prior to the assessment of any monetary sanction or the commencement of any other enforcement action pursuant to this Chapter, the Director shall follow the procedures set forth in ~~Sections 1.09.020 through 1.09.048-050~~ Chapter 1.09 of the Folsom Municipal Code.

# **Attachment 4**

## **Public Comments**



## Aimee Nunez

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**From:** Ron Phillips <ron.phillips@folsomfsc.org>  
**Sent:** Thursday, August 29, 2019 2:06 PM  
**To:** Pam Johns  
**Cc:** Aimee Nunez; Kurt Keller; Deborah Grassl; Felipe Rodriguez; Ken Cusano; Rgnevarez@aol.com  
**Subject:** City Tree Preservation Ordinance Update

Good Afternoon Mrs. Johns:

On behalf of the members of the Folsom Fire Safe Council (FFSC) I wanted to formally invite the City's consultant and/or City staff working on the Tree Preservation Ordinance update to attend our next meeting on November 6th and present an update on the City's efforts in revamping the existing language found in the FMC. Our meeting begins at 1:00 pm at the Folsom Community Center. We would certainly make the time to discuss this topic further if either the consultant and/or staff is available. Please let me know if this is possible.

In addition, I would like to recommend to the City that it consider the following proposed changes to the Tree Preservation ordinance language going forward in an effort to minimize potential conflicting regulations with various State and local efforts to reduce the wildfire risk in local communities such as Folsom. These potential changes include:

1. Modify the exemption provisions found in FMC § 12.16.030 to include allowing for the removal of Non-Heritage trees when such work is necessary to complete Hazardous Fuel Reduction<sup>[1]</sup> (HFR) work that has been identified as part of a City approved Vegetation Management Plan for a wildland urban-interface (WUI) area.
2. Modify the exemption provisions found in FMC §12.16.030 to permit the maintenance of trees regulated by this chapter when it is part of Defensible Space<sup>[2]</sup> efforts to protect a home within 100' of a designated WUI area. Examples of maintenance efforts that should be permitted include, but are not limited to, the following.

a. Removal of lower tree limbs up to 8' from the ground to prevent fire spread through tree canopies.

b. Removal of tree limbs within 10' of wood burning chimneys and other heating appliances.

c. Removal of dead and /or diseased tree limbs within 10' of the roof of the home.

d. Mowing of grass to a maximum height of 4" within the drip zone of the tree canopy during periods of the year declared by the Fire Chief as "Fire Season".

3. Incorporate language into the updated ordinance to allow for the removal and/or maintenance of trees regulated by this chapter that are found within both public and privately owned Open Space<sup>[3]</sup> lands when their removal is necessary as part of an approved Vegetation Management Plan that constructs and/or maintains a shaded fuel break<sup>[4]</sup> in the City.

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[1] Refers to the reduction of surface and ladder vegetation that form wildfire fuels. It may be accomplished using fire, biological methods and/or mechanical treatments to remove or modify fuels in wildland areas.

[2] Is the design and maintenance of natural and/or landscaped areas around a structure to reduce the danger from an approaching wildfire. Defensible space is intended to reduce the threat of wildfire spread from the wildland threat area to adjacent structures. See California Public Resource Code § 4291 for additional details.



[3] Isolated undeveloped lands within an urban area that can produce a wildland urban interface fire threat to the local neighborhoods. They can include habitat conservation lands, natural vegetation parklands, stormwater drainages, land that is not developable that is covered with natural vegetation and powerline corridors.

[4] Is a strategy used whereby a strip of land containing fuel (for example, living trees and brush, and dead branches, needles, or downed logs) has been modified or reduced to limit the fire's ability to spread rapidly. Constructing a shaded fuel break is the process of selectively thinning and removing more flammable understory vegetation while leaving the majority of larger, more fire tolerant tree species in place.

As always we look forward to working with City staff and yourself in the future. Please dont hesitate to contact me if you have any further questions regarding this matter.

Thanks,

Ron

--  
Ronald A. Phillips, Chairperson  
Folsom Fire Safe Council  
916-293-2331



October 16, 2019

Aimee Nunez  
City Arborist  
City of Folsom  
Community Development Dept.  
50 Natoma Street, 2nd Floor  
Folsom, CA 95630  
[anunez@folsom.ca.us](mailto:anunez@folsom.ca.us)

Pam Johns  
Community Development Director  
City of Folsom  
[pjohns@folsom.ca.us](mailto:pjohns@folsom.ca.us)

Elaine Anderson  
City Manager  
City of Folsom  
[eanderson@folsom.ca.us](mailto:eanderson@folsom.ca.us)

Folsom City Councilpersons:

Mayor Kerri Howell, Vice Mayor Sarah Aquino, Council Members Ernie Sheldon, Roger Gaylord, and Mike Kozlowski

RE: Update to the City of Folsom Tree Ordinance – October 22, 2019, New Business 9b.

I want to thank our City Arborist Aimee Nunez and Community Development Director Pam Johns for their work in updating our Tree Ordinance, which I believe will enhance the City's ability to maintain and further establish a world class tree canopy. The changes will enhance not only the beauty of our City but contribute to reductions in heat islands and greenhouse gas emissions, the latter of which will help the City to achieve the CAP that has been incorporated into the 2035 Master Plan update.

I'm particularly happy to see the changes that support the retention of existing trees by expanding the definition of "heritage trees", the addition of reasonable alternative measures to deter removal and increase retention of mature trees (rather than paying in lieu fees), credits given to developers for retaining existing trees, and the ability of planners to adjust lot coverage and setbacks to enhance the ability of a builder to retain existing trees.

I am also pleased to see the addition of the requirement to have Parking lot tree pruning and removal evaluated by our arborist and permitted; shade-less masses of asphalt are abundant where trees have been over-pruned and died as a result of this in addition to the poor condition exacerbated by tree wells which are too small and not well irrigated.

I am wondering if some additional changes might be incorporated or, if not appropriate for this document, be added to goals or guidelines or other administrative processes.

1) As the appeal process could ultimately be taken to a Commission, I am concerned that political pressure can override a sound decision by knowledgeable staff. Educating Commissioners on the tree ordinance may help diminish this possibility.

2) Can new homeowners be given an introductory greeting packet that includes care, maintenance, rules, and regulations regarding trees that are planted on the property they are purchasing? Perhaps this is something that can be dispensed when the homeowner applies for water and garbage service.

3) Can the approved arborists on the City Website of known licensed arborists each receive notice that they need to ensure that the homeowner has obtained the proper permits before performing the work?

I am very concerned about the “reduced mitigation rate within the buildable footprint of residential lots to 50%”. I recognize that with the higher densities and smaller lots that adequate shade coverage for the yards, streets and sidewalks is difficult. However, local parks and the landscape easements should be utilized to the greatest extent possible to achieve greater than 50% coverage for the entire acreage in any given subdivision. At a minimum mitigation in the same region of town where trees were removed should be a prime goal.

Finally, I would like to see some kind of incentive program established to encourage residents, who have removed their trees and replaced their lawns with rocks and tiny shrubs only, to plant trees in accordance with the requirement to have one shade tree within 12 feet of the sidewalk per lot. Partnering with the Sacramento Tree Foundation could be beneficial in accomplishing this with free trees and help. Perhaps a note in the City Newsletter could educate and enhance the utilization of this service and I know of at least a couple local service organizations that can be enlisted to help homeowners with planting if needed.

Thank you again for your work on this and I’m looking forward to helping in any way I can to keep Folsom green. I’m sorry to have to miss the Council Meeting for this presentation as I will be out of town.

Sincerely,



Barbara Leary  
128 Yankton Street  
Folsom, CA  
916 947-9270

## TreePreservation

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**From:** Lawrence Moore <numberseven7@sbcglobal.net>  
**Sent:** Thursday, October 17, 2019 10:14 PM  
**To:** TreePreservation  
**Subject:** New tree ordinance

Thank you for the opportunity to comment. I understand the need to write ordinance in legal terms however to me the ordinance is not straightforward. To rectify this, I suggest you put together a handbook outlining the provisions, with appropriate color picture and diagrams, fully linked with referenced material and imbedded definitions. The target audience are city residents and small business owners.

The City of Corvallis made an attempt at this, but I bet you could do better.

I have no direct comments on the ordinance itself. I do believe though that Folsom residents need a better tool to understand the value of protected trees and their responsibilities than what the ordinance itself provides.

I should not also have to delve into several web sites to garner this information. Folsom residents are the primary protectors of Folsom's trees. Help them out with easy to read and comprehend information.

Thank you

Larry Moore  
143 Fantages Way  
Folsom

Sent from my iPhone



## Aimee Nunez

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**From:** Kevin A. Hocker <KHocker@cityofsacramento.org>  
**Sent:** Wednesday, October 23, 2019 3:57 PM  
**To:** Aimee Nunez  
**Subject:** RE: Folsom Tree Preservation Ordinance - Admin draft #1  
**Attachments:** Chapter 12.16\_Folsom TPO\_PUBLIC\_REVIEW\_DRAFT KH COMMENTS.pdf

Hi Aimee,

Sorry for taking so long to get back to you on this. I was home sick today so I had plenty of time to look at it. My mind is a little foggy from whatever it is that I have so please excuse any comments that aren't well articulated.

Overall I think it's a good document. Most of my comments point out where Sacramento approached the same problem in a different way. I point those things out so you can have something to think about, not because I'm suggesting that you should change anything. There are a few instances where I think that you have some big loopholes that can be exploited and in those cases I think you should see what you can do to tighten up the language so you can get what you are really trying to achieve.

I know that this is a work in progress so please keep me updated on any major developments. I'll try to get back to you a lot faster next time.

Thanks,

Kevin A. Hocker  
B.Sc., Environmental Horticulture and Urban Forestry (UCDavis)  
Board Certified Master Arborist WE-8039BM (ISA)  
City Urban Forester  
Department of Public Works, Urban Forestry  
(916)-808-4996

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**From:** Aimee Nunez <anunez@folsom.ca.us>  
**Sent:** Wednesday, October 2, 2019 4:55 PM  
**To:** Kevin A. Hocker <KHocker@cityofsacramento.org>  
**Subject:** Folsom Tree Preservation Ordinance - Admin draft #1

Hello Kevin,

Thank you again for the call today. I've attached the internal review draft to this email. If you're interested in our current ordinance language for comparison, you can find it here:

<https://www.codepublishing.com/CA/Folsom/#!/Folsom12/Folsom1216.html#12.16>

The mitigation section especially still needs some work. One of our biggest struggles is enticing tree preservation for development (custom homes in particular). Our existing ordinance has some soul crushing loop holes that has resulted in lots of tree removals for virtually no mitigation and the new approach in the attached document attempts to close those gaps. As I mentioned, we're still massaging/editing, but this is a substantially complete draft and your feedback would be most welcome. I look forward to hearing your thoughts. Thank you again!

Best,

**12.16.010 Purpose and Intent**

A. **Purpose.** Trees are both community and environmental assets, unique in their ability to provide a multitude of benefits that appreciate over time. In addition to many others, these benefits include life-giving oxygen, filtration of air pollutants, essential shade, energy savings, reduced Heat Island effect, habitat for wildlife, and carbon sequestration. The purpose of this chapter is to advance these aesthetic, economic, environmental, and social contributions of our Urban Forest through the creation and preservation of tree resources. In order to promote the public health, safety and general welfare, enhance the beauty of Folsom 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 finds it necessary to establish standards, and measures for the preservation of trees.

- B. **Intent.** The provisions of this chapter are enacted to:
1. Establish and maintain the optimum amount of tree cover on public and private lands to enhance the natural scenic beauty, moderate climatic conditions, and sustain property values.
  2. Promote conservation of tree resources and long-term sustainability.
  3. Safeguard the health of the City's Urban Forest by ensuring proper tree management practices.
  4. Protect the visual and aesthetic character of the City.
  5. Implement the conservation goals of the General Plan.
  6. Establish procedures for the City to administer this tree ordinance.

**12.16.020 Definitions**

This section includes the definition of terms and phrases used in this Chapter that are technical or specialized, or that may not reflect common usage. If any of the definitions in this Chapter conflict with definitions in other provisions of the Municipal Code, the terms and phrases as defined in this Chapter shall control for the purposes of this Chapter. If a word is not defined in this Chapter, the Community Development Director shall determine the most appropriate definition for purposes of enforcing the Tree Ordinance.

**Adjacent.** Having a common property line, or immediately next to an alley, path, private street, easement, or public street.

**ANSI A300 Standards.** The most current version of Tree Care Operations – Tree, Shrub and other Woody Plant Maintenance – Standard Practices of the American National Standards Institute, as amended from time to time.

**Appeal Authority.** The Director or Commission authorized under this Chapter to consider appeals of Tree Removal Permits.

**Approving Authority.** The City Arborist is the Approving Authority for the Tree Work Permit and Tree Removal Permit covered by this Chapter.

**Arborist Report.** A report prepared by an Arborist containing specific information on location, condition, potential impacts of development, recommended actions and mitigation measures relating to 1 or more trees on an individual lot or project site.

1	KHocker	10/23/2019 13:37:16
Take a look at this to make sure that the things you list in here are things that you intend to manage your forest for. Carbon sequestration and wildlife habitat require different management strategies. You don't want to force yourself into a management strategy that you didn't intend. Just something to think about.		
2	KHocker	10/23/2019 13:38:11
Aren't you also establishing standards for tree maintenance, removal, and replacement?		

**Notes**

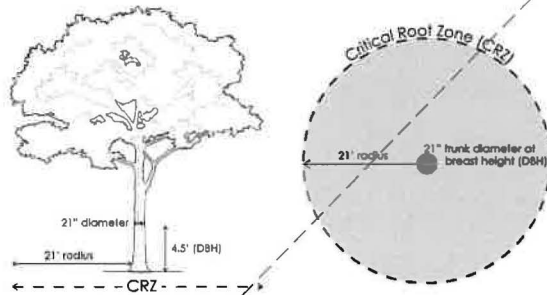
**Arborist.** An individual certified as an Arborist by the International Society of Arboriculture (ISA) and holds a current and unexpired certification.

**City Arborist.** An Arborist who is a City employee whose job duties include the review, evaluation and preparation of reports and permits under this Chapter.

**Director.** The Director of the City's Community Development Department or his/her designee.

**Certificate of Compliance.** A letter from an Arborist verifying that the conditions associated with a Tree Permit have been satisfied.

**Critical Root Zone (CRZ).** The area of soil extending from the tree trunk where roots required for future tree health and survival are located. This Critical Root Zone area for all trees except Heritage Trees is a circle with a minimum radius of 1 foot for every 1 inch in trunk diameter at DBH. For Heritage Trees, the Critical Root Zone area shall be a circle with a minimum radius of 1.5 feet for every 1 inch in trunk diameter at DBH, unless reduced by the City Arborist.



**Diameter at Breast Height (DBH)** diameter of a tree measured at four and one-half feet above the ground while standing on the high side of the tree. For a tree other than a Multitrunked Tree that branches at or below four and one-half feet, DBH shall mean the diameter at the narrowest point between the grade and the lowest branching point. The diameter shall be calculated by use of the following formula:

$$\text{diameter} = \text{circumference} / 3.142$$

For Multitrunked Trees, the DBH shall be the diameter of each stem measured at four and one-half above the ground while standing on the high side of the tree added together in total.

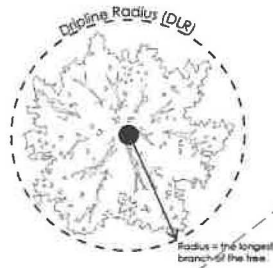
**Dripline Radius (DLR).** A perfect circle around the tree with the radius being equal to the longest branch of the tree.

1 KHocker 10/23/2019 13:40:38  
 There are arborists that aren't certified by the ISA but I like that you have established a minimum qualification. I have experienced frustration from Sacramento's lax definition of the term in their ordinance.

2 KHocker 10/23/2019 13:42:19  
 You have the opportunity to call this DSH or Diameter at Standard Height if you want.

Notes

Empty box for notes.



**Extrapolated Diameter at Breast Height (DBH).** <sup>1</sup> is method of calculating the DBH of a multitrunked tree that is derived from adding the cross-section <sup>1</sup> area of each stem measured at 4.5 feet above grade to determine a value for the DBH. In a Multitrunked Tree, this is calculated by taking the square root of the sum of each individual stem's DBH squared. The extrapolated DBH value is used for determining mitigation and may be calculated using an alternative method acceptable to the City Arborist.

**Heat Island.** An urban or metropolitan area that has higher average temperatures than surrounding rural areas due to the greater absorption, retention, and generation of heat by buildings, pavements, and human activities.

**Heritage Tree.** <sup>2</sup> Tree on the City's Master Tree List over 30 inches in DBH or a multitrunked tree on the Master Tree List <sup>2</sup> having a combined DBH of 50 inches or more.

**International Society of Arboriculture (ISA).** A nonprofit organization and network of practitioners, scientists, and students that is recognized as a source for arboricultural information and knowledge.

**Landmark Tree.** A tree or group of trees determined by the City Council to confer a significant community benefit to the general public due to its size, age, location, historic association or ecological value.

**Major Pruning.** The cutting of any individual branch or root with a diameter of two inches or greater or a circumference of more than six and one-quarter inches at any point on such branch or root. It shall also include the cutting of a cumulative amount of more than ten percent of a combination of the Root System and the Tree Crown within a 12-month period.

**Master Tree List.** A list prepared by the City identifying the species of trees that may be planted as replacement trees, as Parking Lot Shading Trees, or as Street Trees.

**Minor Pruning.** The cutting of any individual branch or root of less than two inches in diameter at any point on such branch or root. The cumulative amount of cutting shall not be more than ten percent of a combination of the Root System and the Tree Crown within a 12-month period. Pruning that substantially reduces the overall size or density of the tree or destroys the existing symmetry or natural shape of the tree is not considered Minor Pruning.

**Multitrunked Tree.** A tree with multiple stems originating from a single root mass.

**Native Oak Tree.** One of the following species of tree or hybrids of any of the trees listed below, with a minimum diameter as shown:

1   KHocker	10/23/2019 13:46:18
This is the most technically correct way to do this, but you should consider that you will have to double check everyone's math. Sacramento's solution was to simplify the math while closely approximating this formula. Your proposed solution is fine, I just wanted you to think about it an make sure that it will work the way you intend it to.	
2   KHocker	10/23/2019 13:47:48
Are heritage trees on private property or can they be located on public property too?	

**Notes**



Common Name	Botanical Name	Trunk (DBH)	Multitrunked Combined (DBH)*
Valley Oak	Quercus lobata	6"	20"
Blue Oak	Quercus douglasii	6"	20"
Interior Live Oak	Quercus wislizenii	6"	20"
Coast Live Oak	Quercus agrifolia	6"	20"

\*A Native Multitrunked Tree listed above with a single stem 6 inches or greater shall be considered a Native Oak Tree.

**Parking Lot Shading Tree.** Any tree planted in a parking lot in order to meet shade coverage requirements and as identified in Section 17.57.070 of the Zoning Code.

**Protected Tree.** Trees protected under this Chapter include Native Oak Trees, Heritage Trees, Landmark Trees, Regulated Trees, and Street Trees, as defined herein.

**Pruning.** To cut off or cut back parts a tree to enhance health and structure. Pruning refers to both above surface and underground cutting. See also "Major Pruning" and "Minor Pruning".

**Reasonable Alternative Measures.** Measures determined and authorized by the Approving Authority or Appeal Authority that may be reasonably implemented to minimize impact to a Protected Tree in order to avoid activities which could result in greater impact to the tree or removal of the tree. Examples may include tree management practices such as root barriers; a minor deviation from the setbacks to allow a development to preserve existing trees on-site (may require a variance or other land use entitlements); or the planting of replacement trees on suitable off-site locations.

**Regulated Activity.** Activities involving Major Pruning of a Protected Tree, any activity undertaken within the Tree Protection Zone of a Protected Tree, removal of a Protected Tree, cabling and/or bracing of a Protected Tree, or other activities that may impact the long-term health and survivability of a Protected Tree as may be determined by the City Arborist.

**Regulated Tree.** Trees required in accordance with the standards of the Zoning Code, such as Parking Lot Shading Trees, or required as conditions of development project approval, such as landscape buffer or screening trees.

**Replacement Tree.** A tree required to be planted as mitigation for removal of a Protected Tree in accordance with the requirements of this Chapter.

**Root System.** This configuration of underground tentacles is one of its most important elements of a tree, providing several vital functions. Roots store nutrients for the tree during the winter and transport water and minerals during the active part of the growing season. Roots also provide an anchor to the tree keeping it from toppling during extreme weather conditions.

**Routine Maintenance.** Includes the following activities: Minor Pruning; dead wood removal; irrigation; mulch application; mowing or trimming grass or other ground cover close to a tree; application of fertilizer, insecticides, or herbicides in accordance with their label; or any other similar activities that promote the life, growth, or health of trees. Any procedure, technique, or practice that is expressly prohibited under the ANSI A300 standards or by this Chapter is not Routine Maintenance.

**Street Tree.** A tree of an approved species in accordance with the Folsom Master Tree List planted within 12.5' of a street or sidewalk, measured from the back of the curb or back of the sidewalk. Street Trees can be either privately or publicly owned.

**Subject Property.** The property, or properties, for which a permit request has been filed.

1 | KHocker 10/23/2019 13:51:01  
 There is no mention of trees on city property. Are you saying that no permits are required for someone to cut down a tree at city hall or a library?

2 | KHocker 10/23/2019 13:56:05  
 This section seems to focus on measures that would be appropriate for new construction scenarios. You might want to state some reasonable measures for scenarios that involve existing structures and conflicts with driveways or sidewalks. You may also find it helpful to state what measures would not be considered reasonable. In Sacramento people propos...

3 | KHocker 10/23/2019 14:19:06  
 I think you will have difficulty enforcing code violations involving any actions not enumerated in this section. People can't be expected to read the mind of the city arborist and know what you consider to have an impact on the long term health of a protected tree. You could fix it by rewording it to say something like "Any activity other than routing maintenance undertaken within the..."

4 | KHocker 10/23/2019 14:21:23  
 Ok I see. If someone plants an improper species of tree in the street area, then it doesn't meet the definition of a Street tree and therefore isn't protected.

Notes

ID	Subject	Author	Date/Time	Comment
2	Sticky Note	KHocker	10/23/2019 13:56:05	<p>This section seems to focus on measures that would be appropriate for new construction scenarios. You might want to state some reasonable measures for scenarios that involve existing structures and conflicts with driveways or sidewalks. You may also find it helpful to state what measures would not be considered reasonable. In Sacramento people proposed unreasonable solutions frequently enough that the city found it necessary to state in their ordinance that certain measures would not be considered reasonable. I can also state from experience that it helps tremendously to have certain measures defined in the code as reasonable so doesn't need to be a debate about it each time the question arises.</p>
3	Sticky Note	KHocker	10/23/2019 14:19:06	<p>I think you will have difficulty enforcing code violations involving any actions not enumerated in this section. People can't be expected to read the mind of the city arborist and know what you consider to have an impact on the long term health of a protected tree. You could fix it by rewording it to say something like "Any activity other than routing maintenance undertaken within the TPZ of a Protected Tree such as but not limited to A, B, and C.</p> <p>Also is planting a tree regulated? Can I just go out into the street or a park and plant a birch tree then watch you struggle to keep it alive.</p>

1 | KHocker 10/23/2019 14:06:08  
 This will work, but I think that it would be simpler to combine the definition of the CRZ and the TPZ. The CRZ results in a more uniform tree protection than TPZ which is highly variable. In any case give some thought to how you want to go about checking this for enforcement purposes. And think about how you will go about granting exceptions to this rule when protecting the ...

**Terminal Leader.** This is the vertical stem(s) at the top of the trunk of a tree.

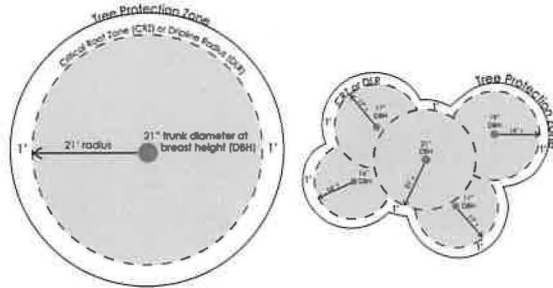
**Tree Care and Maintenance Standards.** Standards required by the City for the care and maintenance of Protected Trees based on the ANSI 300 Standards and any other relevant standards as determined by the City Arborist, as amended by the City from time to time.

**Tree Crown.** This is the top part of the tree, which features branches that grow out from the main trunk and support the various leaves used for photosynthesis.

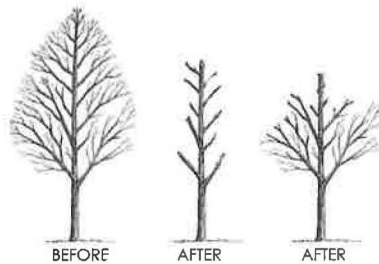
**Tree Permit.** A permit issued by the City of Folsom covering any Regulated Activity affecting a Protected Tree, which may be a Tree Work Permit or a Tree Removal Permit or both.

**Tree Protection and Mitigation Plan.** A plan submitted for review and approval before the start of any Regulated Activity.

**Tree Protection Zone (TPZ)** is the circumference of the outermost edge of a tree's Critical Root Zone or Dripline Radius, whichever is greater, plus one foot. When depicted on a map, the Tree Protection Zone will appear as a perfect circle, or group of overlapping circles for multiple trees.



**Topping.** A type of pruning that is not Routine Maintenance and involves the removal of tops of trees, or large branches or trunks from tops of trees, leaving large stubs or lateral branches that are too small to assume the role of a Terminal Leader.



**Urban Forest.** A forest, or collection of trees, or the total of all trees on public and private properties that grow in the City boundaries.

**Notes**

[Empty box for notes]

ID	Subject	Author	Date/Time	Comment
1	Sticky Note	KHocker	10/23/2019 14:06:08	.This will work, but I think that it would be simpler to combine the definition of the CRZ and the TPZ. The CRZ results in a more uniform tree protection than TPZ which is highly variable. In any case give some thought to how you want to go about checking this for enforcement purposes. And think about how you will go about granting exceptions to this rule when protecting the standard TPZ isn't possible or feasible.



1 | KHocker 10/23/2019 14:08:57  
Are these activities always prohibited or can they be allowed if they are the only option for preserving a tree that still has substantial value?

**Zoning Code.** Title 17 of the Folsom Municipal Code.

**12.16.030 Applicability**

The provisions of this Chapter shall apply to all Regulated Activities affecting Protected Trees, excluding those activities undertaken by the City. Trees that are not Protected Trees are not subject to the provisions of this Chapter. When a tree qualifies as more than one type of Protected Tree, the more stringent requirements apply.

**12.16.040 Prohibited Activities**

The following activities shall be prohibited with respect to Protected Trees:

- A. Topping.
- B. Attaching anything using nails, screws, and/or spikes.
- C. Wounding or breaking tree trunks or branches through contact with vehicles and heavy equipment.
- D. Wounding trunks with string weed trimmers, lawn mowers, and similar equipment.
- E. Causing injury by fire or excessive heat.
- F. Pruning activities not conducted in accordance with City's Tree Care and Maintenance Standards.
- G. The use of tree spikes or spurs while pruning.
- H. Any of the following activities within the Tree Protection Zone of any Protected Tree, unless specifically approved by the City and conducted in accordance with the standards of Section 12.16.140 (Standard Conditions of Approval):
  - 1. Storage of large quantities of soil and/or mulch.
  - 2. Excavation and trenching.
  - 3. Changing soil grade by cutting or filling.
  - 4. Grading, tearing, and/or grubbing.
  - 5. Compacting soil with equipment, vehicles, material storage, and/or foot traffic.
  - 6. Washing out equipment (especially paint, stucco and concrete) and vehicle maintenance.
  - 7. Installing impervious surfaces, including but not limited to parking lots, driveways, and walkways.
  - 8. Storing or placing construction materials or construction debris and waste.
  - 9. Accumulation of water from construction-related activities.
- I. Cutting down, destroying, effectively destroying through damaging, removing, or moving any Protected Tree without a Tree Work Permit or a Tree Removal Permit at any time unless specifically exempted by this Chapter.

**12.16.050 Permit Required**

- A. **Tree Work Permit Required.** A Tree Work Permit is required for any Regulated Activities undertaken with respect to a Protected Tree, except where specifically exempted by subsection "C" below:

**Notes**

- B. **Tree Removal Permit Required.** A Tree Removal Permit is required before removal of any Protected Tree, except where specifically exempted by subsection "C" below.
- C. **Exemptions.** The following activities with respect to Protected Tree are specifically exempted from the requirements for obtaining a Tree Work Permit or a Tree Removal Permit.
1. Resurfacing, repaving, or concrete replacement of existing paved areas within the Tree Protection Zone, if conducted under the supervision of an Arborist to guarantee appropriate measures are taken to ensure tree survival.
  2. Parking or operation of motor vehicles within the Tree Protection Zone on existing paved areas.
  3. Placement or storage of equipment or construction material within the Tree Protection Zone on existing paved areas.
  4. Maintenance of under-canopy landscaping.
  5. Routine maintenance of Protected Trees.
  6. Emergency work involving the removal of limbs or trees damaged by extreme weather, chance occurrence, or unavoidable accident beyond the reasonable control of the property owner.
  7. Removal of a Protected Tree that is dead or dying as determined by an Arborist and verified by the City Arborist provided that the property complies with the requirements of the Zoning Code.
  8. Removal of a Protected Tree that poses an imminent safety risk to the public as determined by the City Arborist or City Fire Chief.
  9. Minor pruning activities.
  10. Activities that do not disturb or contaminate the soil within the Tree Protection Zone or result in physical contact to the Protected Tree.
  11. Public utilities subject to the jurisdiction of the California Public Utilities Commission performing pruning activities as is necessary to comply with the safety regulations of said commission and to maintain a safe operation of their facilities. However, they shall notify the Community Development Department at least seven (7) business days before taking any action. The City may cause such pruning work to be inspected and the City shall have the authority to stop any tree-pruning performed by a utility if such practices are not being followed.
- D. **Combined Activities.** Separate but similar tree-related activities may be reviewed under one permit. The City's decision on the permit shall apply to all activities included in the permit.
- E. **Limitation.** Permit issued under this Chapter entitles the permittee to perform only the Regulated Activities authorized in the permit and is not valid for any other purpose.

**12.16.060 Application Requirements**

- A. **Application Form.** All Tree Work Permit or Tree Removal Permit applications must be submitted in writing to the Community Development Department on a form provided by the City.
1. Minimum submittal requirements shall be established by the City. Additional information necessary for the complete evaluation of an application may be required by the City Arborist. All required material and information shall be provided by the applicant before the application may be deemed complete and accepted for processing.

1   KHocker	10/23/2019 14:32:55
You absolutely have to define the term emergency or everything will be an emergency in the eyes of a homeowner, developer, or tree care company and you won't have any way of saying otherwise. An emergency should involve an imminent safety risk and/or the imminent loss of service or access to property. Work that exceeds what is necessary to correct the ...	
2   KHocker	10/23/2019 14:35:39
If two arborists need to verify that it's dead or dying, how is this functionally different from a permit? This exemption also incentivizes people to kill or neglect their trees so they can remove it without a permit. You could easily require a permit for dead and dying trees and just waive the replacement requirement if a removal permit is granted.	
3   KHocker	10/23/2019 14:26:19
Number 8 encompasses everything you want to say in 6 and 7. You might also add a line about the City Arborist and/or City Fire Chief acting within the scope of their assigned duties. I have on rare occasion run into a situation where someone removed a tree because a fire chief offered the opinion that a tree was dangerous in an offhand way on his day off when he wasn't engaged in ...	

**Notes**

ID	Subject	Author	Date/Time	Comment
1	Sticky Note	KHocker	10/23/2019 14:32:55	You absolutely have to define the term emergency or everything will be an emergency in the eyes of a homeowner, developer, or tree care company and you won't have any way of saying otherwise. An emergency should involve an imminent safety risk and/or the imminent loss of service or access to property. Work that exceeds what is necessary to correct the emergency should be regulated. It's very common to remove an entire tree or group of trees because one limb broke in a storm.
3	Sticky Note	KHocker	10/23/2019 14:26:19	Number 8 encompasses everything you want to say in 6 and 7. You might also add a line about the City Arborist and/or City Fire Chief acting within the scope of their assigned duties. I have on rare occasion run into a situation where someone removed a tree because a fire chief offered the opinion that a tree was dangerous in an offhand way on his day off when he wasn't engaged in any official city business.

2. No application shall be considered complete for acceptance and processing until the required application fee is paid in full.
  3. For work within the Tree Protection Zone or work involving the removal of a Protected Tree, a Tree Protection and Mitigation Plan is required as part of the permit application unless exempt under Section 12.16.050(C). If Protected Trees are present on the proposed development site, a Tree Protection and Mitigation Plan is required as part of entitlement application and before submittal of a Tree Permit application.
- B. **Application Fees.** The City Council may establish a fee by resolution for the processing of permit applications under the provisions of this Chapter, which may be amended from time to time.

### 12.16.070 Approving Authority

The Approving Authority may approve, modify, conditionally approve, deny the permit application in accordance with this Chapter. The decision of the Approving Authority on a Tree Work Permit shall be final and not subject to appeal. A Tree Removal Permit may be appealed to the Appeal Authority pursuant to procedures set forth in Section 12.16.110 (Appeals).

### 12.16.080 Conditions of Approval

The Approving Authority may impose such conditions as are necessary to ensure compliance with this Chapter with respect to the proposed project, including but not limited to conditions to lessen impacts to Protected Trees or to mitigate environmental impacts of the proposed activity.

### 12.16.090 Findings for Approval

The following findings are required before issuance of the specified permits.

- A. **Tree Work Permit.** Before approving an application for a Tree Work Permit, the Approving Authority shall make the following findings:
1. The proposed activity is not detrimental to the immediate or long-term health of the Protected Tree; or
  2. The proposed activity is detrimental to the immediate health of the Protected Tree, but a Tree Protection and Mitigation Plan has been prepared that minimizes the impact and protects the long-term health of the tree to the satisfaction of the City Arborist; and
  3. The proposed activity is in accordance with the provisions of this Chapter and all applicable City standards and policies.
- B. **Tree Removal Permit.** Before approving an application for a Tree Removal Permit, the Approving Authority shall make at least one of the following findings:
1. The condition of the Protected Tree with respect to disease, danger of falling, or long-term health of the tree is such that the tree is not likely to survive;
  2. The condition or location of the Protected Tree or its roots is interfering with water, sewer, gas, electrical services, streets or sidewalks to the subject property or properties in the vicinity and there are no Reasonable Alternative Measures to avoid, prevent or lessen the interference.
  3. The Protected Tree or its roots are causing, or threatening to cause, damage to any existing permanent structure or feature on the property or on any adjacent property including pools, driveways, and there are no Reasonable Alternative Measures to avoid, prevent or lessen the damage or threatened damage.

- 1 | KHocker | 10/23/2019 14:38:22  
 It's good that you have stated that the fee is for processing the application not for granting the permit. People will try to avoid paying if they don't get a permit, or insist that you need to grant them a permit because they paid for a permit. It can't be stressed enough that the fee is for processing the application not for issuing a permit.
- 2 | KHocker | 10/23/2019 14:42:33  
 I prefer to say "approve with conditions" rather than "conditionally approve." Ask your lawyers about this. It might only be me but I read conditionally approve to mean that some condition needs to be met before I can get a final approval. I read approve with conditions to mean that the permit is approved but there are additional terms or conditions that modify the scope of work ...
- 3 | KHocker | 10/23/2019 14:45:45  
 There's nothing wrong with this but think about how you want to handle it if someone asks to dig next to a tree to place a pipe and you say no. If the applicant doesn't agree with your decision can they reapply and ask again with more information to convince you or do they need to sue you to have the matter reconsidered. Think about how you want the system to work but having an ...
- 4 | KHocker | 10/23/2019 14:49:27  
 I can't think of any better language, but I think that "not likely to survive" is a little vague and invites weak arguments that you will be forced to consider as valid. See if you can't tighten that language up a bit to make it less subjective.
- 5 | KHocker | 10/23/2019 14:52:57  
 I suggest adding language to the effect that the interference is likely to cause a foreseeable interruption in service or function of the aforementioned utilities and facilities.
- 6 | KHocker | 10/23/2019 15:00:18  
 The word "threatening" seems to really get some people upset for some reason. Other people interpret it very loosely to include the very remote possibility of damage. I don't know if I have the perfect language for this but I suggest that you consider something like "causing or will cause damage in the near future to..."

## Notes



ID	Subject	Author	Date/Time	Comment
2	Sticky Note	KHocker	10/23/2019 14:42:33	I prefer to say "approve with conditions" rather than "conditionally approve." Ask your lawyers about this. It might only be me but I read conditionally approve to mean that some condition needs to be met before I can get a final approval. I read approve with conditions to mean that the permit is approved but there are additional terms or conditions that modify the scope of work that has been allowed as part of the permit.
3	Sticky Note	KHocker	10/23/2019 14:45:45	There's nothing wrong with this but think about how you want to handle it if someone asks to dig next to a tree to place a pipe and you say no. If the applicant doesn't agree with your decision can they reapply and ask again with more information to convince you or do they need to sue you to have the matter reconsidered. Think about how you want the system to work but having an appeal option even on pruning isn't necessarily a bad thing.

4. Use of the property consistent with the Zoning Code could not be made unless the Protected Tree is removed and there are no Reasonable Alternative Measures to allow for use of the property consistent with the Zoning Code.

**12.16.100 Notice of Decision**

- A. Written Notice. Written notice of decision on application for Tree Work Permit or Tree Removal Permit shall be provided to the applicant as part of the permit issuance or denial. Written notice of decision on application for Tree Removal Permit shall be provided to the applicant and owners of properties located immediately adjacent to the subject property. The notice shall include the following:
  1. The application.
  2. The decision made by the Approving Authority.
  3. Conditions imposed as part of the approval.

**12.16.110 Appeals**

- A. **Right to Appeal.** The decision on a Tree Work Permit is final and not subject to appeal. For a Tree Removal Permit, any person dissatisfied with the determination of the Approving Authority may file an appeal with the Director. The decision of the Director may be appealed to the Planning Commission or the Historic District Commission depending upon the location of the Protected Tree. The decision of the Planning Commission or Historic District Commission shall be final for all purposes and not appealable further.
- B. **Filing an Appeal.** Appeal shall be submitted in writing to the City Clerk within 10 calendar days following a decision rendered under this Chapter, with payment of an appeal fee adopted by the City Council. The appeal shall, at a minimum, state the following:
  1. The project or matter being appealed.
  2. The date of the City's decision that is the subject of the appeal.
  3. The specific conditions, standard, or action being appealed.
    - a. A statement specifying the basis or grounds of the appeal such as why the decision is not in agreement with the standards and regulations of Chapter.
    - b. How the decision of the Approving Authority should be changed.
  4. No appeal request shall be deemed filed until the prescribed fee has been paid.
  5. If an appeal is not filed within the time and in the manner stated above, the right to appeal shall be deemed waived.
- C. **Notice and Schedule of Appeal Hearings.** The Director shall schedule the appeal hearing as soon as practicable following receipt of the appeal. Notice of the date, time and place of the hearing shall be provided to the appellant and the project applicant no later than 10 calendar days before the date of the hearing.
- D. **Appeal Hearing and Action.** The Appeal Authority shall review the entire proceeding or proceedings relating to the act or decision being appealed and may make any order it deems just and equitable, including but not limited to the approval or denial of the Tree Removal Permit application, the addition or modification of any condition applicable to an approved Tree Removal Permit. Any hearing may be continued from time to time. At the conclusion of the hearing, the Appeal Authority shall make findings supporting its decision on the appeal. The decision of the

1 | KHocker 10/23/2019 15:03:39  
 I actually like this language, but you might want to check with your lawyers and planning folks on this. Some projects have mandatory public notice provisions that exceed the requirements stated here.

2 | KHocker 10/23/2019 15:06:20  
 Have you actually established limits on reasons for an appeal. It is very common to appeal a tree removal decision simply because someone likes trees, regardless of whether the process was followed reasonably. As your lawyers if you can limit appeals to matters of process and findings. Sacramento allows anyone to appeal for any reason and the majority of the appeals are...

3 | KHocker 10/23/2019 15:09:28  
 I advise that you definitely have an appeal fee. It should be reasonable and there should be a provision somewhere that states that it is non refundable but can be waived upon request at the time of submittal for cases of financial hardship. No cost appeals can encourage and enable people to appeal just for the sake of wasting peoples time and to delay projects that they don't like.

**Notes**

ID	Subject	Author	Date/Time	Comment
2	Sticky Note	KHocker	10/23/2019 15:06:20	Have you actually established limits on reasons for an appeal. It is very common to appeal a tree removal decision simply because someone likes trees, regardless of whether the process was followed reasonably. As your lawyers if you can limit appeals to matters of process and findings. Sacramento allows anyone to appeal for any reason and the majority of the appeals are from people who like trees but have no prior knowledge of the situation or reason for the original decision.

### 12.16.160 Mitigation Requirements

Removal of any Protected Tree shall be mitigated in accordance with the provisions of this section.

**A. Replacement Trees Required.** Replacement trees shall be required as follows:

1. **Protected Trees.** Protected Trees shall be replaced at a ratio of one-inch equivalent at DBH for every one-inch of DBH removed as set forth in the table below in Section 12.16.160(A)(1)(a). Before removal of a Landmark Tree, the landmark designation shall be declassified pursuant to Section 12.16.180(D).

- a. **Equivalency Table.** The following equivalent sizes shall be used whenever new trees are planted pursuant to a Tree Protection and Mitigation Plan.

Replacement Tree Size	DBH Equivalency
A sapling tree; or	0.5-inch DBH
Tree in container less than 15 gallons	0.5-inch DBH
15-gallon container tree	1-inch DBH
24-inch box tree	2-inch DBH
36-inch box tree	3-inch DBH

- b. **Reduced Mitigation Rate Within the Buildable Footprint of Residential Lots.** Within the designated buildable footprint of a parcel zoned to allow for residential development, the mitigation requirements shall be reduced by 50 percent.
- c. **Removal of Street Trees on Residential Property with Existing Single-Family or Two-Family Dwellings.** Street trees on residential property one-half acre or less shall be replaced at a ratio of one replacement tree for every tree removed if the property has an existing single-family or two-family residential structure on-site.
- d. **Credit for Existing Trees.** Existing tree(s) on the same property may satisfy up to 50 percent of the replacement tree requirement if the existing tree is either the same species as the tree proposed for removal or a species identified on the approved Master Tree List; and the long-term viability of the existing tree as determined by an Arborist, based on the following:
  - i. Location of the existing tree in relation to the tree proposed for removal.
  - ii. Quality of the environment in which the existing tree is located.
  - iii. Potential impact to the existing tree from any proposed development.
- e. The credit shall be applied at a rate of one-half inch for each inch of DBH of existing tree.

**B. Mitigation Strategies.**

1. **On-Site Replacement Planting.** Replacement trees shall be planted on the same property as the tree proposed for removal, subject to review by the Approving Authority. Where the subject property is not able to accommodate the required number of replacement trees on-site, the payment of in-lieu fees shall be required in accordance with Section 12.16.160(B)(2).

1 | KHocker 10/23/2019 15:16:43

Building footprints are variable and can be moved around. This provision could actually encourage people to propose building locations that would require the removal of more trees so they could pay less in mitigation. Wouldn't charging people full price for all trees encourage them to retain as many trees as possible. I think that it's entirely reasonable to allow the removal of ...

2 | KHocker 10/23/2019 15:18:01

Existing is the key word here. It will come up that a property is zoned for a single family residence or that it used to have a single family residence on it at one time.

3 | KHocker 10/23/2019 15:22:18

Credit should only be given for the retention of non protected trees. Otherwise you have essentially allowed half of all protected trees on the property to be removed without replacement of any kind. Even when you give credit for the retention of non protected trees it's not technically replacement, its just minimizing the loss of existing resources.

### Notes



ID	Subject	Author	Date/Time	Comment
1	Sticky Note	KHocker	10/23/2019 15:16:43	Building footprints are variable and can be moved around. This provision could actually encourage people to propose building locations that would require the removal of more trees so they could pay less in mitigation. Wouldn't charging people full price for all trees encourage them to retain as many trees as possible. I think that it's entirely reasonable to allow the removal of a protected tree if the finding can be made that it's not possible to develop on the site without removing the tree, but I see no reason reduce the replacement requirement.

2. *Payment of In-Lieu Fee.* Payment of in-lieu fees may be allowed where the subject property is not able to accommodate the required number of replacement trees on-site except as provided below in Section 12.16.160(B)(2)(a). The in-lieu fee shall be calculated as a dollar amount for each inch of DBH of Protected Tree removed, as adopted by City Council resolution.
3. *Combination of Planting and Fee Payment.* A combination of on-site replacement planting and payment of in-lieu fees may be used where the number of replacement trees cannot be accommodated on-site. The in-lieu payment shall be reduced based on the number of inches at DBH of the replacement trees planted on-site.
4. *Other Strategies.* Other strategies as may be determined appropriate by the Approving Authority and that meet the intent of mitigation for removal of the Protected Tree(s).
5. For purposes of determining mitigation requirements for multitrunked tree, the extrapolated DBH shall be used.

- |   |                     |
|---|---------------------|
| 1   KHocker   | 10/23/2019 15:25:34 |
| Nothing wrong with this but be careful about what you consider to meet the intent of the ordinance. People will propose that they plant trees in other cities, or on other properties or any number of wild schemes that may or may not be appropriate. |                     |
| 2   KHocker   | 10/23/2019 15:27:08 |
| If your salary is funded by the removal of trees then this will likely be viewed by the public as a conflict of interest that will undermine their confidence in your decision making abilities.  |                     |
| 3   KHocker   | 10/23/2019 15:28:54 |
| Check with your lawyers to see if using city funds to plant on private property would be considered a "gift of public funds." It may be fine depending on how everything is set up.   |                     |

### 12.16.170 Tree Planting and Replacement Fund

Mitigation fees and penalty assessments under this Chapter shall be deposited into the Tree Planting and Replacement Fund. The tree planting and replacement fund may be used for tree planting and revegetation projects such as parkways, parks, planting of trees along public trails, and beautification projects, to purchase property for tree mitigation sites, revegetation projects or beautification projects, for the retention of a City Arborist for the development, staffing or implementation of an Urban Forestry program, if established. Funds shall not be made available for mitigation or planting on private property with the following exceptions: 1) private property that is maintained by the City under the terms of a maintenance agreement; or 2) maintenance of Landmark Trees and maintenance of trees on property subject to a conservation easement at the recommendation of the City Arborist. This fund shall be administered by the Community Development Department.

### 12.16.180 Landmark Designation

#### A. Establishment of Landmark Designation.

*Application for Landmark Designation.* Any interested party may submit an application to the Community Development Department, requesting that the City Council establish by resolution a tree or group of trees as a Landmark Tree(s). Applications shall be made on a form supplied by the City and be subject to an application fee pursuant to the adopted fee schedule. The City Council may also, on its own motion and without the payment of a fee, commence the process of designating a Landmark Tree. If the owner of the proposed Landmark Tree(s) is not the applicant, the Community Development Department shall notify, by first-class mail, the owner of the proposed Landmark Tree(s) thirty days before the hearing on the application. Once an application has been submitted, and before City Council action, the proposed Landmark Tree shall have the same status as a Protected Tree under this Chapter.

*Designation of Landmark Trees.* In order to designate a tree as a Landmark Tree, the City Council shall find that the tree is a significant community benefit because it possesses one or more of the following attributes:

1. Historical value.
  - a. Excellent health rating.
  - b. Outstanding habitat value.

### Notes

- c. Unusual species.
- d. Superior beauty.

*Property Owner Notification.* If the City Council designates a tree as a Landmark Tree, the City Clerk shall mail a copy of the resolution to the owner of the tree and direct the City Arborist to add the tree to the list of Landmark Trees.

- B. Maintenance of Landmark Trees.** Upon the request of the property owner, the City Arborist may cause a Landmark Tree to be inspected by an Arborist. A report on the health of the tree(s) and recommended maintenance shall be prepared. Copies of the report shall be recorded and provided to the owner of the Landmark Tree(s).
- C. Documenting Landmark Trees.** The Community Development Department shall map the location of Landmark Trees.
- D. Declassification of Landmark Designation.**
  - 1. *Application to Remove Landmark Designation.* The owner of a Landmark Tree may submit an application to the Community Development Department, requesting that the City Council declassify a tree or group of trees previously designated as a Landmark Tree(s). Applications shall be made on a form supplied by the City and shall be subject to an application fee pursuant to the adopted fee schedule. The City Council may also, on its own motion and without the payment of such a fee, commence the process of declassifying a Landmark Tree(s). Unless the owner of the Landmark Tree is the applicant, the Community Development Department shall notify the owner by first-class mail thirty days before the City Council meeting scheduled for the proposed action.
  - 2. *Declassification of Landmark Trees.* In order to remove the landmark designation of a tree(s), the City Council shall find that the tree(s) is no longer a significant community benefit because it meets one or more of the following factors:
    - a. The tree(s) has significantly deteriorated in health or appearance.
    - b. The tree(s) no longer has habitat value.
    - c. The tree(s) prevents reasonable use of the property.
  - 3. *Property Owner Notification.* If the City Council declassifies a tree or group of trees previously designated as a Landmark Tree(s), the City Clerk shall mail a copy of the resolution to the owner of the tree(s) and direct the City Arborist to remove the tree(s) from the list of Landmark Trees.

### 12.16.190 Maintenance

- A. Every property owner shall maintain:**
  - 1. Any Protected Tree located within the limits of their property in accordance with the standards of this Chapter.
  - 2. Any Street Tree shall be pruned by the property owner in accordance with the standards of this Chapter and shall maintain a minimum seven-foot vertical clearance over all public sidewalks and a minimum 14.5-foot vertical clearance over all public streets.
- B. Nothing in this Ordinance shall interfere with the requirements of Chapters 8.36 (Folsom Fire Code) and 8.37 (Abatement of Weeds, Refuse, and Abandoned Material). In the event of a conflict with this Chapter, the requirements of Chapters 8.36 and 8.37 shall control.**

1 | KHocker 10/23/2019 15:30:47  
You may want to put limits on the services that you provide for these trees. What if you get called out to inspect it on a monthly basis? What if you are asked to provide an advanced inspection? I'm not sure how big of an issue this is likely to be but it's something to think about.

### Notes

1 | KHocker 10/23/2019 15:33:36  
You might want to consider requiring the payment of an in-lieu fee for instances where the required number of trees cannot be planted.

### 12.16.200 Street Tree Planting

- A. **Street Tree Planting.** Each applicant for a building permit for new construction of residential or commercial structure on parcels without existing Street Trees, or for a parcel map, subdivision map or planned development permit which seeks, in whole or in part, the improvement of real property, shall be responsible for the planting of Street Trees. The species of trees to be planted shall be in accordance with the Master Tree List. As part of the application process, the City Arborist shall review and approve the size of the tree to be planted, the location of the planting and the stage of the development at which the tree is to be planted. There shall be at least one Street Tree for each single-family lot, except for corner lots, for which two trees shall be planted. There shall be at least one Street Tree for every fifty feet of street frontage planted on center for commercial and industrial parcels. In multifamily developments, the number of trees shall be determined by the City Arborist, but not more than one tree for each dwelling unit may be required.
- B. **Responsibility.** The cost of the tree stock, the planting thereof and the maintenance of the tree pending occupancy of the property shall be the responsibility of the applicant. Unless the applicant can demonstrate to the satisfaction of the Community Development Department that adequate provision has been made for the planting and initial maintenance of the Street Trees, the applicant shall be required to furnish security which, at the option of and subject to the approval of the Director, shall be in the form of those alternatives authorized under Government Code Section 66499 et seq. Adequate provision may take the form of covenants, conditions and restrictions (CC&Rs) that require the planting and maintenance of Street Trees and that, in the opinion of the City Attorney, are enforceable by property owners or an association of owners created by such CC&Rs.

### 12.16.210 Parking Lot Shading Tree Planting

- A. **Planting In Parking Lot.** Each applicant for a building permit for new construction of a commercial structure(s) with surface parking on a parcel without Parking Lot Shading Trees, or for a parcel map, subdivision map or planned development permit which seeks, in whole or in part, the improvement of real property, shall be responsible for the planting of Parking Lot Shading Trees in accordance with the requirements of Section 17.57.070 of the Folsom Municipal Code. The species of trees to be planted shall be in accordance with the Master Tree List. As part of the application process, the City Arborist shall review and approve the size of the trees to be planted, the location within the parking lot where the trees are to be planted, and the total number of trees necessary to meet the requirements of Chapter 17.57.070.
- B. **Responsibility.** The cost of the tree stock, the planting thereof and the maintenance of such tree pending occupancy of the property shall be the responsibility of the applicant. Unless the applicant can demonstrate to the satisfaction of the Community Development Department that adequate provision has been made for the planting and initial maintenance of the Parking Lot Trees, the applicant shall be required to furnish security which, at the option of and subject to the approval of the Director, shall be in the form of those alternatives authorized under Government Code Section 66499 et seq. Adequate provision may take the form of covenants, conditions and restrictions (CC&Rs) that require the planting and maintenance of Parking Lot Shading Trees and that, in the opinion of the City Attorney, are enforceable by property owners or an association of owners created by such CC&Rs.

### Notes

### 12.16.220 Solar Shade Control Act Exemption

The City is exempt from the provisions of the Solar Shade Control Act, Chapter 12 (commencing with Section 25980) of Division 15 of the California Public Resources Code.

### 12.16.230 Violations, Enforcement, and Penalties

#### A. Violations

1. A violation of this Chapter shall be an administrative violation as defined in Section 1.08.020. In addition to enforcement by any procedure set forth in Chapters 1.08 through 1.10, any violation of this Chapter shall be punishable as a misdemeanor, which shall be punishable by a fine not to exceed one thousand dollars, or by imprisonment in the County jail for not more than six months, or by both fine and imprisonment.
2. Each of the sanctions for administrative violations identified in Section 1.09.013 shall be available to redress violation of the provisions of this Chapter.
3. In addition to the criminal penalty set forth in subsection A of this section, based upon the criteria for the imposition of administrative sanctions set forth in Section 1.09.014, a violation of a provision of this Chapter shall be deemed a Level E violation, as that term is described in Section 1.09.012.
4. Notwithstanding the minimum fee level identified in Section 1.09.012(A), the monetary sanction shall be in an amount at least two times that would have been charged as an in-lieu fee under Section 12.16.160(B)(2) of this Chapter.

#### B. Enforcement

1. This Chapter shall be enforced pursuant to the provisions of Chapters 1.08 through 1.10 of the Folsom Municipal Code.

#### C. Enforcement Procedures—Notice to Correct

1. Prior to the assessment of any monetary sanction or the commencement of any other enforcement action pursuant to this Chapter, the Director shall follow the procedures set forth in Sections 1.09.020 through 1.09.048 of the Folsom Municipal Code.

1 | KHocker | 10/23/2019 15:38:50  
This is extremely important. You're going to need this.

2 | KHocker | 10/23/2019 15:40:13  
I like this requirement. But I thought it applies only to situations that involve the removal of protected trees or actions that would cause the removal of a tree. The way I read it now it looks like it applies to everything, such as pruning without a permit, or nicking a tree with a string trimmer.

## Notes



## TreePreservation

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**From:** Justin Raithel <justin@revolutionsdocs.com>  
**Sent:** Tuesday, November 5, 2019 1:07 PM  
**To:** TreePreservation  
**Subject:** Re: City of Folsom Notification - Updated Tree Preservation Ordinance draft release.

Hi, Aimee. I spoke at the council meeting review but Mayor Howell asked me to follow-up with an email on the draft Tree Preservation Ordinance. Here are my thoughts:

- 1.) I strongly agree with the plan to retain existing trees over paying the in-lieu fee. I think the draft ordinance as written will achieve this.
- 2.) I support adding regulated trees, street trees and landmark trees to the protected tree definition along with the native oaks which are already protected. I also support the addition of a tree maintenance permit process for protected trees to prevent parking lot shade being removed, historic trees being damaged and landscape buffers being removed. I do think we need some more qualifications on what a heritage tree is. I would suggest excluding invasive species (such as palms) and fast growing trees (such as redwoods). I don't claim to be an expert in plants but my thinking is that we shouldn't make it more difficult and expensive to residents to take out trees that we don't really want to spread or that are high water usage trees.
- 3.) For mitigation requirements - is there a reason that only residential lots have reduced mitigation if the tree is within the buildable footprint? I would suggest that we treat our residential and commercial developers equivalent in what we require for mitigation.
- 4.) For mitigation requirements - the street tree stipulation says only for lots 1/2 acre or less. There is no designation for larger lots? I'd suggest we just remove this "one half acre or less" language so it applies to all residential lots with street trees.
- 5.) I do think appeals to the Planning Commission for tree work permit denials should be allowed. In practicality I would suggest that it would never happen but the owners of a commercial center should have that option if they disagree with the city arborist on the work needed to be done for their parking lot trees or an HOA should have option to appeal if they disagree with the arborist on maintenance for a landscape buffer / screening buffer.

Thanks for doing this important work. The new draft ordinance offers some significant improvements and I look forward to having it in place in the future. Please feel free to reach out to me if you'd like to discuss further.

Be well,

Justin Raithel  
106 Coval Ct  
Folsom, CA 95630  
281-851-1145

On Wed, Oct 16, 2019 at 5:05 PM Aimee Nunez <[anunez@folsom.ca.us](mailto:anunez@folsom.ca.us)> wrote:

Greetings,

You are receiving this email as notification that the public review draft of the updated Tree Preservation Ordinance has been released and is available for review and comment until Friday, November 15<sup>th</sup> at 5 pm at [www.folsom.ca.us/trees](http://www.folsom.ca.us/trees). All comments should be provided either by email or in writing to the following address:

City of Folsom

Community Development Dept.

50 Natoma Street, 2nd Floor

Folsom, CA 95630

Email: [TreePreservation@folsom.ca.us](mailto:TreePreservation@folsom.ca.us)

Your review and feedback is most appreciated.

Respectfully,

*Aimee Nunez*

***City of Folsom***

City Arborist

WE-11485A

Community Development

[anunez@folsom.ca.us](mailto:anunez@folsom.ca.us)

916.461.6213

November 8, 2019

SENT VIA EMAIL

Ms. Aimee Nunez  
City of Folsom Community Development Department  
50 Natoma Street, 2<sup>nd</sup> Floor  
Folsom, CA 95630

### City of Folsom Tree Preservation Ordinance Update

Dear Ms. Nunez:

Thank you for providing the City of Folsom Tree Preservation Ordinance Update to the Sacramento Metropolitan Air Quality Management District (Sac Metro Air District) for review. This work is supportive of many important General Plan policies, NCR 1.1.8 – Planting in New Development, LU 6.1.10 – Enhancing Walking and Biking, LU 9.1.6 – Community Beautification, and PR 1.1.8 - Shade and Hydration, in addition to providing a good foundation for developing the City's Urban Forest Plan, General Plan implementation program NCR-1. Sac Metro Air District staff offer the following comments for the City's consideration.

#### Applicability

Rather than exclude the City from complying with the ordinance altogether, the Sac Metro Air District encourages the City to be a leader in tree preservation by specifying sections of the ordinance the City would commit to implement such as the ANSI A300 Standards for street trees and parking lot shading trees and tree selection from the Master Tree List.

#### Master Tree List

Sac Metro Air District requests the City incorporate air quality information contained in the Sacramento Tree Foundation's *The Shady Eighty: Trees for a Cooler Sacramento Region*<sup>i</sup> into the City's Master Tree list. Encouraging the selection of tree species that emit less biogenic volatile organic compounds helps reduce ozone formation in the region.

#### Regulated Tree – Landscape Buffer

The definition of Regulated Tree covers conditions of development project approval, such as a landscape buffer. A landscape buffer/vegetative barrier is often recommended by the Sac Metro Air District for a residential project or proposed land use with sensitive receptors (i.e. daycares, schools, parks) being located near high volume roadways to reduce exposure to toxic air contaminants (TAC). This aligns with General Plan policy NCR 3.1.6 - Sensitive Uses. Sac Metro Air District requests the City include landscape buffer/vegetative barrier in the definitions section, identify its purpose, and provide a reference to the Sac Metro Air District's *Landscaping Guidance for Improving Air Quality Near Roadways*<sup>ii</sup> as a main resource for site selection, vegetative planting recommendations, and long-term maintenance of landscape buffers to reduce TAC exposure.

#### Mitigation Requirements

Reducing mitigation by 50 percent for trees within the buildable footprint of a residential lot does not appear to promote tree preservation. If trees in the buildable footprint are permitted to be removed, full mitigation for the tree should be required. Mitigation strategy B.3. would be ideal for this situation, promoting on-site planting first and then requiring fee payment when on-site planting cannot fully cover the mitigation required.

Ms. Nunez  
City of Folsom Tree Preservation Ordinance  
November 8, 2019  
Page 2

### **Maintenance**

Keeping in mind drought and increasing temperatures in the region, Sac Metro Air District recommends the City include additional guidance and strategies for adequate watering of trees.

### **Street Tree Planting**

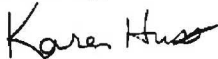
In order to promote a more robust tree canopy in Folsom, Sac Metro Air District recommends the City reduce the distance required for each street tree planting for commercial and industrial parcels from one every fifty feet (50') to one every thirty-five feet (35'). Additionally, the City should prioritize the planting of large<sup>iii</sup> trees to ensure the most shade coverage for both street trees and parking lots. A study<sup>iv</sup> in Modesto of the effects of tree shade on pavement performance indicated that tree shade was partially responsible for reduced pavement fatigue cracking, rutting, shoving, and other distress, making the case that investing in trees saves pavement maintenance costs over time.

### **Parking Lot Shading**

Sac Metro Air District encourages the City to consider increasing its parking lot shade coverage requirements from 40% to 50% in Zoning Code Section 17.57.070, G.3. Parking lot tree shading can affect evaporative emissions from vehicles. A study referenced by the US Forest Service<sup>v</sup> noted increasing parking lot tree cover from 8% to 50% could reduce light duty vehicle volatile organic compound evaporative emission rates by 2% and nitrogen oxide start emissions by less than 1%, which supports air quality improvement efforts.

Please contact me at 916-874-4881 or [khuss@airquality.org](mailto:khuss@airquality.org) if you have any questions regarding these comments.

Sincerely,



Karen Huss  
Associate Air Quality Planner/Analyst

Cc: Mr. Paul Philley, AICP, Sac Metro Air District

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<sup>i</sup> <https://www.sactree.com/assets/ShadyEightySTFweb.pdf>

<sup>ii</sup> <http://www.airquality.org/LandUseTransportation/Documents/SMAQMDFinalLandscapingGuidanceApril2017.pdf>

<sup>iii</sup> The Sacramento Tree Foundation's Shady Eighty guide defines a "large" tree as one 46 feet or taller.

<sup>iv</sup> [https://www.fs.fed.us/psw/publications/mcpherson/psw\\_2005\\_mcpherson001\\_joa\\_1105.pdf](https://www.fs.fed.us/psw/publications/mcpherson/psw_2005_mcpherson001_joa_1105.pdf)

<sup>v</sup> [https://www.nrs.fs.fed.us/units/urban/local-resources/downloads/Tree\\_Air\\_Qual.pdf](https://www.nrs.fs.fed.us/units/urban/local-resources/downloads/Tree_Air_Qual.pdf)



## Aimee Nunez

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**From:** gordon@mannandtrees.com  
**Sent:** Monday, November 11, 2019 4:27 PM  
**To:** Aimee Nunez  
**Subject:** RE: City of Folsom Notification - Updated Tree Preservation Ordinance draft release.

Good afternoon Aimee, thanks for sharing the draft. I have a few comments (in italics) for your consideration. It started getting long and I hope they are helpful. Please let me know if you have any questions. Gordon

- A. ANSI A300 Standards. The most current version of Tree Care Operations – Tree, Shrub and other Woody Plant Maintenance Management– Standard Practices Secretariat TCIA, approved by the American National Standards Institute (ANSI), as amended from time to time. *ANSI is the process. The standards are industry consensus standards & the process is led by TCIA*
- B. Appeal Authority. The Director or Commission authorized under this Chapter to consider appeals of Tree Removal Permits. *Is there no appeal of tree work permits???* I read this later in the permit - 12.16.070 Approving Authority
- C. The Approving Authority may approve, modify, conditionally approve, or deny the permit application in accordance with this Chapter. **The decision of the Approving Authority on a Tree Work Permit shall be final and not subject to appeal.** A Tree Removal Permit may be appealed to the Appeal Authority pursuant to procedures set forth in Section 12.16.110 (Appeals). *What is the purpose of no appeal on work permits? If the City tells the treeowner what to do in specifications and the tree fails, won't the city have increased exposure to liability?? If the City requires a proposal to meet the objective and approves the proposal, the proposal writer would carry more of the liability...*
- D. CRZ – *would it make sense to also show the CRZ for Heritage trees in same diagram with the 1.5X the diameter inches???* It may reduce some confusion....
- E. DBH – *I like this part of the definition* - DBH shall mean the diameter at the narrowest point between the grade and the lowest branching point
- F. Extrapolated DBH – *I think this provides a reasonable approach* - In a Multitrunked Tree, this is calculated by taking the square root of the sum of each individual stem's DBH squared.
- G. Multitrunked Tree. A tree with multiple stems originating from a single root **mass.** – *Some of the current research findings show whole forests are part of a single root mass... maybe it should state single root crown???*
- H. Protected Oak – *while this would be moot if one stem is 6'+, you show the combination of diameters to equal 20 for multi stem trees. Is that cumulative whole trunks added together, not the extrapolated method in multi-trunks? This may need to be more clearly stated cumulative trunk diameters.*
- I. Root System. This configuration of underground ~~tentacles~~ *appendages* is one of its most important *usually unseen* elements of a tree, providing several vital functions. Roots store nutrients for the tree during the winter and transport water and minerals during the active part of the growing season. Roots also provide an anchor to the tree, keeping it from toppling *especially* during extreme weather conditions.
- J. Routine Maintenance. Includes the following activities: Minor Pruning; dead ~~wood~~ *branch* removal; irrigation; mulch application; mowing or trimming grass or other ground cover close to a tree; application of fertilizer,



insecticides, or herbicides in accordance with their label; or any other similar activities that promote the life, growth, or health of trees. Any procedure, technique, or practice that is expressly prohibited under the ANSI A300 standards or by this Chapter is not Routine Maintenance. *There are few that are expressly prohibited. Even topping and lions tailing are called unacceptable practices. How about... or practice that is not supported by current scientific evidence to accomplish the objective as stated in ANSI A300 standards.... The objective is the first reason for doing what we are doing, followed by sound practices to accomplish the objective...*

- K. Tree Care and Maintenance Standards. Standards required by the City for the care and maintenance of Protected Trees based on the ANSI 300 Standards, *ISA Best Management Practices*, and any other relevant standards protocols, actions, or treatments?? as determined by the City Arborist, as amended by the City from time to time. *Many things are not standards but are valid treatments for a situation...*
- L. Tree Protection Zone (TPZ). *Same comment as CRZ – can you also show a Heritage tree at 1.5??*
- M. Urban Forest. A forest, or collection of trees, or the total of all trees on public and private properties that grow in the City boundaries – *I was wondering how to say this. In your “Purpose.” Trees are both community and environmental assets, unique in their ability to provide a multitude of benefits that appreciate over time. In addition to many others, these benefits include life-giving oxygen, filtration of air pollutants, essential shade, energy savings, reduced Heat Island effect, habitat for wildlife, and carbon sequestration. The purpose of this chapter is to advance these aesthetic, economic, environmental, and social contributions of our Urban Forest through the creation and preservation of tree resources. In order to promote the public health, safety and general welfare, enhance the beauty of Folsom 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 finds it necessary to establish standards, and measures for the preservation of trees. - I was wondering how to include Folsom’s trees include both public and private property trees. Maybe if you included the term urban forest in the purpose, or at least include the combination of public and privately owned trees?? This would align better with your definition of urban forest and better support the “control” of trees on private properties.*
- N. The following activities shall be prohibited with respect to Protected Trees:
- O. Topping.
- P. Attaching anything using nails, screws, and/or spikes. – *Does this prohibit staking, and guying, and cabling or bracing???? Attaching things not designed to improve tree health or structure, such as....*
- Q. C. Exemptions. The following activities with respect to Protected Tree are specifically exempted from the requirements for obtaining a Tree Work Permit or a Tree Removal Permit
- R. 6. Emergency work involving the removal of limbs or trees damaged by extreme weather, chance occurrence, or unavoidable accident beyond the reasonable control of the property owner. *I would require a post emergency permit to have on file which would both protect the City and the tree owner if down the road anyone challenges what was done. We all have cell phones and can take a photo and maybe a post-emergency form could be created online so all they have to do is upload the photos??? A requirement of within 72 hours??? Also, I have been the recipient of claims that something happened during a storm when nothing happened, yet the tree was removed....*
- S. 11. Public utilities subject to the jurisdiction of the California Public Utilities Commission performing pruning activities as is necessary to comply with the safety regulations of said commission and to maintain a safe operation of their facilities. However, they shall notify the Community Development Department at least seven (7) business days before taking any action. The City may cause such pruning work to be inspected and the City shall have the authority to stop any tree-pruning performed by a utility if such practices are not being followed. *This may be a place for the emergency work to be repeated with a post emergency permit..*
- T. 12.16.060 Application Requirements



- U. Application Form. All Tree Work Permit or Tree Removal Permit applications must be submitted in writing to the Community Development Department on a form provided by the City. *Do you or will you have an online form? If so, the in writing may need to be re-described....*
- V. Findings for approval – 2. The proposed activity is detrimental to *may impact* the immediate health of the Protected Tree, but a Tree Protection and Mitigation Plan has been prepared that minimizes the impact and protects the long-term health of the tree to the satisfaction of the City Arborist; and ...
- W. Tree Removal Permit –
- X. 2. The condition or location of the Protected Tree or its roots is interfering with water, sewer, gas, electrical services, streets or sidewalks to the subject property or properties in the vicinity and there are no Reasonable Alternative Measures to avoid, prevent or lessen the interference *without removing the tree*.
- Y. 3. The Protected Tree or its roots are causing, or threatening to cause, damage to any existing permanent structure or feature on the property or on any adjacent property including pools, driveways, and there are no Reasonable Alternative Measures to avoid, prevent or lessen the damage or threatened damage *without removing the tree*. *Basically in these 2 findings removal is the only way to solve the problem....*
- Z. Time Limits - 2. Permit Expiration. Any permit not exercised within 6 months from the date of approval shall expire, or the exercise of a approved permit work occurs when the permittee performs substantial work for the activity approved under the permit, as determined by the Director. *It is not an either or, not 2 definitions??*
- AA. E. Indemnification. All Tree Permits shall include the following indemnification statement: Permittee shall defend, indemnify and save harmless the City (including its officials, employees, agents, and representatives, and each of them) of and from any and all claims, demands, suits, causes of action, damages, costs, expenses, losses, or liability, in law or in equity, of every kind and nature whatsoever arising out of or in connection with the permittee's work to be performed under the Tree Permit. *This is the reason for my question about appealing a tree work order permit. If I do what you told me to do, there has to be some liability on you because you directed me. If I provide my own proposal, the liability is shifted more to me...*
- BB. Standard Conditions of Approval - 2. No more than one-quarter of the foliage of a tree shall be removed in any one growing season. *This statement is no longer in the standards. The standard now reads Section 6.2 – Pruning operations should remove no more living material than what is necessary to achieve the specified objectives. Does this contradict the statement above - 1. All pruning activities shall be conducted in accordance with the Tree Care and Maintenance Standards.*
- CC. Certificate of Compliance - b. Once the monitoring period specified in the Tree Protection and Mitigation Plan has closed – to confirm that the Protected Trees are in good health and remain viable. *I think this is the first time I saw monitoring period. I may have missed it. Should Monitoring be in the definition so users know what is required???*
- DD. Tree Protection and Mitigation Plan Requirements - A. The location, species, Diameter at Breast Height, Tree Protection Zone, and health of each Protected Tree on the subject property, and Adjacent neighboring properties as confirmed by an Arborist shall be shown on a map. *They also need to be on construction and grading plans, and any other work plan around the tree. Is there a choice of tools to show the trees – map, aerial image, construction plan???* *And they need to be on the construction plans. Maybe this could be a condition of permit approval but it has to be clear and required.*
- EE. D. A monitoring program, including a specified time period, the party responsible for monitoring, and the method and frequency by which monitoring reports will be submitted to the City. *Per comment above, it is behind in the rules where the mention of monitoring is the first time...*

FF. Mitigation Requirements container size: Tree in container less than 15 gallons 0.5-inch DBH ; 15-gallon container tree – *In reality, they are #5 and #15. I don't know if it is productive to call them "gallon" in the ordinance. If you were to pour liquid into a "1 gallon" container, it is about .664 gallons.... We should use the correct terminology. Those were my suggestions on the standards and other items I reviewed....*

GG. Reduced mitigation in house footprint - b. Reduced Mitigation Rate Within the Buildable Footprint of Residential Lots. Within the designated buildable footprint of a parcel zoned to allow for residential development, the mitigation requirements shall be reduced by 50 percent. *Does this reduction encourage preservation? I could move my house or enlarge it some to take out a tree and reduce my mitigation. I don't know if this has been practiced in Folsom??*

HH. c. Removal of Street Trees on Residential Property with Existing Single-Family or Two-Family Dwellings. Street trees on residential property one-half acre or less shall be replaced at a ratio of one replacement tree for every tree removed if the property has an existing single-family or two-family residential structure on-site. *I would hope that the City would not suffer a loss in value of their urban forest for private gain. Replacing a shade tree with a #15 or 24 inch box does not do that. The tree should be appraised and no net loss in value to the urban forest should be felt for city trees. There is a higher replacement for private trees – inch for inch...*

II. Parking Lot Shade

Responsibility. The cost of the tree stock, the planting thereof and the maintenance of such tree pending occupancy of the property shall be the responsibility of the applicant. Unless the applicant can demonstrate to the satisfaction of the Community Development Department that adequate provision has been made for the planting and initial maintenance of the Parking Lot Trees, the applicant shall be required to furnish security which, at the option of and subject to the approval of the Director, shall be in the form of those alternatives authorized under Government Code Section 66499 et seq. Adequate provision may take the form of covenants, conditions and restrictions (CC&Rs) that require the planting and maintenance of Parking Lot Shading Trees and that, in the opinion of the City Attorney, are enforceable by property owners or an association of owners created by such CC&Rs. – *Shouldn't there be conditions for maintenance beyond the initial establishment? I liked the idea of protecting undersized mitigation and condition trees which are undersized and usually too easily replaceable in-kind. If a #15 dies, after 1 year, it should be replaced with a 24-inch box, or the community loses a year of growth. If the owner tops the parking lot trees, there will be no shade. Clearly protecting and placing some responsibility will lead better care and more shade.*

JJ. Violation, Enforcement, Penalties - 4. Notwithstanding the minimum fee level identified in Section 1.09.012(A), the monetary sanction shall be in an amount at least two times what would have been charged as an in-lieu fee under Section 12.16.160(B)(2) of this Chapter. *This has some deterrent to avoiding in lieu fees. What about in the parking lot tree where they top an destroy the structure. How are the trees replaced in-kind with similar size trees? Replacing with t #15 will never achieve the shade goals....*

Gordon

**Gordon Mann, Consulting Arborist**

ASCA Registered Consulting Arborist #480  
ISA Certified Arborist & Municipal Specialist #WE-0151 AM  
ISA TRAQ Risk Assessment Qualified



California Tree and Landscape Consulting, Inc., (CalTLC)  
1243 High Street  
Auburn, CA 95603  
(650) 740-3461 cell

## TreePreservation

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**From:** Kian (Key-on) Faroughi <faroughi68@gmail.com>  
**Sent:** Wednesday, November 13, 2019 11:07 PM  
**To:** TreePreservation  
**Cc:** Aimee Nunez; Pam Johns  
**Subject:** Tree Preservation Ordinance Update Comments

Hello,

Please find my comments and statement regarding the tree preservation ordinance update below. Let me know if I need to turn in a hard copy in person.

As a current lot owner in the final stages of planning a home in the Lakeview Oaks community, I have great concern and issue with the proposed change in how in-lieu fees for trees with the building footprint are calculated for single family custom lots. The in-lieu fee for trees within the building footprint was designed to keep building in Folsom affordable, and has allowed lot owners for the past two decades to build their homes without worrying too much about the oak trees on property.

In essence, these tree mitigation fees are taxes and any increase MUST consider the perspective of current lot owners, the residents of Folsom who will be punished for any increase in tree mitigation fees. My biggest issue with the new tree proposal is the proposed change in how in-lieu mitigation fees are calculated for trees within the building footprint.

At the council meeting in which the new ordinance draft was presented, the mayor mentioned that we must think about the unintended consequences of this proposal. The unintended consequence of the current proposal draft is a drastic change in the value of lots zoned for single family residences.

As a computer software engineer, I solve problems for a living. A big part of solving computer problems is writing algorithms, or formulas. When I analyze and grade the strength of an algorithm, I always think about the performance of the algorithm in the worst case scenario. Well, the formula currently proposed in the new ordinance performs terribly in the worst case scenarios. To me, the current solution is not only unfair to lot owners, it is truly not something that should be presented to the council as is.

Let's take a hypothetical lot to demonstrate how the new proposal is just ridiculously unfair to current lot owners, and how it would perform very poorly in some very possible scenarios. Let's assume a lot exists with 10 massive trees (>40" DBH) right in the middle of the clear cut building area. Assume no other trees exist on the property, so the owner of the lot would get no credits for preserving trees. Again, we must analyze the worst case scenarios to determine the quality of the formula. Under the current tree ordinance, a lot owner could build a home and pay \$1000 in fees, \$100 for each of the ten trees. This is very reasonable. Again, the in-lieu fee for trees in the building footprint was designed to allow for lot owners to be able to afford building on the property they own and it does exactly that.

Under the new proposed tree ordinance, the owner of the same lot would be required to pay \$30,000. This is a 3000% increase! A 3000% increase in taxes on a lot the owner had already purchased with the mindset and assumption that trees on the building footprint would not drastically impact the cost to build the home. This is a very important point, as the idea is to ensure Oak trees on the property do not drastically impact the cost to build the home. Clearing the lot for a usable backyard is a different story. Such a drastic change would not only impact the affordability of building a home on the property, but it would impact the resale value of the property. The lot in question would essentially be worth about \$29,000 less than it is today, as any perspective buyer would need to consider this gargantuan tax in his or her budget.



By drastically increasing these fees, essentially taxes, a lot owner could very well no longer afford to build on the property they already own. As I read the proposed tree ordinance update and listened to the presentation made at the 10/22 meeting, I was so disappointed to find that the perspective of current lot owners had not been taken into account whatsoever.

These mitigation fees are taxes, and the people most greatly impacted and will be paying these taxes are current lot owners. Much like the water price increase mailers that have been sent out in recent weeks, current lot owners deserve to be made aware of such a drastic change to the price structure of tree mitigation fees. I only found out about this because the arborist I hired for my lot filled me in, and that is a terrifying thought.

As things currently stand, I consider this effort to be in the same vein as taxation without representation.

My recommendations are as follows:

1. Send out mailers to all current lot owners in Folsom and delay any potential city council vote.
2. Remove all proposed changes to how in-lieu fees for homes within the building footprint are calculated from the ordinance update.
3. Add an explicit grandfather clause, protecting current lot owners by providing them substantial time (at least 1-2 years) to react to a potential change in the way tree mitigation fees are calculated. Explicitly allow current lot owners sufficient time to submit applications for tree removal permits under the current ordinance.

One of the main reasons for the proposed ordinance update is the "loophole," lot owners tend to try to make use of by positioning the home in such a way as to minimize fees. During the presentation to the city council a suggestion was made for lot owners to move homes back and pay more in construction costs in order to avoid hefty mitigation fees, instead of covering the trees. This was a very offensive statement as it assumes lot owners have endless budget. These mitigation fees are taxes, and much like any tax, a taxpayer has the right to do what they can in order to minimize the taxes they must pay. In fact, many people hire professionals to file state and federal taxes to ensure they are paying the absolute minimum. This thought process can be fairly applied to mitigation fees for tree removal.

As a very concerned current lot owner in the Lakeview Oaks community, I expect you will take my comments into consideration and prioritize the perspective of current lot owners as you craft this potential update to the tree ordinance.

Regards,  
Kian Faroughi



November 14, 2019

City of Folsom  
Community Development Department  
50 Natoma Street, 2<sup>nd</sup> Floor  
Folsom, California 95630

***RE: City of Folsom Tree Preservation Ordinance Update***

To Whom it May Concern:

In reviewing the update on the City of Folsom Tree Preservation Ordinance, I had the following comments:

Section 12.16.020

1. Regarding definition of 'Heritage Tree' (pg. 4): The City's Tree List includes multiple species that are categorized as invasive by the California Invasive Plant Council (Cal-IPC) or are on the Cal-IPC watchlist because they pose a high risk of becoming invasive. Species that are included in the Cal-IPC inventory should not be under consideration to be protected as a Heritage Tree. We request that the definition be changed to exclude invasive species, or that the City's Master List be updated to remove all invasive species (even those that are on the list as 'Excluded').
2. Regarding definition of 'Major Pruning' (pg. 4): Request for further clarification of the definition. With the current definition, a permit would be required for any pruning on a branch that is greater than 2 inches in diameter at its thickest point (which is typically at the origin of the branch near the bole of the tree). This would mean pruning to remove small secondary or tertiary branches that may be encroaching into a walkway or street and that originate from a branch that is greater than 2 inches in diameter (at the bole of the tree) would require a permit. This requirement may be onerous to implement considering routine pruning of street trees will be the responsibility of the property owner and will likely result in a high volume of permit requests or unpermitted pruning. If this is not the intent of the definition, further clarification is necessary. Similar concerns arise with regards to pruning of secondary or tertiary roots.
3. Regarding definition of 'Master Tree List' (pg. 4): We request the City's Master Tree List be updated to remove all excluded trees and all invasive tree species (as categorized by the California Invasive Plant Council).
4. Regarding definition of 'Minor Pruning' (pg. 4): There are similar concerns with this definition as stated in the previous comment regarding definition of 'Major Pruning'. Definition requires further clarification.

Section 12.16.040

5. Regarding Prohibited Activity B (pg. 7): Tree tags are typically affixed to trees using aluminum nails during an arborist survey. If this activity will no longer be allowed it should be clearly stated. If nailing aluminum nails into trees during an arborist survey is an exception to the prohibited activity, it should be clearly stated.
6. Regarding Prohibited Activity C (pg. 7): Request addition of a section or chapter that outlines the process that must be followed if vehicles or heavy equipment should damage a tree by accident.
7. Regarding Prohibited Activity F (pg. 7): Request addition of reference for City's Tree Care and Maintenance Standards so that they can easily be found. Currently, it is unclear if this is referring to section 12.16.190 of the new Tree Preservation Ordinance, ANSI standards, or some other document.
8. Regarding Prohibited Activity H.2 (pg. 7): Request for clarification. Does excavation include planting of under-canopy landscaping? If so, this should be clearly stated.
9. Regarding Prohibited Activity H.5 (pg. 7): Request to quantify the amount of compaction that is prohibited with regard to foot traffic. For example, if a homeowner frequently walks under a protected tree in their yard, is that small amount of compaction prohibited? Is it only prohibited where it results in a visible trail?

Section 12.16.060

10. Regarding Application Requirements (pg. 8): Request addition of information explaining timeframe for processing a permit application.

Section 12.16.120

11. Regarding Time Limits (pg. 11): Can time limits be extended with a reasonable written request and approval by the Director? If there are exceptions to time limits, please include.
12. Regarding Tree Removal Item 2 (pg. 12): It is unclear why an arborist must be present for tree removal activities. Particularly where trees are isolated and tree removal will not damage other protected trees. If there are exceptions (e.g., there is no potential for impacts to tree protection zone for any preserved trees, all trees will be removed from a site, etc.) please include.

Section 12.16.150

13. Regarding Tree Protection and Mitigation Plan Requirements Item A (pg. 13): Tree tag number is not included. An identifying tree tag number is often necessary to distinguish between similar trees that are growing close together.
14. Regarding Tree Protection and Mitigation Plan Requirements Item A (pg. 13): Will there be a standardized health rating system used? If so, please include.
15. Regarding Tree Protection and Mitigation Plan Requirements Item C (pg. 13): Please clarify or include an outline for impacted trees that will not be removed. Currently, the outline includes preserved trees and removed trees. Would an impacted tree that is not

removed (e.g. a tree that was impacted but is expected to recover so will not be removed) be considered a preserved tree? Would such a tree require mitigation?

12.16.160

16. Regarding Mitigation Requirements (pg. 14). Would an impacted tree that is not removed (e.g. a tree that was impacted but is expected to recover so will not be removed) require mitigation? If so, please include.

If you have any questions, or require additional information, please contact me at (916) 782-9100.

Sincerely,



Krissy Walker-Berry  
Staff Biologist

CC: Aimee Nunez, City of Folsom

## Aimee Nunez

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**From:** Nicole Harrison <nicole.abacus@gmail.com>  
**Sent:** Friday, November 15, 2019 1:31 PM  
**To:** Aimee Nunez  
**Subject:** Re: City of Folsom - Tree Preservation Ordinance Update Notice  
**Attachments:** Cannery-Tree Monitoring Plan.pdf; Folsom ordinance comments.pdf; image002.jpg

Aimee,

I added comments here and there. The thing that I would strongly object is the lack of requirements in the preservation plan. I have also attached the requirements for monitoring from the City of Davis (below)

This should include MORE information about what is required and who may do the work. Many developers I have worked with, including Civil Engineers, relate this word to an actual map. Maybe change the wording to read "A procedure and course of action recommended by a qualified arborist which addresses the impacts to the individual trees and provides the details necessary for preservation and mitigation."

Also, you may want to consider requiring a "Statement of Qualifications" as does the County of Sacramento.



Nicole Harrison, Consulting Arborist  
(530) 305-0165  
ASCA Member  
ISA Certified Arborist #WE-6500AM  
ISA Tree Risk Assessment Qualified  
[www.caltlc.com](http://www.caltlc.com)

On Mon, Oct 28, 2019 at 5:01 PM Aimee Nunez <[anunez@folsom.ca.us](mailto:anunez@folsom.ca.us)> wrote:

Greetings Fellow Arborists!

The City of Folsom has recently released a draft of our Tree Preservation Ordinance update for public review and comment and I would be very much interested in knowing what you all think about the changes and solutions we've proposed. We've done quite a bit of outreach to developers, residents, and HOAs but it would also be great to get feedback from industry experts and fellow municipal arborists. Attached is the link to the Draft Tree Preservation Ordinance document, along with the webcast of our presentation to the City Council if you would like to see the highlights (summary of proposed changes and how those changes affect most common scenarios in Folsom) and hear initial comments from Council.

**12.16.010 Purpose and Intent**

- A. **Purpose.** Trees are both community and environmental assets, unique in their ability to provide a multitude of benefits that appreciate over time. In addition to many others, these benefits include life-giving oxygen, filtration of air pollutants, essential shade, energy savings, reduced Heat Island effect, habitat for wildlife, and carbon sequestration. The purpose of this chapter is to advance these aesthetic, economic, environmental, and social contributions of our Urban Forest through the creation and preservation of tree resources. In order to promote the public health, safety and general welfare, enhance the beauty of Folsom 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 finds it necessary to establish standards, and measures for the preservation of trees.
- B. **Intent.** The provisions of this chapter are enacted to:
1. Establish and maintain the optimum amount of tree cover on public and private lands to enhance the natural scenic beauty, moderate climatic conditions, and sustain property values.
  2. Promote conservation of tree resources and long-term sustainability.
  3. Safeguard the health of the City's Urban Forest by ensuring proper tree management practices.
  4. Protect the visual and aesthetic character of the City.
  5. Implement the conservation goals of the General Plan.
  6. Establish procedures for the City to administer this tree ordinance.

**12.16.020 Definitions**

This section includes the definition of terms and phrases used in this Chapter that are technical or specialized, or that may not reflect common usage. If any of the definitions in this Chapter conflict with definitions in other provisions of the Municipal Code, the terms and phrases as defined in this Chapter shall control for the purposes of this Chapter. If a word is not defined in this Chapter, the Community Development Director shall determine the most appropriate definition for purposes of enforcing the Tree Ordinance.

**Adjacent.** Having a common property line, or immediately next to an alley, path, private street, easement, or public street.

**ANSI A300 Standard.** The most current version of Tree Care Operations – Tree, Shrub and other Woody Plant Maintenance – Standard Practices of the American National Standards Institute, as amended from time to time.

**Appeal Authority.** The Director or Commission authorized under this Chapter to consider appeals of Tree Removal Permits.

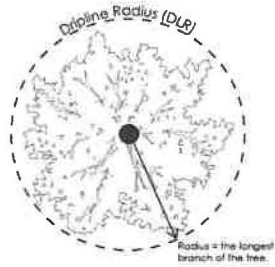
**Approving Authority.** The City Arborist is the Approving Authority for the Tree Work Permit and Tree Removal Permit covered by this Chapter.

**Arborist Report.** A report prepared by an Arborist containing specific information on location, condition, potential impacts of development, recommended actions and mitigation measures relating to 1 or more trees on an individual lot or project site.

1	nicol	11/15/2019 12:41:09
How about the companion publication "Best Management Practices"		
2	nicol	11/15/2019 12:30:02
Should say "Management"		
3	nicol	11/15/2019 12:30:56
Recommend you say "Qualified ISA Certified Arborist"		

**Notes**





**Extrapolated Diameter at Breast Height (DBH).** This is method of calculating the DBH of a multitrunked tree that is derived from adding the cross-sectional area of each stem measured at 4.5 feet above grade to determine a value for the DBH. In a Multitrunked Tree, this is calculated by taking the square root of the sum of each individual stem's DBH squared. The extrapolated DBH value is used for determining mitigation and may be calculated using an alternative method acceptable to the City Arborist.

**Heat Island.** An urban or metropolitan area that has higher average temperatures than surrounding rural areas due to the greater absorption, retention, and generation of heat by buildings, pavements, and human activities.

**Heritage Tree.** A tree on the City's Master Tree List over 30 inches in DBH or a multitrunked tree on the Master Tree List having a combined DBH of 50 inches or more.

**International Society of Arboriculture (ISA).** A nonprofit organization and network of practitioners, scientists, and students that is recognized as a source for arboricultural information and knowledge.

**Landmark Tree.** A tree or group of trees determined by the City Council to confer a significant community benefit to the general public due to its size, age, location, historic association or ecological value.

**Major Pruning.** The cutting of any individual branch or root with a diameter of two inches or greater or a circumference of more than six and one-quarter inches at any point on such branch or root. It shall also include the cutting of a cumulative amount of more than ten percent of a combination of the Root System and the Tree Crown within a 12-month period.

**Master Tree List.** A list prepared by the City identifying the species of trees that may be planted as replacement trees, as Parking Lot Shading Trees, or as Street Trees.

**Minor Pruning.** The cutting of any individual branch or root of less than two inches in diameter at any point on such branch or root. The cumulative amount of cutting shall not be more than ten percent of a combination of the Root System and the Tree Crown within a 12-month period. Pruning that substantially reduces the overall size or density of the tree or destroys the existing symmetry or natural shape of the tree is not considered Minor Pruning.

**Multitrunked Tree.** A tree with multiple stems originating from a single root mass.

**Native Oak Tree.** One of the following species of tree or hybrids of any of the trees listed below, with a minimum diameter as shown:

1   nicol	11/15/2019 12:35:14
'of a species' included on the City's Master Tree List	
2   nicol	11/15/2019 12:36:55
This is confusing. Do you mean 10% of the crown, the roots, or, if both parts of the tree are to be pruned, the combination of crown and roots	

Notes

1   nicol	11/15/2019 12:48:01
This should include MORE information about what is required and who may do the work. Many developers I have worked with, including Civil Engineers, relate this word to an actual map. Maybe change the wording to read "A procedure and course of action recommended by an arborist which addresses the impacts to the individual trees and provides the details necessary for ..."	

**Terminal Leader.** This is the vertical stem(s) at the top of the trunk of a tree.

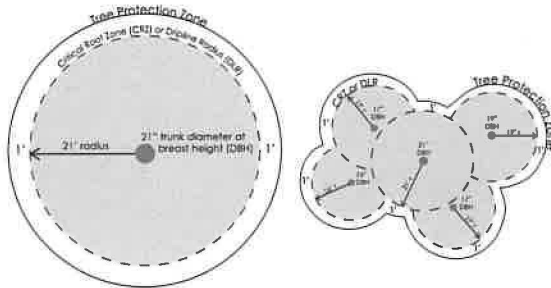
**Tree Care and Maintenance Standards.** Standards required by the City for the care and maintenance of Protected Trees based on the ANSI 300 Standards and any other relevant standards as determined by the City Arborist, as amended by the City from time to time.

**Tree Crown.** This is the top part of the tree, which features branches that grow out from the main trunk and support the various leaves used for photosynthesis.

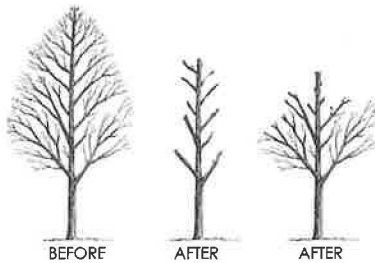
**Tree Permit.** A permit issued by the City of Folsom covering any Regulated Activity affecting a Protected Tree, which may be a Tree Work Permit or a Tree Removal Permit or both.

**Tree Protection and Mitigation Plan.** A plan submitted for review and approval before the start of any Regulated Activity. 1

**Tree Protection Zone (TPZ).** The circumference of the outermost edge of a tree's Critical Root Zone or Dripline Radius, whichever is greater, plus one foot. When depicted on a map, the Tree Protection Zone will appear as a perfect circle, or group of overlapping circles for multiple trees.



**Topping.** A type of pruning that is not Routine Maintenance and involves the removal of tops of trees, or large branches or trunks from tops of trees, leaving large stubs or lateral branches that are too small to assume the role of a Terminal Leader.



**Urban Forest.** A forest, or collection of trees, or the total of all trees on public and private properties that grow in the City boundaries.

Notes

[Empty box for notes]

Comments summary on <Folsom ordinance comments.pdf>

Created on 12/30/2019 at 14:6:22

ID	Subject	Author	Date/Time	Comment
1	Highlight	nicol	11/15/2019 12:48:01	This should include MORE information about what is required and who may do the work. Many developers I have worked with, including Civil Engineers, relate this word to an actual map. Maybe change the wording to read "A procedure and course of action recommended by an arborist which addresses the impacts to the individual trees and provides the details necessary for preservation and mitigation."

1	nicol	11/15/2019 12:49:57
WOW! The City isn't responsible for their actions		
2	nicol	11/15/2019 12:49:48
What about Tree Tags?		

Zoning Code. Title 17 of the Folsom Municipal Code.

**12.16.030 Applicability**

The provisions of this Chapter shall apply to all Regulated Activities affecting Protected Trees, excluding those activities undertaken by the City. Trees that are not Protected Trees are not subject to the provisions of this Chapter. With a tree qualifies as more than one type of Protected Tree, the more stringent requirements apply.

**12.16.040 Prohibited Activities**

The following activities shall be prohibited with respect to Protected Trees:

- A. Topping.
- B. Attaching anything using nails, screws, and/or spikes.
- C. Wounding or breaking tree trunks or branches through contact with vehicles and heavy equipment.
- D. Wounding trunks with string weed trimmers, lawn mowers, and similar equipment.
- E. Causing injury by fire or excessive heat.
- F. Pruning activities not conducted in accordance with City's Tree Care and Maintenance Standards.
- G. The use of tree spikes or spurs while pruning.
- H. Any of the following activities within the Tree Protection Zone of any Protected Tree, unless specifically approved by the City and conducted in accordance with the standards of Section 12.16.140 (Standard Conditions of Approval):
  - 1. Storage of large quantities of soil and/or mulch.
  - 2. Excavation and trenching.
  - 3. Changing soil grade by cutting or filling.
  - 4. Grading, tearing, and/or grubbing.
  - 5. Compacting soil with equipment, vehicles, material storage, and/or foot traffic.
  - 6. Washing out equipment (especially paint, stucco and concrete) and vehicle maintenance.
  - 7. Installing impervious surfaces, including but not limited to parking lots, driveways, and walkways.
  - 8. Storing or placing construction materials or construction debris and waste.
  - 9. Accumulation of water from construction-related activities.
- I. Cutting down, destroying, effectively destroying through damaging, removing, or moving any Protected Tree without a Tree Work Permit or a Tree Removal Permit at any time unless specifically exempted by this Chapter.

**12.16.050 Permit Required**

- A. **Tree Work Permit Required.** A Tree Work Permit is required for any Regulated Activities undertaken with respect to a Protected Tree, except where specifically exempted by subsection "C" below:

**Notes**

Empty rectangular box for notes.

1 nicol 11/15/2019 13:00:57  
See attached. I would add the funding mechanism and requirement for a copy of the executed contract with the arborist

### 12.16.150 Tree Protection and Mitigation Plan Requirements

A Tree Protection and Mitigation Plan, if required under this Chapter, shall be prepared by an Arborist and contain the following information:

- A. The location, species, Diameter at Breast Height, Tree Protection Zone, and health of each Protected Tree on the subject property, and Adjacent neighboring properties as confirmed by an Arborist shall be shown on a map.
- B. A description of Regulated Activities to be conducted. Protected Trees that may or will be impacted by the proposed Regulated Activities shall be clearly indicated.
- C. A plan for the protection and/or mitigation of Protected Trees shall be outlined as follows:
  - 1. For Regulated Activity to be conducted within a Tree Protection Zone, the Tree Protection and Mitigation Plan shall identify those methods that shall be used by the applicant to protect the tree(s) during the proposed Regulated Activities, consistent with the standards of Section 12.16.160. The methods used shall include, but not necessarily be limited to, the following:
    - a. Preservation devices such as ground or surface protection, protective fencing, root protection devices or other such methods.
    - b. The detailed recommendations for existing or proposed planting and/or irrigation within the Tree Protection Zone.
    - c. Standards for performing work such as trenching, root cutting, or grading shall be consistent with the City's Tree Care and Maintenance Standards to preserve the Protected Tree.
  - 2. For removal of a Protected Tree, the Tree Protection and Mitigation Plan shall include:
    - a. The number of replacement trees required to mitigate for removal of the Protected Tree(s) consistent with Section 12.16.160(A).
    - b. The number of replacement trees that may be accommodated on the same property as the Protected Tree(s) proposed for removal. The number of replacement trees that may be accommodated on the property shall be determined by an Arborist based on the long-term viability of the replacement tree(s). Long-term viability shall be determined based on the following factors:
      - i. Whether the proposed location of the replacement tree can accommodate full growth.
      - ii. Quality of the environment in which the tree is to be located.
      - iii. Potential impact to the replacement tree from any proposed development or construction activities.
    - c. A site plan showing the location of the Protected Trees to be removed and a planting plan identifying the proposed location of any replacement trees.
    - d. The schedule for planting of the replacement trees subject to approval of the City Arborist.
    - e. The strategy chosen by the applicant to satisfy the required mitigation shall be consistent with the provisions of Section 12.16.160(B).
- D. A monitoring program, including a specified time period, the party responsible for monitoring, and the method and frequency by which monitoring reports will be submitted to the City.
- E. Other items as determined by the City to satisfy the requirements of this Chapter.

### Notes

Empty rectangular box for notes.



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# Elliott Homes

1914

Celebrating 100 years

2014

December 3, 2019

Mr. Scott Johnson  
Principal Planner  
CITY OF FOLSOM  
50 Natoma Street  
Folsom, CA 95630

Re: Tree Preservation Ordinance Update

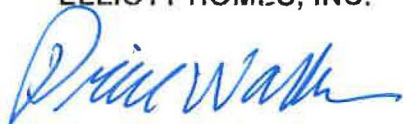
Dear Scott:

The City is going through an update of its tree preservation ordinance. As a longtime builder of master plans, production homes and custom home lots, we have worked with the City's existing tree ordinance in many ways for several years. The current draft update dated October 16, 2019, is a vast improvement over the existing ordinance.

This draft provides added flexibility and reasonableness to a sometimes-burdensome process. Future homeowners and custom lot owners will now have some choices that are fair, yet will still preserve oak trees that do not need removal. Overall, I think this draft is a great improvement and urge the City to approve the update. Staff has done a thorough job and should be commended for bringing forward a good working document.

Yours truly,

**ELLIOTT HOMES, INC.**



Price Waiker  
Vice President, Project Development

:tmg