



STAFF REPORT

TO: THE HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

MEETING DATE: OCTOBER 6, 2025

FROM: ERIN VENTURA, CONTRACT PLANNER

SUBJECT: TREE REMOVAL

RECOMMENDATION:

Staff recommends that the City Council receive this report and provide direction to staff regarding potential updates or amendments to the City's Tree Removal Ordinance (Sutter Creek Municipal Code [SCMC] Chapter 13.24)

BACKGROUND:

Sutter Creek Municipal Code (SCMC) Chapter 13.24 establishes the City's regulations pertaining to tree removal within City limits. The purpose of this Chapter is to provide a method for beautifying the city, to enhance air quality, and to do so in a water-efficient manner.

Sutter Creek Municipal Code (SCMC) Chapter 13.24 establishes basic regulations related to tree protection and removal.

However, Chapter 13.24 is limited in scope. It does not clearly define which trees are protected, when a permit is required, other than on undeveloped lots, or what standards should apply to removal requests. As a result, the ordinance provides minimal guidance to property owners and staff when tree removal questions arise. Because of lack of clarity in the ordinance, staff believes tree removals are occurring within City approval.

It states the following on undeveloped parcels:

13.24.100 - Tree removal prohibited.

Removal from an undeveloped parcel of any tree having a minimum trunk diameter of six inches measured forty-eight inches above the adjacent ground level is prohibited unless a tree removal permit is first obtained from the city.

Enforcement is subject to 13.24.170. If the Council wishes to protect larger trees, they should also consider updating the penalties code section. Below is the current violations and penalties code section:

13.24.170 - Violations and penalties.

Any person violating any provision of this chapter shall be for each violation, guilty of a misdemeanor punishable by a fine of up to five hundred dollars and six months in county jail. Provided, however, that any such violation may be charged as an infraction in the prosecutorial discretion of the city or district attorney with a fine not to exceed two hundred fifty dollars. This chapter may also be enforced using any and all other remedies available in law or equity.

Additionally, and without limitation, the city manager or his designee may order a halt to any development or activity subject to this chapter until the violation is corrected or appropriate remedial actions implemented. The city manager or his designee may also convene an administrative hearing, after reasonable written notice to the alleged violator, to determine if a violation has occurred. If it is determined that a violation has occurred an administrative penalty shall be imposed which requires replacement on site of any tree cut or damaged with a tree of equal size and maturity as well as guarantees of future care and maintenance of the replaced tree(s) or payment of an equivalent cash amount to the city for offsite tree planting replacement and care.

DISCUSSION:

The following are suggestions as to how the City can improve the tree removal process:

- Create a process for removals on developed lots.
- Clearly define categories of trees such as “heritage trees” and “protected trees” and specify which removals require permits.
- Provide an expedited process for hazardous or diseased trees.
- Establish replacement planting requirements or in-lieu fees to maintain canopy cover.
- Require a tree removal permit with clear penalties for removing trees without a permit is common in many cities.

Cities often define “heritage trees” as particularly exemplary trees and maintain a list of those specific trees in the City.

“Protected trees” could be defined by the diameter of trees over a certain size, such as 12 or 18 inches as measured six feet above the ground. The ordinance could be even more specific by using different diameters for different tree species.

Here is an example of Native Protected Tree Species from another jurisdiction:

- Big Leaf Maple (*Acer macrophyllum*) 11.5" or more DBH (Diameter at Breast Height, 4.5 feet above ground)
- California Incense Cedar (*Calocedrus decurrens*) 11.5" or more DBH
- Coast Live Oak (*Quercus agrifolia*) 11.5" or more DBH
- Blue Oak (*Quercus douglasii*) 11.5" or more DBH

- California Black Oak (*Quercus kelloggii*) 11.5" or more DBH
- Valley Oak (*Quercus lobata*) 11.5" or more DBH
- Coast Redwood (*Sequoia sempervirens*) 18" or more DBH

Protected Mature Trees

- Any mature tree measuring 15" or more DBH
- Invasive species trees and high water use trees are excluded. See our list of excluded trees included on this page.

Designated Trees

- Any tree designated for protection during review and approval of a development project.

Staff requests the council discuss the following and provide direction, through a motion, to staff;

- 1) Does a majority of Council want to protect trees on developed lots?
- 2) If so, are there certain tree species or sizes that Council feels should be protected?
- 3) Are there known trees which the Council believes should be Heritage trees? Should residents be able to propose trees to be considered as heritage trees?
- 4) Should penalties be updated to be commensurate with the value of development? Here is an example from another City that is far greater than Sutter Creek's current \$500 fine. Given the cost of developing a new building, this other sample ordinance sets a \$10,000 fine.

EXAMPLE: Remedies for violation.

In addition to all other remedies set forth in this code or otherwise provided by law, the following remedies shall be available to the city for violation of this chapter:

(a) Stop Work - Temporary Moratorium.

(1) If a violation occurs in the absence of proposed development pursuant to Section 8.10.050(a)(1), or while an application for a building permit or discretionary development approval for the lot upon which the tree is located is pending, the director of planning and development services in consultation with the urban forester shall issue a temporary moratorium on development of the subject property, not to exceed five years from the date the violation occurred. The purpose of the moratorium is to provide the city an opportunity to study and determine appropriate mitigation measures for the tree removal, and to ensure measures are incorporated into any future development approvals for the property. Mitigation measures as determined by the urban forester shall be imposed as a condition of any subsequent permits for development on the subject property.

(2) If a violation occurs during development pursuant to Section 8.10.050(b), (c), (d), or (e), the city shall issue a stop work order suspending and prohibiting further activity on the property pursuant to the grading, demolition, and/or building permit(s) (including construction, inspection, and issuance of certificates of occupancy) until a mitigation plan has been filed with and approved by the director of planning and development services in consultation with the urban forester, agreed to in writing by the property owner(s), and

either implemented or guaranteed by the posting of adequate security. The mitigation plan shall include measures for protection or repair of any remaining trees on the property, and shall provide for replacement of each tree removed on the property or at locations approved by the urban forester. The replacement ratio shall be in accordance with the standards set forth in the *Tree and Landscape Technical Manual*, and shall be at least twice the prescribed ratio required where tree removal is permitted pursuant to the provisions of this chapter.

(b) Civil penalties.

(1) As part of a civil action brought by the city, a court may assess against any person who commits, allows, or maintains a violation of any provision of this chapter a civil penalty in the following amount:

(i) Ten thousand dollars per tree, or twice the reproduction cost of each tree, whichever amount is higher, for the complete removal of a tree, as defined in Section 8.10.020(n)(1).

(ii) Ten thousand dollars per tree, or the reproduction cost of each tree, whichever amount is higher, for any of the actions set forth in Section 8.10.020(n)(2).

(iii) Ten thousand dollars per tree, or twice the repair cost of each tree, whichever amount is higher, for damage to a tree protected or regulated by this chapter which can be rehabilitated.

(2) Penalties shall be payable to the city.

(3) Reproduction or repair cost for the purposes of this chapter shall be determined utilizing the most recent edition of the *Guide for Plant Appraisal*, published by the Council of Tree and Landscape Appraisers.

(c) Administrative penalties. Persons listed in Section 8.10.100(b) may issue citations for violations of this chapter that level fines under the city's administrative penalty authority.

(d) Injunctive relief. A civil action may be commenced to abate, enjoin, or otherwise compel the cessation of such violation.

(e) Costs. In any civil action brought pursuant to this chapter in which the city prevails, the court shall award to the city all costs of investigation and preparation for trial, the costs of trial, reasonable expenses including overhead and administrative costs incurred in prosecuting the action, and reasonable attorney fees.

(f) The remedies and penalties provided in this section are cumulative and not exclusive.

Staff is also requesting direction on the process, for example having the Planning Commission review a draft, and timing for an ordinance update, if they desire to go that direction.