



CITY OF
FOLSOM
DISTINCTIVE BY NATURE

Folsom City Council Staff Report

MEETING DATE:	1/28/2020
AGENDA SECTION:	Consent Calendar
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 (Second Reading and Adoption)
FROM:	Community Development Department

RECOMMENDATION / CITY COUNCIL ACTION

Staff respectfully requests that the City Council 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 (Second Reading and Adoption)

BACKGROUND / ISSUE

At the January 14, 2020 meeting, the City Council introduced and held the first reading of the attached Ordinance repealing and replacing Chapter 12.16 of the Folsom Municipal Code regarding tree preservation. Minor modifications discussed by the City Council have been incorporated into the attached Ordinance for second reading and adoption.

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) identified challenges interpreting/implementing the current code as originally 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.

Proposed issues were vetted and solutions identified through a series of stakeholder meetings and community workshops. The resulting changes were introduced, revised, and ultimately presented to the City Council for consideration and adoption.

DISCUSSION

Four non-substantive edits have been addressed in the ordinance since the document was presented for first reading on January 14, 2020. The corrections were in response to omission errors in the conversion of the final draft from the track changes document (both of which were included in the staff report packets for the January 14, 2020 City Council meeting). The missing items have been added to the ordinance and include:

1. A definition for Root System (12.16.020). This definition was shown in the track changes document, which was included as attachment 3 in the staff report packet for the first reading but was unintentionally omitted in the public hearing document. The definition has now been included in the ordinance.
2. A parenthetical in Prohibited Activities (12.16.040)(B). This language clarifies what structures cannot be attached to Protected Trees using nails, screws, and/or spikes. This language was shown in the track changes document, which was included as attachment 3 in the staff report packet for the first reading but was unintentionally omitted in the public hearing document. The language has now been included in the ordinance.
3. Two phrases in Exemptions (12.16.050)(C)(6). These two phrases were insertions by the City Attorney and were included in the track changes document. The language has now been included in the ordinance.
4. A single phrase in Tree Protection Zone Work (12.16.130)(B)(7). Language clarifying the recipient of the Certificate of Compliance was shown in the track changes document but unintentionally omitted in the public hearing document. The language has now been included in the ordinance.

Attachment 2 includes the corresponding excerpts from the track changes document, highlighting the items that have now been included in the Tree Preservation Ordinance.

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. (Second Reading and Adoption)
2. Excerpts from the the 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

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**

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

- 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

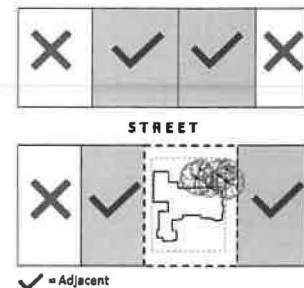
- A. Purpose. Trees are both community and environmental assets, unique in their ability to provide a multitude of benefits that appreciate over time. In addition to many others, these benefits include life-giving oxygen, filtration of air pollutants, protection from heat and ultra-violet radiation, 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.

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.

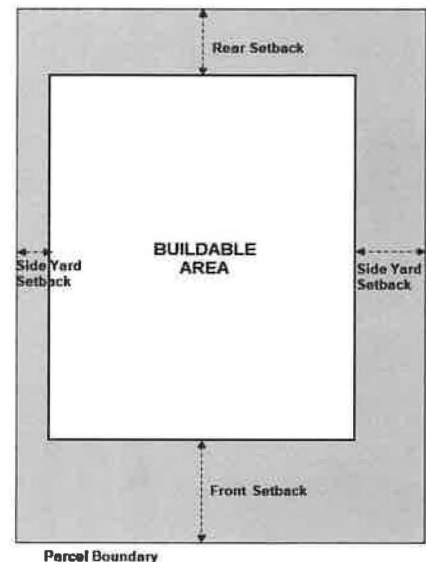
Buildable Area. The area of a parcel where buildings may be constructed excluding front, rear and side yard setbacks as required by the Zoning Code. In the case of a parcel that is to be subdivided, the buildable footprint would be the Buildable Area of each proposed new parcel excluding front, rear 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.

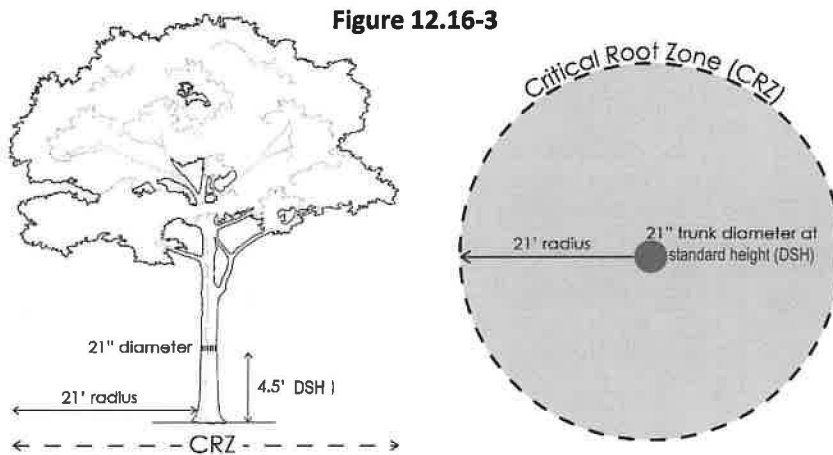
Certificate of Compliance. A written statement from an Arborist verifying that the conditions associated with a Tree Permit have been satisfied.

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

Figure 12.16-2

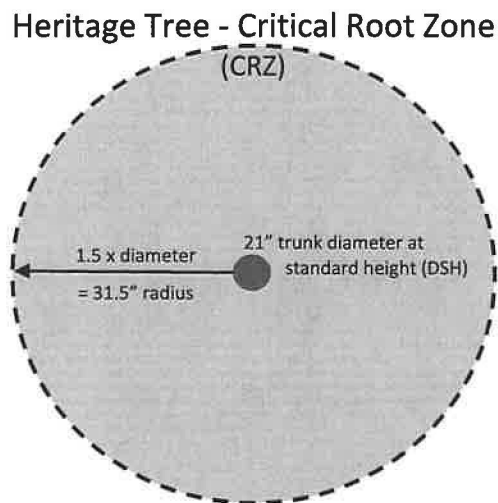


Critical Root Zone (CRZ). The area of soil extending from the tree trunk where roots required for future tree health and survival are located. This Critical Root Zone area for all trees except Heritage Trees is a circle with a minimum radius of 1 foot for every 1 inch in trunk diameter at DSH. Refer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

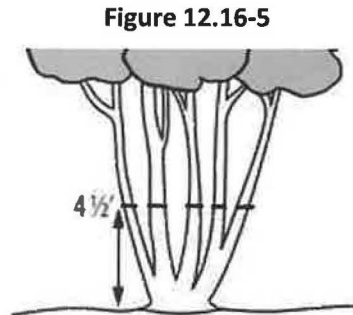
Figure 12.16-4



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 feet above the ground while standing on the high side of the tree added together in total. Refer to Figure 12.16-5.

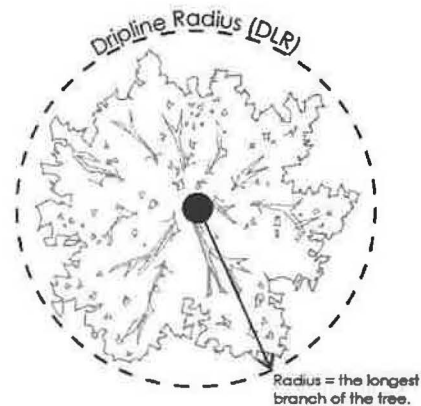


Extrapolated Diameter at Standard Height (DSH). This shall be used for purposes of calculating the mitigation for a Multi-trunked Tree. It is derived from adding the cross-sectional area of each stem measured at four and one-half (4.5) feet above grade to determine a value for the DSH. In a Multi-trunked 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 of 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**

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

Root System. The 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

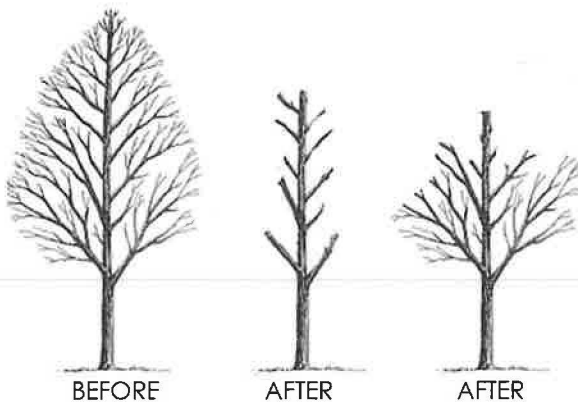
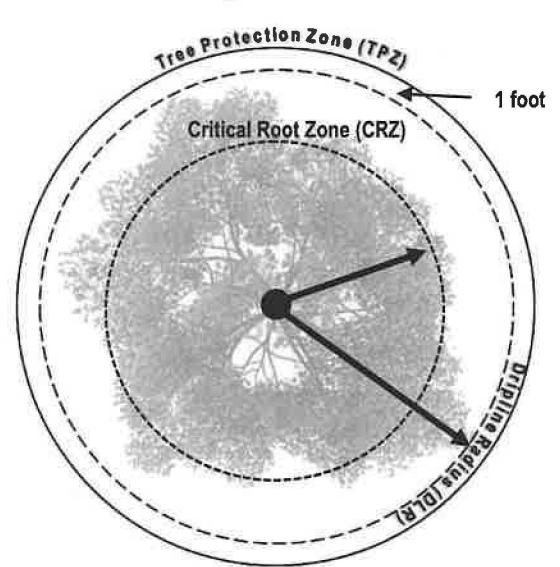


Figure 12.16-8



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.

12.16.030 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 bird houses, tree houses or ladder steps for climbing into a tree) 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 Trees 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 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 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 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 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 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**

Rating	Rating No.	Rating Description
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).

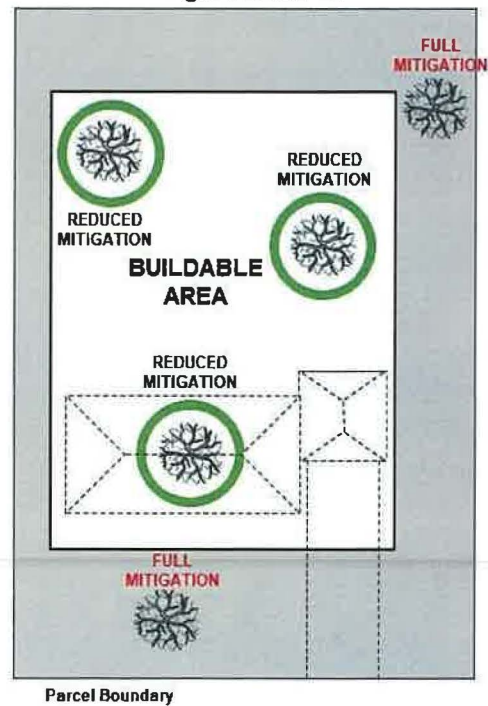
- a. Equivalency Table. The following equivalent sizes shall be used whenever new trees are planted pursuant to a Tree Protection and Mitigation Plan (refer to Table 12.16-11).

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

Replacement Tree Size	DSH Equivalency
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

- 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

Figure 12.16-12



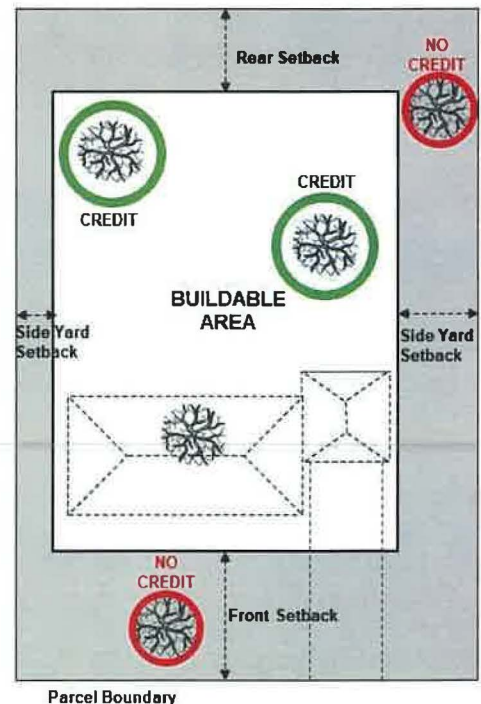
for every Street Tree removed shall be required at the discretion of the Approving Authority. Regardless of property size, removal of Street Trees that are Native Oak Trees or Heritage Trees requires the mitigation set forth in Section 12.16.150(B).

- 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.
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 (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:
 - 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

Figure 12.16-14



- 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 12.16-14, 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.

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).

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):

Ordinance No. 1299

Page 26 of 27

NOES: Council Member(s):

ABSTAIN: Council Member(s):

ABSENT: Council Member(s):

Sarah Aquino, MAYOR

ATTEST:

Christa Freemantle, CITY CLERK

Attachment 2

Excerpts from the 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

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.

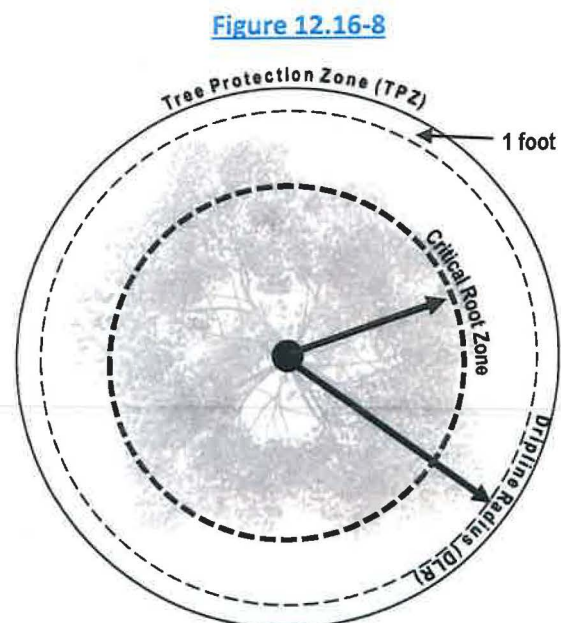
Tree Care and Maintenance Standards. Standards required by the City for the care and maintenance of Protected Trees based on the ANSI 300 Standards, [the ISA Best Management Practices](#), and any other relevant standards as determined by the City Arborist, [and](#) as amended by the City from time to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

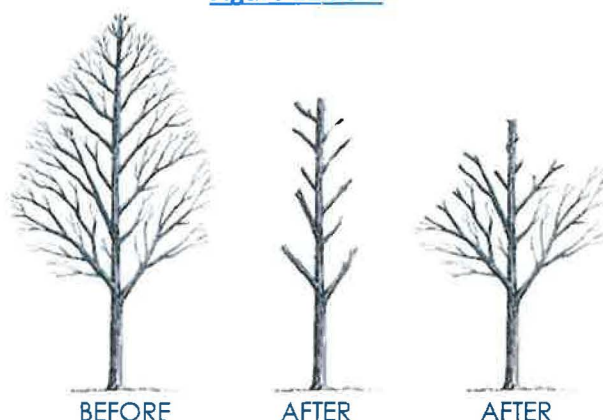
Tree Protection and Mitigation Plan. A [report and/or](#) plan submitted for review and approval before the start of any Regulated Activity.

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 City's 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~~Washing out equipment (especially paint, stucco and concrete) and vehicle maintenance within the Tree Protection Zone.
- J. Contamination or compaction of soil by ~~s~~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. ~~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.

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.